



RIVERS MANAGEMENT ADVISORY COMMITTEE
NH Rivers Management and Protection Program

New Hampshire Department of Environmental Services
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RMAC MEETING MINUTES

August 2, 2019

NH Department of Environmental Services, Conference Room 112
1:00 pm to 3:00 pm

Members Present

Michele L. Tremblay, Chair
Larry Spencer, Vice Chair
Jennifer Gilbert
Mark Hemmerlein
Christopher Hodgdon
Mark Lombardi
John Magee (conference call)
Frederick McNeill
Alexx Monastiero
Norman Sims
Ruth Ward

Representing

Conservation Community
NH Association of Conservation Comm.
Director, Office of Strategic Initiatives
Commissioner, DOT
NH Fish & Game Commission
Granite State Hydropower Assoc.
Executive Director, Fish & Game Dept.
Municipal Government
Department of Safety
Recreational Interests
Local River Management Advisory Comm.

Term

Dec. 28, 2020 V
Oct. 12, 2019 V
Indefinite NV
Indefinite NV
Sept. 28, 2021 V
Jan. 5, 2021 V
Indefinite NV
Nov. 16, 2020 V
Indefinite NV
Dec. 28, 2020 V
Sept. 5, 2019 V

Members Absent

Edna Feighner
Gail McWilliam Jellie
Allan Palmer
Donald Ware
Vacant
Vacant

Historical & Archaeological Interests
Comm., Dept. of Agr., Markets & Food
NH Business and Industry Association
Public Water Suppliers
Agricultural Community
Dept. of Natural and Cultural Resources

June 15, 2019 V
Indefinite NV
Sept. 28, 2019 V
Sept. 28, 2019 V
Mar. 22, 2018 V
Indefinite NV

NHDES Staff Present

Tim Drew Administrator, Public Information and Permitting Unit
Jen Drociak Rivers and Lakes Programs
Clark Freise Assistant Commissioner
Mariah Mitchell Rivers and Lakes Programs
Tom O'Donovan Water Division Director
Tracie Sales Rivers and Lakes Programs

Guests

Andrew S. Davis NH Liquor Commission
Paul Godfrey HNTB Corporation
Robert Johnson II NH Farm Bureau
Jared Nylund NH Department of Administrative Services
Kathy Urffer Connecticut River Conservancy
James Vara NH Liquor Commission

I. Welcome and Introductions

Chair Michele L. Tremblay called the meeting to order at 1:01 pm. Members and guests introduced themselves.

II. Acceptance of the Consent Agenda

Michele requested that the June 11, 2019 Draft RMAC Meeting Minutes be removed from the Consent Agenda.

- *Fred McNeill motioned to accept the revised consent agenda consisting of the RMAC Representatives and the RMAC and Joint RMAC/LMAC Subcommittee Representatives. Motion seconded by Norman Sims. Motion passed unanimously.*

Michele requested the following edits to the June 11, 2019 Draft RMAC Meeting Minutes:

- IV, 2: UMRLAC should be spelled out as Upper Merrimack River Local Advisory Committee.
- V, 1: The budget bill was not for the New Hampshire Department of Environmental Services, but for all state agencies.
- VII: Michele's representation relative to the wetlands rules process was for the New Hampshire Rivers Council, not the RMAC.
- X, 2: Action Items, Ed Person was suggested for the agricultural seat on the RMAC, not the historical seat.

- *Ruth Ward motioned to approve the June 11, 2019 Draft RMAC Meeting Minutes with the edits noted. Motion seconded by Fred McNeill. Motion passed unanimously.*

III. Surplus Land Reviews

1) New Hampshire Liquor Commission SLR in Hampton (SLR 19-006)

Tracie Sales summarized the proposed sale of 87-acres, excluding the footprints of both liquor stores, of the northbound and southbound I-95 service plazas in Hampton by the New Hampshire Liquor Commission (NHLC). The footprints of the currently developed service areas are 5.2 acres on the northbound side and 4.7 acres on the southbound side. The plan is to redevelop the properties adding food, retail, and fueling services while rebuilding the liquor stores. Both service areas are adjacent to the Taylor River, and the parcel along the southbound side of I-95 abuts Taylor River Pond. Tracie showed maps of the prime and other wetlands on and around the subject parcels as well as the area's habitat status under the New Hampshire Fish and Game Wildlife Action Plan. The existing structures are likely constructed on fill that was placed there when the highway was constructed. Tracie stated that staff at the New Hampshire Department of Environmental Services (NHDES) have expressed concerns about sea-level rise, groundwater rise caused by sea-level rise, marsh migration, and salt water intrusion.

At Michele's request, Tracie read the approved motions from the Lakes Management Advisory Committee (LMAC) meeting on July 30, 2019 and provided a summary of their meeting discussion for the RMAC's reference.

Andrew Davis from the NHLC stated that the NHLC does not have a specific plan for the parcels they are looking to sell. He explained that the Hooksett liquor stores on I-93 are an example of an ideal outcome for all parties involved; however, the main goal of this sale is to gain appropriations to renovate their liquor stores in Hampton and to pay off NHLC debts. The NHLC is open to input and are seeking suggestions while they go through this process and prepare for the September CORD meeting.

Paul Godfrey, a HNTB consultant for the NHLC, stated that the first step would be to develop a selection committee consisting of a broad base of entities such as the New Hampshire Department of Transportation (DOT), the NH Department of Natural and Cultural Resources (DNCR), the NHLC, and the Town of Hampton. Paul stated that the committee would then review proposals to

see how they address the conditions and constraints that exist on the sites. It is expected that the properties will be owned by a private entity with the exception of the building footprints retained for the NHLC. The NHLC has been working with NHDOT and the Federal Highway Administration on this project.

Jared Nylund, New Hampshire Department of Administrative Services (DAS), has been assisting the NHLC throughout this process. Jared stated that through CORD, there has been word that the Hampton Conservation Commission is interested in being involved with the project or potentially purchasing the land if they can acquire the funds. NHLC and DAS have not yet contacted the Hampton Conservation Commission directly. Jared also pointed out that since access to these properties would be directly from the highway, the Federal Highway Administration has jurisdiction to impose restrictions on what is allowed at the sites. DOT has criteria and restrictions for the selection committee to ensure the protection of the integrity of existing highway structures.

Clark Freise, NHDES Assistant Commissioner, stated that due to the uniqueness of the property with its wetlands and salt marshes, NHDES wanted to engage in the review process on a deeper level. Clark stated that NHDES met with the NHLC Chair and explained that this was a unique circumstance because of the habitat on the property. NHDES wetlands staff is available to visit the site to assess how much buildable land is present as part of a pre-application meeting. Clark believes this property could provide educational opportunities for people traveling through the state to experience New Hampshire salt marshes. Clark pointed out that the greater the value of the property, the more applicants it will draw, and the right project partner can be chosen. The Request for Proposal (RFP) process can be used to set conditions that will allow the right partner to rise to the top.

Larry Spencer stated that he does not want to see the damage to wetlands he has seen in other states happen to the wetlands of New Hampshire. He expressed concern that through selling this land, the state would be giving away valuable resources that will be useful long-term.

Fred McNeill stated that he believes the Hooksett liquor store service centers are an excellent model to follow. He said that further development of this land could provide great educational opportunities. Fred supports the sale of the land and construction of a service center with the potential to also have an environmental educational aspect.

Mark Lombardi asked the NHLC to clarify the purpose of selling the whole property. Andrew responded that these stores in Hampton used to be their first and second performers, but these buildings are now undersized and outdated. DOT has not expressed interest in purchasing the property. Andrew pointed out that the NHLC are not landlords, but retailers. Their analysis is that at the end of this project they will have a newly-renovated store and they will be able to retire NHLC's debt.

Michele asked for Andrew's reaction to the LMAC's motions/actions. Andrew stated that the NHLC thought the LMAC's approach was well thought out and it spoke to collaboration. They enjoyed that the LMAC shared the idea that there is opportunistic value to developing on this land.

Tom O'Donovan, NHDES Water Division Director, compared this site to a popular tourist attraction in New Jersey where there is a multi-story building to allow visitors to view the wetlands and wildlife on the top floor. He encouraged the NHLC to consider a multi-story approach to remain within the existing footprint.

Clarke advised the RMAC to not submit too many terms and conditions as part of their recommendations to CORD. Clark stated that there is value to applying terms and conditions, but the more they require, the less conversation with potential partners there will be and thus the less opportunity for them to show how much they value the land. Clark suggested that the RMAC request to be a part of the RFP committee and instead make requests in that process.

Alexx Monastiero advised that the developer should be given an opportunity to do the best job possible. She suggested that the 100-foot wetland buffer be counted towards the development base, though it cannot be built within.

Michele stated that she is not only the RMAC chair but that she also represents the conservation community. She said that it does not seem unreasonable to ask for a subdivision of undevelopable land due to state and local regulations. Asking for a subdivision or that a conservation easement be put in place is a reasonable request. These options can provide the opportunity to enter into a partnership that recognizes the value of the resources for their natural value, and their utility as flood storage. She stated it would be a good idea for the RMAC to meet again with the NHLC as the RFP is being developed.

Norman Sims began assembling a possible motion based on the LMAC's concept of selling the existing, contiguous developable land and placing the remaining area in a conservation easement. In response:

- Michele reminded the RMAC that they are an independent committee representing their groups' interests, and have provided recommendations on many other SLRs where property was owned by state agencies.
- Alexx reiterated her advice on retaining the 100-foot prime wetland buffer as part of the saleable land.
- Larry concurred with Alexx regarding the buffer so that the Town of Hampton would have the opportunity to review any planned development in the buffer, as it would then be owned by a private entity rather than the state.
- Norm supported the idea of the RMAC requesting more restrictions now so that when developers are applying, they will understand the RMAC's goal of protecting the land.

➤ ***Norman Sims motioned that the RMAC recommend that the sale of the property be limited to existing, contiguous, developable land with a subdivision made prior to the sale. All wetlands shall have a conservation easement or be donated to the Town of Hampton. The motion was seconded by Larry Spencer.***

Discussion:

- Andrew stated that the NHLC felt that the motions made by the RMAC were restrictive and that the comparative motions made by the LMAC appeared to be open to the potential development of the land.
- Norm stated that he only supports the sale of the developable property, and the wetlands should not be sold to a developer but rather stay in the domain of the state.
- Michele worked with the motion and what was said during the discussions to provide language to build consensus.

The motion was withdrawn by Norman Sims and Larry Spencer.

➤ ***Larry Spencer motioned that the RMAC recommend the sale of the property with a conservation easement placed on the wetlands. The motion was seconded by Ruth Ward.***

Discussion:

- Fred expressed concern that restricting building on all wetlands could impede construction plans, i.e. if they needed to fill in a small area to install storm water management.
- John Magee suggested amending the motion on the table with proposed language that would state “which would allow for no net loss of wetlands in any mitigation or development.”
- Larry did not approve the proposed amendment language so it was not included. Larry then requested to “call the question,” which Chair Tremblay allowed to conclude the discussion.

The RMAC voted 5-2 in favor of the motion, with no abstentions.

- *Larry Spencer motioned that the RMAC request participation in the development of the Request for Proposals for the sale and development of the subject property. The motion was seconded by Ruth Ward. There was no discussion. The RMAC voted 6-0 in favor of this condition on the disposal, with no abstentions.*

The NHLC representatives, Jared Nylund, Clark Freise, Tom O’Donovan, and Tim Drew thanked the RMAC for allowing them to attend and participate in the meeting.

2) DNCR SLR in Hopkinton (SLR 19-007)

Jen Drociak explained that the Town of Hopkinton is proposing an exchange of 30.3 acres of state-owned land in the Contoocook State Forest, consisting of three separate parcels, for a 97-acre parcel of land in the Hopkinton Town Forest that abuts Mast Yard State Forest. All parcels for the proposed exchange are within the designated corridor of the Contoocook River. The Town of Hopkinton desires to incorporate the subject 30.3-acre property and other, non-subject parcels into larger proposed economic development initiative. Due to the configuration of the parcels and their small size, DNCR feels that the 30.3-acre property is not an economically viable working forest. DNCR is interested in acquiring the 97-acre Hopkinton Town Forest parcel, which has approximately 3,500 linear feet of frontage on the Contoocook River, for its large size and strategic location relative to the Mast Yard State Forest.

- *Larry Spencer motioned to recommend the disposal of the 30.3 acres of the Contoocook State Forest in exchange for the 97-acres of the Hopkinton Town Forest. Seconded by Chris Hodgdon.*

Larry expressed his support for the exchange because it would be able to increase the acreage of the state forest and it will allow the Town of Hopkinton to have local control for further development. Additionally, the US Army Corps of Engineers-owned land along the river provides a buffer that will help to preserve the river from future development.

Norm inquired as to the reason for the exchange of land, and was not supportive of the exchange since the current town forest already has an easement on it, and currently protected state land would be developed. Larry called the question, which is non-debatable and closed further discussion.

The RMAC voted 4-3 in favor of the disposal with no abstentions.

3) SLRs Received with No RMAC Review

Jen reported that SLR 19-005 was received for the sale of 0.10 acres of land for a pressure

reducing valve and meter to the Town of Salem. The disposal may also include a right of way. It is not within 250 feet of a river and therefore the RMAC did not need to review it.

Chris Hodgdon – Brentwood SLR Question Responses

At the June 11, 2019 RMAC meeting, the RMAC reviewed an SLR outside of their jurisdiction. The SLR was for the sale of a 34-acre New Hampshire Fish and Game (NHFG) wildlife preserve in Brentwood. The RMAC had questions about the sale of the property, and Chris Hodgdon offered to seek answers from NHFG. The property, including several of the buildings, was formerly utilized for pheasant rearing. More recently NHFG used the land for officer training. The remainder of the property is a mix of open field and young pine. Chris informed the RMAC that the Town of Brentwood expressed interest in purchasing the land, but it is unknown what the property would be used for. Brentwood also owns the land behind the property and it is thought that the purchase could be utilized to increase access to the rear of the property. The two properties are also surrounded by housing developments. There is hope that they will be used for habitat enhancement.

IV. RMAC Represented Interests Presentation Series: Department of Transportation

Mark Hemmerlein reported that DOT is the largest department in the state with about 1,800 employees. It is broken up into six divisions: Commissioner’s Office; the Division of Policy and Administration; the Division of Aeronautics, Rail, and Transit; the Division of Finance; the Division of Operations; and the Division of Project Development. Mark works in the Bureau of Environment within the Division of Project Development. Within this Bureau there are environmental managers, subject matter experts, a water quality program, a wetlands program, a coastal resources program, and an air and noise program. Additionally, they are involved with several federal programs such as the Wild and Scenic Rivers Program, the Endangered Species Program, and the National Marine Fisheries Program. The majority of the work performed at DOT is through contract work, and the bulk of these projects interact with rivers since many roadways in New Hampshire are adjacent to rivers. Mark will conduct a statistical analysis to determine how much of DOT’s work interacts with rivers, and will bring the numbers back to the RMAC at a later date. DOT works with state and federal agencies to acquire the permits needed for their work. DOT is one of the biggest permit applicants at NHDES, and DOT is looking to find a streamlined method of acquiring feedback and permits from NHDES. Beyond permits, the Bureau of Environment has paid almost \$10 million to the Aquatic Resource Mitigation fund over the past eight years. In 2014 Mark and two of his interns worked to establish the stream crossing assessment program that continues to evaluate the functionality of culverts and bridges today.

V. RMPP Program Updates

- 1) Joint RMAC/LMAC Water Quality Indicators Subcommittee Update
 Mark Lombardi announced that the first meeting of the Joint RMAC and LMAC Water Quality Indicators Study Subcommittee is scheduled for October 7th. The meeting focus will be to review materials on existing water quality data and reporting put together by staff. Everyone is welcome to attend. Michele requested that staff forward the meeting invitation to RMAC members.
- 2) RMAC Representative Vacant Seats – Postponed
- 3) LAC Membership Appointment Status – Postponed
- 4) State Budget Update – Postponed
- 5) LAC Activities and RMPP Biennial Report – Postponed
- 6) Instream Flow Program Update – Postponed

VI. Representative Roundtable – Postponed

VII. New Business and Action Item Review

1) New Business

Michele briefly mentioned the idea that the RMAC should discuss, at a later meeting, setting up a regular meeting schedule to coordinate with CORD so the RMAC has time to review SLRs before CORD meetings.

2) Action Item Review

Action Item	Leader	Supporter(s)	Target Date
Send a letter to CORD for Hampton SLR 19-006.	Tracie	Jen, Michele	Aug. 9, 2019
Send a letter to CORD in support of Hopkinton SLR 19-007.	Tracie	Jen, Michele	Aug. 2, 2019
Send an invitation to all RMAC members for the 10/7 Joint RMAC/LMAC Water Quality Indicators Subcommittee meeting.	Mariah	Jen, Tracie	Oct. 7, 2019

3) Next Meeting and Agenda Items

A Doodle Poll will be sent out to schedule a meeting in October.

Chair Michele L. Tremblay thanked RMAC members for their patience and participation, and adjourned the meeting at 3:55 pm.