

LMRLAC – May 27, 2010

LOWER MERRIMACK RIVER LOCAL ADVISORY COMMITTEE

MINUTES

May 27, 2010

Members:

- ✓ = present

Current:

- Bob Robbins (Chair) – Hudson
- ✓ Kathryn Nelson (Vice Chair) -- Nashua
- ✓ Karen Archambault (Secretary) -- Nashua
- ✓ David Scaer - Hudson

Pending Renewal:

- ✓ Jim Barnes (Treasurer) – Hudson
- Glenn McKibben – Litchfield
- ✓ George May - Merrimack

Associate Members:

Mildred Mugica – Nashua

Also in attendance:

- Geoff Daly, corridor resident and potential member, Nashua
- Michael Redding, prospective member, Merrimack
- Donald Ahearn, Flood Owners Group, Lowell
- Bob Gagnon, Flood Owners Group, Lowell
- John Nappi, Flood Owners Group, Lowell

The meeting was called to order at 7:07pm in the media wing downstairs at the Nashua Public Library. Kath indicated that Bob had told her he would not be able to attend the meeting.

Minutes

The minutes of March 25, 2010 were approved.

Membership

Kath summarized the current LMRLAC membership status. Kath and Karen are current to March 2011. Jim's, Bob's, and Glenn's terms expired in April. George's term has expired as well. Kath will remind Bob and Glenn to reapply. Jim indicated he will reapply as well. George is considering reapplying.

George introduced Michael Redding, an environmental planner who lives in Merrimack who may be interested in joining LMRLAC. Kath summarized the Designated Rivers program and LMRLAC's purpose for Michael and the other guests present. Kath also explained that LMRLAC and the Nashua Regional Planning Commission (NRPC) recently updated its Corridor Management Plan. The NRPC Web site (www.nashuarpc.org) has information about LMRLAC under the Environmental section of the site, including the nomination form.

Jim pointed out that LMRLAC members represent a variety of interests, among them conservation, recreation, riparian landowners, and business.

Meeting Schedule

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Kath requested that members respond to meeting notices in the summer, indicating whether they will be able to attend. Kath or Bob will determine whether to hold or cancel meetings over the summer based on member availability.

Maximum Impervious Surface Zoning Ordinance

Kath reminded members that NRPC had received a grant to write a template ordinance for member towns. Minda Shaheen had sent a draft to LMRLAC in April and was looking for comments back. Kath indicated that she had received some comments from Nelson Disco, chair of the Merrimack Planning Board. Kath asked whether members had sufficiently reviewed the draft ordinance to discuss it. Members indicated they had reviewed it, but not in detail. Geoff asked Kath to please re-send the e-mail with the draft ordinance.

Kath pointed out that LMRLAC is considered a stakeholder in this effort and asked members whether they wanted to review the ordinance during the meeting, or review it and provide comments back to her over the next couple of weeks.

Members decided to review the draft ordinance and to provide Kath with comments by June 10; Kath will send members an e-mail reminding them of this. Kath will forward the comments to Minda so she can review them prior to the June meeting, and will ask Nelson Disco and Minda to attend the June meeting to discuss the draft ordinance. Kath will also ask Minda her schedule for presenting to the member Planning Boards.

Geoff asked whether Kath would prefer comments or a copy of the ordinance with track changes on. Kath replied that either would be acceptable.

Jim mentioned that, for Hudson, the format of the ordinance would have to change because of Hudson's ordinance structure. Jim also pointed out that LMRLAC members should be prepared for negative comments and negative reaction to the draft ordinance.

Jim summarized Hudson's process for passing an ordinance. The Planning Board would review a draft ordinance in detail over several meetings, perhaps forming a subcommittee to work the effort. Once the Planning Board had worked out satisfactory language in the ordinance, it would then be discussed at a public hearing. Finally, the ordinance would be presented as a warrant article for a vote at Town Meeting.

Kath indicated she had spoken to Steve Wagner, NRPC circuit rider for Litchfield, who indicated Litchfield has an aquifer protection district. Michael asked whether the district included the river corridor – if not, then perhaps the corridor could be linked to the aquifer protection district.

Members briefly discussed the difference in focus between an aquifer protection district and a maximum impervious surface ordinance. One focuses more on sufficient infiltration, where the other is focused more on water quality.

Members briefly discussed instream flow rules and the water quality standards committee that DES had formed. Michael indicated that he participated in that committee. Members discussed whether communities might implement ordinances regarding the amount of impervious surface, or wait for water quality standards to flow down from the State level.

Geoff asked whether he should invite Gordon Leedy from Vanasse Hangen Brustlin to the meeting to discuss impervious cover. Kath and other members indicated he could be a resource to provide feedback on the draft ordinance, and encouraged Geoff to forward it to him.

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Boott Hydropower Dam in Lowell – Discussion with Flood Owners Group

Members welcomed Bob Gagnon, John Nappi, and Donald Ahearn from the Flood Owners Group in Lowell to provide their perspective on the operation of the Boott Hydropower Dam.

Kath gave a summary of LMRLAC's interest in the dam – that LMRLAC has been receiving notification of repairs for about three years. LMRLAC passes the information along to the public so that the public is aware of low water levels for recreation interests, etc. LMRLAC met with Hank Sennott of Enel in the fall of 2009 and with Kevin Webb of Enel in March 2010. Kath indicated that Mr. Webb had presented information about repair events going back about three years, and summarized the crest gate system that Enel was considering. About two weeks after the March meeting, LMRLAC received notification that Enel was going forward with plans to have the crest gate system approved.

George pointed out that LMRLAC had communicated with federal agencies about the rapid fluctuations, that the river level was too low for boating, swimming, or water skiing activities, and that the changes in water level were causing sedimentation and erosion. LMRLAC's desire is that the water level be stabilized. LMRLAC feels Enel has a responsibility to maintain the pond but is learning that maintaining that water level is causing a problem downstream.

Bob Gagnon introduced himself by explaining that he lives on the river, that he has a pervious driveway, and that he has in the past worked with the Merrimack River Watershed Council (MRWC) surveying the river. He summarized that "the operation of the flashboards is flooding us". He stated that, during the flood events in 2006 and 2007, the boards did not fail, resulting in several feet of water in the street in his neighborhood. He stated that the boards typically fail in snowmelt.

Mr. Gagnon explained that the flashboards fail two to three times a year, and it's his understanding they take 2-3 days to repair. He further described that the flashboards were not working as they should in May of 2008. He indicated pictures of the flashboards were sent to the Federal Energy Regulatory Commission (FERC) which resulted in removal and redesign of the flashboards. Mr. Gagnon indicated that this spring, with weaker pins, the neighborhood suffered no serious flooding, because half the flashboards gave way.

Kath asked how many homes are affected by the flooding, in particular, living quarters of residential structures. Mr. Gagnon replied that thousands of people were evacuated for a week in 2006 and 2007, and that no one was evacuated this year or last.

Mr. Gagnon described how the height of the river has been creeping up over the years. He pointed out, for example, that 2-foot capstones were added to the dam to raise it back in 1890.

Mr. Gagnon summarized the Wang Agreement, an agreement between the owners of the lock and canal system and Wang Laboratories in 1980, which determined normal water level. The Wang Agreement calls out a water level corresponding to 4-foot flashboards for the spring snowmelt season (March-June), and for 5-foot flashboards for the remainder of the year. Mr. Ahearn indicated that Enel had previously stated that they would honor the Wang Agreement, but that now Enel was being taken to court to enforce the agreement.

Mr. Gagnon expressed concern about trash and debris moving downriver and the downstream impacts of that. He indicated that Enel representatives have described the bladder system as allowing debris (logs, etc.) to flush downriver. He described how in the past the trash would collect in an eddy from which it could be easily removed, and that its removal would only need to occur 2-3 times a year.

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Mr. Gagnon pointed out that installation of the crest gate system would be a multi-year effort. He pointed out that the bladder system also requires maintenance and inspection.

Mr. Gagnon pointed out that the bladder would maintain the pond and does not provide the failure that boards provide. If the water goes one foot over the top of the bladder, then the bladder lowers by one foot.

Mr. Nappi suggested that a higher overall water level would in turn back up the tributaries which flow into the river.

Mr. Gagnon stated that the sill boards at the Francis Gatehouse are rotting due to the higher water level.

Mr. Ahearn expressed his view that there is a history of bad faith with Enel. Mr. Nappi described how a regatta in October of 2009 had its course shortened, due to low water level. Mr. Nappi indicated that his yard abuts the river, and that it appeared to him that the river was 4 feet higher the morning after the regatta than it had been the previous day.

Mr. Gagnon indicated the pins are longer and stronger than they used to be and briefly discussed the evolution of the pins. Shorter ones were used 100 years ago and would bend 'like candy canes' when they gave way. The newer ones are hardened steel and bend at an angle by a smaller amount.

Mr. Gagnon stated that capstone damage has occurred. With stronger pins, more pressure is exerted against the capstones. Geoff asked whether 2 or 3 capstones had come loose. Mr. Nappi indicated that more pins had been placed closer together, with more holes in the capstones.

Mr. Nappi indicated that the floodplain was smaller 50 years ago. It was mentioned that the Lowell Sun had a story in Thursday's paper about 100 additional homes being within the floodplain after a recent remapping. Mr. Gagnon speculated that the floodplain is tied to the height of the flashboards.

Mr. Nappi expressed interest in sharing e-mail address lists between LMRLAC and the Flood Owners Group. George asked for copies of the information presented at the meeting and Mr. Nappi indicated he could provide copies of the information.

Kath brought up the subject of instream flow, and mentioned that the concept behind it could lead to coordinate releases along the river. Mr. Nappi agreed that there is a lack of coordination all along the Merrimack River.

Kath summarized LMRLAC's role in this matter. She stated that there is nothing driving LMRLAC on this issue; LMRLAC continues to be concerned about the frequency and duration of the repairs.

George asked whether the Flood Owners Group would be satisfied with a bladder system that maintained the equivalent of the 4-foot flashboard level. The members indicated no, because it would not release the water during flood events like the flashboards do when they fail.

Members thanked Mr. Gagnon, Mr. Nappi, and Mr. Ahearn for attending and expressing their concerns.

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Members briefly discussed LMRLAC's next step. Jim asked whether LMRLAC should contact a legislative official. George stated his view that LMRLAC is the perfect committee to arbitrate this situation.

Kath indicated LMRLAC's focus is concerns regarding the frequency and duration of water level fluctuations in the lower Merrimack River corridor. Kath also stated that the backup effect on a tributary is not the same as that on a pipe – that is, that the tributary water level is not controlled by the downstream, larger reach of the river.

Other Business

Hudson Planning Board – annual meeting with LMRLAC

Jim mentioned that the Hudson Planning Board is having a work session the first week of June and does not have a work session planned for July. Therefore, the earliest that LMRLAC can plan to meet with the Hudson Planning Board would be August or September.

Jim also mentioned that Benson's Park in Hudson is opening Saturday, May 29.

Water Quality Monitoring

George indicated that water monitoring on the Souhegan and Merrimack Rivers starts June 8. He believes monitoring locations are pretty well covered, but would like to hear from anyone who is interested in participating in monitoring.

Meeting adjourned 8:55pm.

Next meeting is currently scheduled for Thursday, June 24, at 7pm at the Nashua Public Library.

Respectfully submitted,
Karen Archambault
secretary