



RIVERS MANAGEMENT ADVISORY COMMITTEE
NH Rivers Management and Protection Program

New Hampshire Department of Environmental Services
29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
phone: 603-271-2959 fax: 603-271-7894

RMAC MEETING MINUTES

April 13, 2015

Dept. of Environmental Services, Concord, NH
9:30 am – 11:00 am

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Mark Hemmerlein
Anne Krantz
Alan Larter
John Magee
Roger Noonan
Allan Palmer
Jim Ryan
Larry Spencer
Ruth Ward
Donald Ware

Representing

Recreational Interests
Conservation Community
Commissioner, DOT
Historical & Archaeological Interests
Granite State Hydropower Assoc.
Executive Director, F&G
Agricultural Community
NH Business and Industry Association
NH Fish & Game Commission
NH Association of Conservation Comm.
Local River Management Advisory Comm.
Public Water Suppliers

Term

Dec. 28, 2017 V
Dec. 28, 2017 V
Indefinite NV
June 15, 2016 V
Jan. 5, 2015 V
Indefinite NV
Mar. 22, 2015 V
Sept. 28, 2016 V
Sept. 28, 2015 V
Oct. 12, 2016 V
Sept. 5, 2016 V
Sept. 28, 2016 V

Members Absent

Patrick Hummel
Frederick McNeill
Gail McWilliam Jellie
Elizabeth Peck
Susan Slack

Commissioner, DRED
Municipal Government
Commissioner, Dept of Ag., Markets & Food
Commissioner, DOS
Director, Office of Energy and Planning

Indefinite NV
Nov. 16, 2014 V
Indefinite NV
Indefinite NV
Indefinite NV

DES Staff Present

Ted Diers
Carolyn Guerdet
Tracie Sales

Watershed Management Bureau
DES Water Division
Rivers and Lakes Programs

Guests

Rep. Judith Spang
House Resource Recreation & Development Committee

Chair Kimball called the meeting to order at 9:34 and introduced new member Ruth Ward. Members introduced themselves.

I. Introductions/Minutes/Committee Business

1) Acceptance of February 18, 2015 RMAC Meeting Minutes

- ***Michele L. Tremblay made a motion to accept the February 18, 2015 minutes, second by Jim Ryan. Larry Spencer clarified a statement about Livermore Falls. Motion with correction passed unanimously.***

2) Acceptance of February 18, 2015 Joint RMAC/LMAC Meeting Minutes

- ***Michele L. Tremblay made a motion to accept the February 18, 2015 joint RMAC/LMAC minutes, second by Jim Ryan. Motion passed unanimously.***

3) RMAC Membership Update

Tracie Sales welcomed Ruth Ward as the new Local River Management Advisory Committee representative. Ruth is a member of the Contoocook and North Branch Rivers LAC.

Fred McNeill, Roger Noonan and Alan Larter all have expired terms, but reappointment paperwork is in progress for all three. Jim Ryan's term will expire in September, and he will begin on his renewal paperwork in the next few months.

Vice Chair Tremblay suggested that since Kath Nelson has been unable to attend either this meeting or the last to receive her "Thank You" gift, that, if Chair Kimball is unable to go, Don Ware and Michele, and anyone else available, present Kath Nelson with her gift at a local event or at a LMRLAC meeting.

4) Chair and Vice-Chair Terms

Chair Kimball brought up the need to vote for the RMAC Chair and Vice Chair positions. Tracie explained that the last vote had occurred on June 30, 2010, though the RMAC adopted an officer election policy in 2006 stating that the Chair and Vice Chair terms are 2 years. John Magee recommended continuing with the existing officers. Chair Kimball asked for nominations from the floor. None were received.

- ***Anne Krantz made a motion to continue with the existing officers, second by Jim Ryan. No discussion was held. Motion passed unanimously.***

II. Surplus Land Reviews1) Sewalls Falls, Concord - SLR #15-002

Tracie explained that this was a request from NHF&G to convey a 0.79 acre public drainage, heritage park/trail and two temporary construction easements on state-owned land on Sewalls Falls Road in Concord from NHF&G to the City of Concord for replacement of the Sewalls Falls Bridge. The property is part of the 94 ac. Sewalls Falls Multi-Use Recreation Area. RMAC leadership asked the Upper Merrimack River LAC to review the disposal, and UMLAC gave their approval. Michele added that the stormwater treatment plan was good, and that Concord has done its due diligence on the project. Because of the expected *de minimis* impact of the disposal, RMAC leadership used its categorical exclusion procedure to approve the disposal and notify CORD, and no vote was required.

2) Liquor Store, Salem - SLR #15-004

Tracie described this request from the Department of Administrative Services, on behalf of the Liquor Commission, to sell approximately 4.898 acres on South Broadway in Salem, currently housing State Liquor Store #34, a single-story retail building of approximately 10,748 square feet and associated parking. The rear portion of the property is wooded and abuts a small stream called World End Brook. The disposal was approved by CORD pending comments.

Discussion revolved around ways to protect the water quality in the brook from future development on the property. Larry Spencer asked if Salem had any setbacks or wetland buffer restrictions, but no one knew. Roger Noonan asked where the hydric soil boundary was located, but that information was unavailable.

- ***Roger Noonan moved to recommend the sale with a covenant on the deed to not to exceed the current developed area, second by Larry Spencer. Ken Kimball proposed an amendment: to require as a condition of the sale that any subsequent development of the property maintain a minimum vegetated buffer of at least 50 feet, or the minimum vegetated buffer required by local zoning, whichever is greater, along World End Brook. Amendment was approved. Motion passed unanimously.***

III. River-related Legislation1) Legislation Update

Tracie summarized recent legislative activity:

- HB 272 - Hearing on Wednesday regarding the Ham Branch nomination.
- HB 281 - Letter of Support was sent regarding exotic aquatic species. Hearing results unknown.
- HB 2 - Tracking the budget and status of OEP representation on the RMAC and LMAC.
- HB 306 - Rep. Spang testified that OEP should be kept on the Wetlands Council. Should pass.
- HB 349 - Tabled, wetland buffer requirement needs further research, tabling allows further work.
- HB 376 - Funding for water and wastewater projects, retained in committee.
- CACR 2 - Restrictions on dedicated funds, retained in committee.
- SB 13 - Senate committee considering dedicated funds.

- SB 38 - Letter of testimony submitted in support of land conservation planning, should pass.
- SB 182 - Tracking sale of freshwater fishing bait, should pass.
- 2 bills appropriating funds to DES have been laid on the table.

Chairman Kimball thanked the Policy & Legislation subcommittee for their work on legislation.

2) Ham Branch River Nomination Update

Ted summarized the progress of HB 272, which would designate the Ham Branch into the RMPP. It was considered by a sub-committee of the House Resources, Recreation and Development (RR&D) committee. The sub-committee submitted compromise amendment with a sunset clause on the proposed exemption to the Shoreland Protection Act requested by the Ham Branch nominating committee. The bill has passed the House with the sunset provisions and has gone to the Senate, with a hearing scheduled for April 15th. Michele noted a letter of testimony is needed for the Senate, and that the letter send to the House RR&D committee did not cover the new sunset provision. Tracie pointed out the revised bill also now recognizes RSA 483-B in RSA 483.

Discussion ensued. Rep. Judith Spang noted that Easton did not pass the municipal zoning in March that would have brought the town's ordinances more closely in line with SWQPA. She plans to present an amendment which would include SWQPA now, but allow Easton to take over enforcement in a few years. She also asked the committee to consider municipal versus state enforcement of buffers and setbacks. Michele noted that once exemptions are allowed, the precedence is set for others to rewrite the statute for their own benefit. She did not feel that the exemption should be allowed, with or without a sunset provision. Allen Palmer commented that the is grassroots process of the nomination is good, but that if the Ham Branch nominating committee cannot get town and riparian landowner support for the all of the RMPP protections at that grassroots level, the bill should be tabled, allowing the nominating committee to get organized. The town should not feel that state regulations have been jammed down their throats.

Anne and Larry both felt that Franconia and Sugar Hill should have been included in the nomination. Michele brought up the continued confusion by agriculture and forestry, representatives of which opposed the inclusion of SWQPA even though forestry and agriculture are exempt from SWQPA. Ken reminded the group about implementing protection requirements designed for large rivers and lakes on small streams, and that the requirements may not be appropriate for 1st through 3rd order streams. Larry suggested recommending that the bill be deemed Inexpedient to Legislate.

- ***Michele L. Tremblay moved that the RMAC's position on HB 272 remain essentially the same, but be amended such that the bill should be tabled unless it can go forward without the SWQPA exemption, or until the future recommendations proposed by SAC relative to 1st through 3rd order stream become acceptable to the Ham Branch community, second by Allen Palmer. Discussion was held. All in favor with one abstention.***

Judith suggested not letting a precedent be set for exemptions, especially where the Ham Branch has native brook trout that should be protected. Roger commented that RSA 483 should be flexible with regard to Shoreland protection, but Michele disagreed seeing as this is a voluntary program and it is better to have consistency in the regulatory environment.

IV. Rules Updates

1) Schedule for Re-adoption/Revisions to RMPP Rules (Env-Wq 1800)

Ken reminded the committee that the river nomination rules (Env-Wq 1800) expire in November 2016. Tracie presented a timeline for the revision process, noting that if the proposed rule changes require statute changes as well, this timeline will have to be extended, which will require a formal extension of the existing rules. The Policy & Legislation sub-committee will begin working on the rules soon, and will work through September. They will then present recommendations to the full RMAC. Roger and Ted would like to be involved with the rules revision discussion, and John Magee is available as a resource. The Guide to River Nominations is under revision and nearly done. Tracie will post the draft version on the RMAC blog.

2) Status Update of the Wetlands Rules and 2015 Routine Roadway BMP Manual

Tracie informed the committee that, given the extensive research conducted and the significant number of public comments received, the Wetlands Bureau Rule Making schedule has been revised. Additionally, because the Mitigation rules (Env Wt 800) are scheduled to expire this June, NHDES will move forward with these rules separately from the major Wetlands Rules Rewrite. The NHDES Wetlands Bureau has

also scheduled four new Rules Workgroup/stakeholder Listening Session Meetings on *Inland Docking Structures* and *Coastal Wetlands* to address major rule topics. The public, including the RMAC, are invited to comment.

Progress on the Routine Roadway Maintenance BMP Manual continues. They are working on the Activities section now, with the focus currently on Culvert Maintainer Program, though culvert maintainers will not be allowed to do unpermitted work in designated river corridors. The next section will be the routine roadway activities. The activity descriptions will have links to the applicable BMPs. Concepts pretty finalized, working on details. Jillian McCarthy will be assisting with the stormwater BMPs later. Allen P. requested a presentation on the BMP manual, which Tracie agreed was a good idea.

V. RMPP Updates

1) Program Budget

Ted stated that the maintenance budget for the Watershed Management Bureau has passed in the House, but the House did cut 4 currently vacant positions within DES, one of which is the Land Resources GIS position. The dam removal coordinator position was cut only for 2016. Michele suggested relocating the dam removal position from Dam Bureau to the Watershed Bureau. Ted feels it could be considered. State Aid Grants, specifically the delayed and deferred list, were also cut by about \$500,000. The State budget is now with the Senate. The Federal budget is fairly level at this point, with a small cut to the 319 grant program.

2) LAC Permit Review Process & Other Odds & Ends

Tracie let the committee know that a spreadsheet outlining all of the permits that LACs can comment on and time timeframes for commenting on permit applications was sent to LACs last week. Jacquie is still working on a Permit Review Guidance document for the LACs.

3) Androscoggin River

Ken reported that the Androscoggin nominating committee has elected not to submit a nomination this June for the upcoming legislative session. They are now seeking grant funding and will try for June 2016.

The Warner River nominating group is also seeking funding and hopes to submit a nomination next year.

VI. Member Comments and Updates

1) Sub-committee Reports

a. WQSAC

Allan P. and Ted reported that WQSAC met last week and DES is making changes as the Water Quality rules (Env-Wq 1700) are up for renewal next year. There will be some rule updates due to changes in EPA's guidance on toxic criteria. The revisions will focus on ammonia and aluminum. Draft rules are forthcoming this summer, after the April 27th meeting with wastewater treatment plant operators and NPDES permit holders. In addition, there is some forthcoming EPA guidance on cyanobacteria and how to do advisories.

b. SAC

Michele reported that SAC is finishing its review of the Shoreland rules. While they did not reach consensus on every point, they will be making some recommendations, especially for education and outreach, including a possible certification process for experts working in Shoreland areas similar to the Green SnoPro program. SAC is moving forward with recommendations for separate standards for rivers, lakes and tidal waters, as well as for lower order streams. SAC is receptive to the joint RMAC/LMAC becoming caretakers of the SWQPA when SAC sunsets in December 2015.

c. PWAAB

Tracie reported that the Public Waters Access Advisory Board (PWAAB) needs a Rivers Representative. Michele offered to fill in for the unexpired term on PWAAB.

2) Other Member Updates - none

VII. Other Business and Action Item Review

1) Action Item Review

- Tracie will submit the results of the Salem Liquor Store SLR vote to CORD.

- Tracie will draft a letter of testimony on HB 272 for Michele's review and presentation at the Senate Energy & Natural Resources committee hearing.
- Michele will send out a Doodle Poll to the P&L subcommittee members along with Roger, John and Ted to schedule a meeting to begin the rules revision process.
- Tracie will post the Rules Revision Timeline on the RMAC blog.
- Follow-up expected to be necessary on 1st through 3rd order streams after the Joint meeting.
- Ted shared that the final report for the Instream Flow Program is due December 2015. The report evaluates the work done to date and make recommendations for next steps. The draft is in good shape. We are arranging outreach activities this summer to discuss findings and recommendations for next steps. There will be a public comment period on the draft this fall before the report is finalized; RMAC's need to comment may impact the date of the next meeting.

2) Next Meeting

Michele suggested that the RMAC next meet either on the Souhegan or Lamprey River, corresponding with the development of the final Instream Flow Program report. Date to be determined.

- ***Larry Spencer made a motion to adjourn the meeting, second by Anne Krantz. All in favor.***

Meeting adjourned 11:04 am