

RIVERS MANAGEMENT ADVISORY COMMITTEE

Meeting Minutes
February 9, 2007
DES Rooms 112/113
10:00 am – 12:30 pm

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Alan Bartlett
Bob Beaurivage
Jennifer Czysz
William Heinz
John Magee
Walter Morse
Allan Palmer
Ted Sutton

Representing

Recreational Interests
Conservation Community
Agricultural Community
Public Water Suppliers
NH Office of Energy and Planning
Granite State Hydropower
Fish & Game Department
NH Fish & Game Commission
Business and Industry Association
Municipal Government

Term

Dec. 28, 2008 V
Dec. 28, 2008 V
Mar. 22, 2009 V
Sept. 28, 2007 V
Indefinite NV
Jan. 5, 2009 V
Indefinite NV
Sept. 28, 2009 V
Sept. 28, 2007 V
Nov. 16, 2008 V

Members Absent

Deborah Hinman
Johanna Lyons
Gail McWilliam Jellie
VACANT

NH Assn. Conservation Commissions
Dept. Resources & Economic Development
NH Dept of Agriculture, Markets & Food
Historical & Archaeological Interests

Oct. 12, 2007 V
Indefinite NV
Indefinite NV
V

Guests Present

Roy Duddy
Charles Watson
William Houser
Deborah Brewster
Jim Moore
William Janelle

Dept. of Resources & Economic Development
Hooksett Town Planner
NH Dept. of Transportation
TF Moran
NH Dept. of Transportation
NH Dept. of Transportation

DES Staff Present

Steve Couture
Laura Weit
Paul Currier
Carolyn Guerdet

NHDES Rivers Coordinator
NHDES Lakes and Rivers Asst. Planner
NHDES Administrator, Watershed Mgmt Bureau
NHDES Administrative Assistant

The Meeting Was Called to Order

Michele Tremblay, Vice Chair, called the meeting to order at 10:00 AM.

I. 10:00 – 10:15 Introductions/Minutes/Committee Business

1) January 3, 2007 Meeting Minutes - *Vote Required*

- *Walter Morse made a motion to accept the January 3, 2007 Meeting Minutes as submitted. Ted Sutton seconded the motion and the vote was unanimous.*

II. 10:15 – 11:30 Legislation/Rulemaking/Other

1) Legislation – Steve Couture, NHDES

Steve Couture reviewed a number of different bills and provided the Committee with language and additional information on the following:

- a) **HB 439 – relative to the leaking underground storage tank funds**, adds language requiring competitive bidding. DES has no concerns with corrections.

- b) **HB 384 – repealing the authority of the DES regarding sludge and biosolids,** establish a committee to study new sludge legislation. Within a year of passage, DES would be removed from the third party sludge testing. DES opposes this portion of the bill, however they are in favor of the Study Commission, which is found in part 2 of the bill. Michele believes the RMAC should weigh in on this sludge-related bill. Concern was also raised as to the make-up of the Study Commission.
- c) **SB 158 – relative to review of activities affecting surface waters.** Paul Currier explained this would expand the 401 certification review to projects that require state licensing, permits or registrations. It addresses water quality that involves withdrawals as well as discharges and creates a review process for projects that don't have any federal license or permit.

Alan Bartlett arrives at 10:20.

Ken Kimball, Chair, joins the meeting via telephone.

This also allows DES to talk to septic system groups to reduce nitrogen inputs/loading. As of this meeting, DES is in favor because of the need for a mechanism to raise awareness and understanding. Paul also noted that there will be an amendment which only alters the rule making mechanism.

Concerns were raised about this being another layer of regulation. Ted was interested in the analysis of state regulated programs vs. federally regulated programs that result in a discharge or withdrawal. It is his understanding that there aren't that many.

- **Paul agreed to provide a copy of the spreadsheet that identifies gaps in state programs that deal with ground water withdrawals or transfers.**

For transfers, if NPDES permits are required, the Water Quality Standards Review is the mechanism for that review.

Michele stated the options are: testify in favor of the bill, testify in opposition, a hybrid of the two indicating which parts we are in favor of or against, or simply track.

- **Allan Palmer made a motion to track SB158 with a second by Ted Sutton. The vote was unanimous.**

John Magee asked to address the Committee regarding his comments on the proposed surplus land review in Hooksett, since he needed to leave. John referred to an email he sent to Steve Couture earlier that morning. John's intent was to indicate that there appears to be some discrepancies between what he was seeing in the maps provided to the Committee for their review and the town of Hooksett's letter. "Fish and Game requests that the RMAC consider the proximity of the parcels and the proposed use of land under discussion". Specifically, he requested clarification as to whether or not the parcels being reviewed were within 1000 ft. of the river, which is in contrast to what was submitted by the Town of Hooksett. Fish and Game's obligation is with rare, threatened and endangered animal species. It appears that bald eagles are a species of concern. Fish and Game does not have an opposition to the proposal, but he would like clarification on the 1,000 ft. Fish and Game are working with TF Moran.

Bob asked about the letter from the Attorney General, their opinion, and our authority. Steve reiterated that this committee is advisory only. Ted noted that we are recognized legislatively and have weight.

d) HB 321 – an act relative to river protection and restoration

Steve shared his concern with the wording used. 'Potential' in the first paragraph, Section XI, and paragraph 3 is not used in any of the other descriptions for the characteristics. He also expressed his concern with the word 'control', he would prefer the word mitigation. Allan Palmer noted that hydroelectric energy is mentioned in many locations, but not in others throughout RSA 483. Steve explained this bill was put forth as a result of the proposed removal of the Merrimack Village Dam. Bill Heinz stated that it may be a move to an energy source that is more indigenous, natural and green. Steve stated this falls under the managed resource category in the rules.

Steve noted a significant shift in paragraph 4 of what needs to happen to get a river nominated. It has to be included in a community's master plan or water resource's plan before they begin the nomination process. This is a huge shift from the current rules.

- ***Ted Sutton made a motion to not support this bill, seconded by Ken Kimball. Motion passed unanimously. There will be a letter of testimony recommending ITL.***

Ted Sutton then expressed his concern of the possibility of the NH legislature inserting itself onto advisory boards to gain power and control. He suggested watching to see if this is a trend. He also suggested adding a very tactful sentence to the letter indicating advisory board are made up of volunteers who are best served by legislators who focus on legislation. Because this bill directly affects RSA 483 there will be an attempt by a representative from the RMAC to appear in person to testify.

e) SB71 – an act relative to setback requirements for new landfills located near designated rivers, (this bill revisits HB1495, which has been in interim study since last year)

It was decided that the RMAC would support this bill, however, the letter of testimony should recommend that the rural section of the Isinglass fall under the old guidelines, which allows for the citing of new landfills 100 ft. from the 500 year flood plain and not the new corridor guidelines. This exemption would only apply to the Isinglass. Steve, as Rivers Coordinator, believes this would more equitable for all parties, since certain sections of the Isinglass were classified as rural during the nomination process so that they would fall within the existing set-back requirements. This exemption would also honor the local advisory committee's request. The proposed change to the bill would include no new landfills in designated rural segments. DES has not yet determined its position on this bill. There seems to be support on the concept, but no final decision has been made yet. Last year, the RMAC voted to support HB 1495 as long as there was a grandfathering clause.

- ***Allan Palmer made a motion to amend the RMAC Letter of Testimony to include the Isinglass River exemption, second by Bob Beaurivage. The vote was unanimous.***

f) HB 648 – establishing a commission to develop a comprehensive flood management plan.

Steve's first concern is the use of management vs. mitigation. He would prefer flood mitigation language. Michele Tremblay had membership concerns as there is no lakes representation such as the Lakes Management Advisory Committee (LMAC) or the New Hampshire Lakes Association (NHLA), Fish and Game should also be added as well as an additional member from the conservation community. A representative from the Lakes Management Advisory Committee (LMAC), the New Hampshire Rivers Council (NHRC) or the New Hampshire State Conservation Commission (NHSCC) should be appointed. Also, a representative from the Office of Energy and Planning, who serves as the state contact with FEMA for all flood mitigation should also be added in addition to DES. It was noted that the duties listed are reasonable and good concepts are included.

Roy Duddy arrives at 11:07, other guests arrive at 11:10.

There was discussion that the language is very engineering oriented and doesn't take into consideration natural systems. The words 'shall' and 'controlling' are troubling.

- ***Allan Palmer made a motion for a letter of support for this bill with the understanding that a representative from the OEP, DES, and F&G would be included as well as an additional conservation interest, such as a representative from NHRC, the NHLA, or the SCC. Jennifer offered suggestions regarding possible measures for controlling/mitigating floods and Steve will prepare the letter. Bob Beaurivage seconded the motion. The vote was unanimous.***

III. 11:30 – 12:15 Surplus Land Reviews (SLR) – Disposition of state-owned properties

1) DOT 06-08 Hooksett (Merrimack River) – Vote Required

The following guests introduced themselves:

Roy Duddy – Director, Business Resource Center, DRED
 Charles Watson – City Planner, Town of Hooksett
 William Hauser, Dept. of Transportation
 Deborah Brewster, TF Moran
 Jim Moore, Dept. of Transportation
 William Janelle, ROW Administrator, DOT

Roy Duddy read a letter of support of the proposal from the Commissioner of DRED. He stated that the proposed "location of the project is a good example of following the state's smart growth goals, by meeting Hooksett's needs for new employment, tax revenue, and infrastructure improvements, while supporting efficient and creative development that does not negatively impact the ground water, or endangered plants and animals. The benefits to the state are also substantial. The Cabela project will generate approximately 500 new jobs and associated state tax revenue. This project will also retain the natural and historic places that give Hooksett and New Hampshire its character."

Bill Janelle addressed the Committee's concerns that were listed in the January 18th RMAC letter. The proposed project falls within Hooksett's Groundwater Resource Conservation District (GRCD) The GRCD is a zoning ordinance that restricts development in the interest of public health, safety, and general welfare to protect and preserve the

groundwater supply and groundwater recharge from adverse development. Bill also noted that TFMoran's geotechnical evaluation concluded that Exit 11 is similar to most development currently located around the Exit 10 area, which is also located adjacent to the Merrimack River. He pointed out that the proposed development can be successfully constructed within the aquifer as long as it meets the criteria set forth in Article 19. The proposed development within the aquifer area would promote Low Impact Development (LID) techniques, even though they are not specifically required under Article 19.

Charles Watson explained why the village of Hooksett is in support of the proposal. First, the proposed location is currently a staging area for Thomas Palazzi's highway construction business. The proposed project would enhance the aesthetics of the area, now an old unused pit and an underutilized stock auction area. The proposed project is also located immediately adjacent to Interstate 93. It has been customary to cite intense commercial uses adjacent to interstate interchanges for the purpose of controlling traffic. By doing this, the traditional, natural, and historic characteristics of the Town of Hooksett are also protected. Second, the Town has made strong and continuous planning efforts to apply smart growth principals to current and long-range land use and water resource planning. Their Master Plan, which was updated two years ago, calls for the development of intense uses at or near major transportation corridors. In March 2004, the town participated in a "charrette", in which participants put forth ideas for the preservation and restoration of the "village" character. Third, the development of the commercially zoned parcels at Exit 11 would meet all the smart growth results noted in RSA 9-B:3. Fourth, although the site is adjacent to the Merrimack River, the project will be designed to provide municipal water and sewer. The recently approved Wal*Mart and Lowes stores at Exit 10 are also located on or near an aquifer recharge area. This was carefully observed in the approval process – the applicants must adhere to stringent standards and extensive on-site mitigation in order to avoid water pollution and stormwater runoff. Fifth, to the best of his knowledge there will be no impacts from this proposed development to the banks of the river. Lastly, the Town of Hooksett has given their consent through a town meeting vote for an \$18 million bond to bring necessary infrastructure to the area to make sure environmental values are preserved.

Michele asked for clarification regarding the location of the proposed project. Deb Brewster with TF Moran pointed out that portions of both parcels the Committee is reviewing fall within 1,000 ft of the Merrimack River.

Ken asked for clarification of endangered or threatened wildlife species and the effect of this type of development would have on a major aquifer. Deb Brewster explained that the proposed project would adhere to all existing state and town regulations. She also pointed out that TF Moran is still investigating the potential of any threatened or endangered species on the property.

Bob questioned whether or not water quality would be effected. Deb noted that they are working with UNH's storm water program and will install large chambers underneath the hard surfaces that will treat the run-off. There will be no point source discharges in the project. It was noted that this will be good for the river, since the entire Tax Increment Finance District (TIF), in which the project is located will have pump substations so there will be sewer hook-ups instead of the current individual septic systems. The timing on the project depends on the bond agreement, local process, and DOT. The goal is to open in 2008 with start of construction the end of this year.

Ted noted that everyone has gone out of their way to answer questions and provide information, he would encourage further monitoring of the project as it moves forward. Charles noted the town will vote on this the first week in May.

- ***Motion made by Ted Sutton, seconded by Bob Beaurivage to approve the disposal of DOT surplus property in Hooksett. Vote was 5 ayes and 3 nays. Motion carried.***

Ken Kimball departs via phone.

2) **SLR 07-01 Windham – Vote Required**

Laura Weit provided the Committee with a brief overview of the proposal. The Town of Windham approached DRED to extend their current three-year Special Use Permit for the use of the historic Windham Depot, Freight Shed and some surrounding property for storage of salt and sand. Upon speaking with Alfred Turner, the Town of Windham's Planning Director and Jack McCartney, the Town of Windham's road agent it was determined that the Town is currently investigating other locations to store salt and sand. A salt shed committee has been established and is evaluating potential sites with the expectation that the salt and sand will be removed from the site by 2008/2009. Once, the salt and sand is removed, the sole purpose is the historic restoration and preservation of the buildings on site.

- ***Motion made by Bob Beaurivage, seconded by Ted Sutton to recommend disposal of the proposed surplus land disposal in Windham with the condition that the salt and sand storage be removed within 5 years. Vote was unanimous by those present.***

VI. 12:15-12:30 Other Business/Action Item Reviews

Steve reviewed the status of several other bills.

HB 663 – making an appropriation to implement the comprehensive shoreland protection act.

- **Go forward with supporting this bill as decided at last meeting.**

HB 383 - Relative to waterfront buffer and woodland buffer requirements in the Comprehensive Shoreland Act.

- ***Motion made by Bob Beaurivage to support this legislation. Motion died for lack of a second.***

Steve provided a general description of the existing provisions under the Comprehensive Shoreland Protection Act relative to the woodland buffer requirements and clarified the intent of the proposed legislation.

- ***Motion made by Bob Beaurivage to support this bill with a Letter of Testimony, seconded by Ted Sutton. Vote was 6 ayes and 1 nay. Motion carried.***

HB 283 - allocating a portion of un-refunded road tolls to the dam maintenance fund.

HB 664 - relative to annual dam registration and permit application fees

- ***Motion made by Bob Beaurivage, seconded by Alan Bartlett to support both of these dam bills. Vote was 4 ayes, 1 nay, and 2 abstentions.***

SB71 will be heard on February 20th, Michele agreed to provide testimony on behalf of the RMAC.

V. Next Meeting Date(s)/Adjourn:

Action Items –

- 1) Post the approved January 3rd meeting minutes to the web.
- 2) Paul Currier will provide a spreadsheet that identifies gaps in state programs that deal with ground water withdrawals or transfers.
- 3) Provide letter of opposition and testimony for HB 321, the RMAC recommends ITL.
- 4) Provide letter of support with amendment and testimony for SB 71.
- 5) Provide letter of support with amendment and testimony for HB 648.
- 6) Provide letter to DOT indicating recommended disposal of proposed surplus land disposal in Hooksett.
- 7) Provide letter to CORD indicating recommended disposal of proposed surplus land disposal in Windham with conditions.
- 8) Provide letter of support and testimony for HB 663.
- 9) Provide letter of support and testimony for HB 383.
- 10) Track HB 283 and HB 664.
- 11) Provide testimony on SB 71.
- 12) Track SB 158.

Next meeting date: – Tuesday, March 27, 2007 from 9:30 am - 12:30 pm at the NH Fish and Game Department.

- **Motion to adjourn by Bob Beaurivage, second by Ted Sutton. The vote was unanimous.**

Meeting Adjourned at 1:05 pm.