

LMRLAC – December 11, 2019

LOWER MERRIMACK RIVER LOCAL ADVISORY COMMITTEE

MINUTES

December 11, 2019

Members:

- ✓ = present

Current:

- ✓ Gene Porter (Chair) – Nashua (current term expires Dec 2019)
- ✓ Nelson Disco (Vice Chair) – Merrimack (current term expires 06/21/21)
- ✓ Chris Barrett – Nashua (current term expires 08/22/20)
- Michael Croteau – Litchfield (current term expires 11/08/20)
- ✓ George May – Merrimack (current term expires 06/14/20)

Pending Renewal:

- ✓ Karen Archambault (Secretary) – Nashua (current term expired 08/12/17)
- ✓ Christine Dupree (Treasurer) – Hudson (current term expired 11/25/17)
- ✓ Francis Murphy – Nashua (current term expired 02/18/19)

Also in attendance:

Geoff Daly, corridor resident, Nashua
Sherry Dutzy, Conservation Commission, Nashua

Meeting called to order at 7:01pm by Chairman Gene Porter in the Meeting Room at the Nashua Public Library. It was noted that a quorum was present for the meeting.

Minutes

The minutes of the June 24, 2019 LMRLAC meeting were approved as submitted.

Old Business

Region: EPA Merrimack River “one stop” Web site

Chairman Porter explained that EPA has information about the Merrimack River on its Web site, and gave a brief demonstration of the site, highlighting some of its content. He stated his concern that there is very little content regarding water quality, and brought up his concern that there is little or no data about nutrient load in the river. The link to the site is:

<https://www.epa.gov/merrimackriver/environmental-challenges-merrimack-river>

Nashua: Greeley Park Boat Ramp Alteration of Terrain Application (File #20190412-061), Shoreland Application (File # 2019-00890), Wetlands Application (File # 2019-00937)

Chairman Porter stated work on the project started December 10. He explained that the City is taking on some of the site work so the contractor will remain within budget. The City will work on the new road, while the contractor will use the existing road for access to work on the boat ramp. Completion is currently planned for summer of 2020.

Ms. Dutzy asked if there was information on how the boat ramp budget compares to other ramps. Chairman Porter replied that, in his experience, State ramps generally cost more than what is planned for the Greeley Park ramp.

Mr. Daly asked who performed the work for the ramp on the Nashua River by the Nashua DPW garage. Chairman Porter replied that City employees worked that project.

Region: Combined Sewer Overflow (CSO) Reporting

Chairman Porter explained his focus on CSOs is because recreational users have a right to know about discharges. He explained that Massachusetts has passed a law regarding public

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disclosure of CSO discharges. He showed some sample data from Massachusetts cities along the Merrimack River, to which he has access via a subscription service. Chairman Porter stated he continues to advocate for data accessibility with the City of Nashua.

Mr. May asked Chairman Porter to forward information on how to subscribe to the data for Haverhill, Lowell, Lawrence, and Manchester.

Mr. May agreed with Chairman Porter that one purpose of CSO notification is to inform the public so they can take appropriate action (for example, not go swimming after a CSO discharge). He also stated that another reason is to raise general awareness with the public.

After a brief discussion about other upstream communities, Chairman Porter suggested a follow up would be to look into whether Derry has any CSOs and whether they discharge to the Merrimack River.

Mr. May commented on the complicated nature of the problem. Separating storm runoff from sewer is expensive, and it means that storm runoff immediately discharges to the river. He contrasted that with the occasional CSO release. Members agreed that storage of storm discharges for later treatment is a preferred solution.

New Business Membership

Chairman Porter announced that Secretary Archambault has submitted a letter of resignation and will be stepping down next year. Chairman Porter encouraged members to think about taking a turn as secretary, and indicated that Ms. Archambault has prepared a secretary's notebook to assist in the transition.

Treasurer Dupree announced that she will have to step down as well, and provided the treasurer material to the Chair.

Chairman Porter stated that George Russell of Hudson, an avid boater, has expressed interest in joining the committee and has been nominated by the Hudson Board of Selectmen.

Mr. Murphy's membership renewal paperwork has been signed by the Mayor and is on its way to the Rivers Management Advisory Committee (RMAC) for approval.

Region: PFAS in the River

Chairman Porter summarized the current status of a change in the allowable limits, and periodic testing by water suppliers. Lower allowable limits, and the requirement for water suppliers to report test results quarterly, passed the NH Legislature but is now under a court injunction.

Chairman Porter showed a recent photograph he had taken of the new intake and pipe work in the river for the Pennichuck Water Expansion project. Chairman Porter then gave the floor to Mr. Daly for a summary of PFAS levels in the Pennichuck Water system.

Mr. Daly explained that the concentration of PFAS chemicals in Harris Pond has increased since 2016, and that there is also a short term plan for Pennichuck to dilute the more heavily contaminated water from the Merrimack Village District wells. He further stated that Pennichuck is seeking a permit to increase its maximum draw from the Merrimack River, from 42 to 45 million gallons per day.

Mr. Daly also explained that recent measurements have indicated an increased level of PFAS chemicals in the discharge from the Saint-Gobain site in Merrimack.

Chairman Porter stated the topic is of general interest to the public, and thus to LMRLAC, as a matter of public health and safety, but not an area of focus for LMRLAC to take action.

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Attendees then briefly discussed the issue of pharmaceuticals in waste water, and that treatment plants do not currently treat to remove them. Mr. May indicated LMRLAC could help publicize the fact that that police stations have drug collection days, as a means to keep pharmaceuticals out of the water. Others suggested that some pharmacies provide that service as well.

Ms. Dutzy suggested LMRLAC could look into submitting periodic articles or guest columns to the Nashua Telegraph to raise public awareness on topics of interest.

Region: Nutrients in the River

Chairman Porter stated that he has not found any usable data on nitrates or phosphates for the Merrimack River. He stated that Pennichuck measures nitrates, but not frequently enough for the data to be useful.

Chairman Porter indicated that he has asked the Merrimack River Watershed Council to look at Lowell's data.

Nashua: Beazer Remediation

Chairman Porter displayed a site map, pointed out some of the sampling wells, and summarized the remediation project. He indicated that the results are posted quarterly on the DES Web site; the October 2019 report can be accessed with the following link:

<http://www4.des.state.nh.us/IISProxy/IISProxy.dll?ContentId=4812169>

Chairman Porter highlighted that three of the sumps near the bank wall have been dry; a fourth one is still collecting non-aqueous phase liquid (NAPL) on the site. Chairman Porter suggests the next year or two will show if discharge to the river has been stopped as a result of the latest remediation. He encouraged everyone to review the information on the DES Web site.

New Wetland Permit Rules

New wetland permit rules go into effect as of December 15, which require that LACs respond to minimum impact permit applications. Prior to the meeting, Chairman Porter had distributed copies of a proposed waiver procedure by which the chair or vice chair would be authorized to review and approve minor projects in lieu of the entire committee.

Mr. May indicated his support, with the stipulation that all members be notified of the application and comments provided.

Mr. May made a motion to accept the waiver procedure as written and submitted; Mr. Disco seconded; the motion passed. A copy of the waiver procedure is attached to the minutes.

Shoreland Buffer

Chairman Porter explained that the NH Legislature is looking into requiring a greater percentage of native vegetation retention, from 25% to 50%, which would affect development along rivers and lakes subject to the Shoreland Water Quality Protection Act.

Mr. Daly indicated that there are conflicting requirements in the Shoreland buffer legislation. Ms. Dutzy indicated there is information in the brochure which appears to be in contradiction with information in the "Q and A" section. She will send an e-mail to point this out.

Flooding Forecasts/Climate

Chairman Porter indicated he attended a recent briefing about climate trends in the region. He encouraged members to review the briefing, which is available at the following link:

https://www.nashuariverwatershed.org/images/pdf/Vallee_ClimateTalk_10-29-19.pdf

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Chairman Porter further stated his concern that permit application review relies on FEMA floodplain maps, which do not reflect flooding forecasts due to predicted climate change. Mr. Disco stated that Planning Boards have to rely on FEMA floodplain maps for application review. Chairman Porter encouraged members to advocate for an approach to application review which considers this, including encouraging FEMA to update their maps.

As an example, Chairman Porter mentioned that there is development pending at the former Mohawk Tannery site in Nashua, along the Nashua River. Encapsulation is the proposed remediation for the site. Chairman Porter's concern is that future Nashua River flooding could compromise the integrity of that remediation, unless the encapsulation accounts for predicted increases in flooding intensity.

New Nashua Master Plan Update/LMRLAC Corridor Management Plan Update

Chairman Porter stated that Nashua is starting the process to update its Master Plan in January 2020. He further stated that this is a good time to update the LMRLAC Corridor Management Plan. Mr. May suggested asking NRPC to write a grant to fund the update.

Mr. Disco stated that the process for generating this revision of the Corridor Management Plan should attempt to involve representation from the towns earlier in the process, to gather information about specific issues of concern from each town in the corridor.

Chairman Porter will reach out to NRPC about this matter.

Secretary's Note: the current Lower Merrimack River Corridor Management Plan is available on the NRPC Web site:

https://www.nashuarpc.org/files/1513/9455/5637/LMR_CorridorManagementPlan_ch1-5.pdf

Items from the Floor

Mr. Daly indicated that Nashua has a spectral LIDAR map which could be a resource for showing impervious surfaces within the corridor.

Ms. Dutzy asked whether there were any environmental lobbying groups in Concord that LMRLAC could contact. Chairman Porter will look into lobbyists whose mission may be compatible with LMRLAC's.

Meeting adjourned 8:30pm.

Next LMRLAC Meeting

The next LMRLAC meeting is currently scheduled for Thursday, January 23, 2020, at 7:00pm at the Nashua Public Library.

Respectfully submitted,
Karen Archambault
Secretary

**Attachment 1.
Text of Review Waiver Procedure approved by LMRLAC on 12/11/19**

**Procedure for Lower Merrimack River LAC
Waiving Right of Intervention on Wetlands Notifications, Registrations, and Applications**

Adopted 12/11/19

Introduction

Under the Rivers Management and Protection Act, RSA 483:8-a III, Local River Management Advisory Committees (LACs), including the subcommittees of the Connecticut River Joint Commissions, have been given the duty of reviewing permit applications for projects with the potential to impact the resources for which the river was designated. Specifically:

RSA 483:8-a III. The duties of such committees shall be:

(b) To consider and comment on any federal, state, or local governmental plans to approve, license, fund, or construct facilities or applications for permits, certificates, or licenses, that may alter the resource values and characteristics for which the river or segment is designated.

Under the wetlands rules Env-Wt 100-900 effective December 15, 2019, LACs are asked to both review standard permit applications for projects proposed within the relevant designated river corridor ***as well as to waive the LAC's right to intervene on many proposed minimum impact projects within the designated river corridor.***

As government instrumentalities, LACs are required to follow RSA 91-A, commonly called the Right-to-Know Law. Fulfillment of both RSA 91-A and RSA 483 under the wetland rules effective December 15, 2019 requires the LAC to review proposed wetland projects during an appropriately noticed public meeting. Volunteer LACs meet at most once per month, which means that applicants must wait until the LAC meets in order to obtain the required signature on Statutory Permit-by-Notification, Routine Roadway registration, and Permit-by-Notification forms.

Purpose

This document outlines the policy and procedure under which the Lower Merrimack River LAC shall sign wetland permit, notification, and registration forms for certain types of minimum impact projects proposed within the designated river corridor that the Lower Merrimack River LAC has determined are unlikely to impact the designated river if performed in compliance with the permit, notification, or registration requirements. The signature indicates the LAC has waived its right to intervene on the project as proposed.

ApplicabilityThe procedure outlined below shall apply to the following wetland application forms for projects located within LAC jurisdiction:

Statutory Permit-by-Notification:

- Culvert Repair-Replacement (NHDES W-06-033)
- Seasonal Dock for Lakes and Ponds (NHDES W-06-035)
- Utility Maintenance (NHDES W-06-042)

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Routine Road Maintenance Registration:

- RR-1: Culvert Replacement or Repair (NHDES W-06-033-A)
- RR-2: Culvert Extension (NHDES W-06-033-B)
- RR-3: Culvert Relocation (NHDES W-06-033-C)
- RR-4: Embankment Stabilization (NHDES W-06-033-D)
- RR-5: In-kind Headwall Repair (NHDES W-06-033-E)
- RR-6: Headwall Construction (NHDES W-06-033-F)
- RR-7: Roadside Ditch Maintenance (NHDES W-06-033-G)
- RR-8: Culvert Inlet and Outlet Maintenance (NHDES W-06-033-H)
- RR-9: Temporary Scaffolding (NHDES W-06-033-I)

Wetlands Permit-by-Notification (NHDES W-06-027):

- All 21 Project Types

Expedited Minimum Impact Permit (NHDES W-06-052)

Procedure and Modification

For each wetlands application form listed above that is presented to the LAC for projects that lie within LAC jurisdiction, the **Lower Merrimack River** Local Advisory Committee will sign the form with the understanding that a project which meets the requirements of the permit, notification, or registration will have little or no impact on the **Lower Merrimack River**.

In order to prevent delays in the applicant's permitting process, the **[Lower Merrimack River** Local Advisory Committee has authorized **the Chair or Vice Chair** to sign the wetlands application forms listed above on behalf of the committee outside of a public **Lower Merrimack River** LAC meeting.

The authorized signatory will report to the LAC on any forms signed on behalf of the LAC at the next regularly scheduled meeting.

The above procedures were approved by a vote of a quorum of the Lower Merrimack River LAC on Dec 11 2019. Any modification of this procedure, the authorized signatory, or the list of application or form types to which this procedure applies will require approval by a quorum of **[Lower Merrimack River** LAC members.

"LAC jurisdiction" means the authority conferred by RSA 483:8-a, III upon a local river management advisory committee relative to activities within a designated river or river corridor, provided that for purpose of routine roadway maintenance activities conducted under an SPN, registration, PBN, or EXP, LAC jurisdiction shall be limited to activities in or within 250 feet of a Tier 2 or Tier 3 designated river that have a direct surface water connection to the designated river. (Env-Wt 103.27)