

LMRLAC – January 28, 2016

LOWER MERRIMACK RIVER LOCAL ADVISORY COMMITTEE

MINUTES

January 28, 2016

Members:

- ✓ = present

Current:

- ✓ Gene Porter (Chair) – Nashua (current term expires 12/18/16)
- ✓ Nelson Disco (Vice Chair) – Merrimack (current term expires 08/28/17)
- ✓ Karen Archambault (Secretary) – Nashua (current term expires 08/12/17)
- ✓ Christine Dupree (Treasurer) – Hudson (current term expires 11/25/17)
- ✓ Michael Croteau – Litchfield (current term expires 08/12/17)
- ✓ Richard LeBourdais – Hudson (current term expires 11/06/17)

Pending Renewal:

- ✓ George May – Merrimack (current term expired 01/07/14)

Associate Members:

Mildred Mugica – Nashua

Also in attendance:

Michael Bachand, U.S. Army Corps of Engineers
Alex Garneau, U.S. Army Corps of Engineers
Andrew McWeeney, prospective member, Merrimack
Madeleine Mineau, Nashua Waterways Manager
Francis Murphy, corridor resident, Nashua
Peter Sawchuck, Key Environmental
David Schoneman, Ward 3 Alderman, Nashua
James Vayo, Renaissance Downtowns

Meeting called to order at 7pm by Chairman Gene Porter in the Hunt Room of the Nashua Public Library, with a quorum present.

Nashua Waterways Manager

Chairman Porter introduced Madeleine Mineau, who is the Waterways Manager for the City of Nashua. Ms. Mineau has a Ph.D. in aquatic ecology, and has served on the Upper Merrimack River LAC (UMRLAC).

Chairman Porter highlighted the two hydropower dams in Nashua: the Jackson Falls Dam and the Mine Falls Dam. Ms. Mineau explained that Nashua has owner/operator bids out for the two dams. She stated the goal is for Nashua to eventually use the power generated by the two dams.

Recalling the Federal Emergency Management Agency (FEMA) floodplain updates after the Crest Gate bladder installation on the Jackson Falls Dam, Chairman Porter mentioned that the FEMA floodplain calculation should be revisited for the Merrimack River with the installation of the Crest Gate system on the Pawtucket Dam in Lowell. Ms. Mineau stated she has an upcoming meeting with a FEMA representative and took note to bring up that topic as well.

Minutes

The minutes from the December 15, 2015 meeting were approved as written. Mr. Disco abstained from voting, having been absent from the December meeting.

Old Business

Nashua: Beazer East Dredge and Fill Application (File #2015-03105)

Chairman Porter highlighted LMRLAC's submitted comment on the need for mitigation funds, and expressed the desire for a conservation easement to extend the Heritage Trail along the Merrimack River through the site.

Chairman Porter indicated he has not yet seen a response on LMRLAC's submitted comments to the Department of Environmental Services (DES). Mr. Sawchuck indicated he has not seen a response yet, either.

Ms. Mineau explained she attended a meeting at DES about mitigation for the site. The Nashua Conservation Commission and LMRLAC had submitted comments requesting an easement, trail, and improvements to the Greeley Park boat ramp. She explained that DES sees these requests as recreational and not meeting the mitigation criteria to 'conserve, restore, improve wetland function'. Chairman Porter replied that DES appears to be more stringent on this point than the wording of the law would appear to require.

Ms. Mineau also explained that the mitigation calculation is being based on the shoreland impact (i.e. the length of the impact along the river bank).

Ms. Mineau continued that Nashua is pursuing the possibility of conservation land purchases, which would mean at least some of the project's mitigation funds would be applied in Nashua, rather than go into the State's Aquatic Resource Mitigation (ARM) Fund. One of the possible parcels is in the southwest part of Nashua, and one is in the northwest part.

Mr. May pointed out that LMRLAC focuses on the river and that the contamination affects the Greeley Park boat ramp. Chairman Porter stated LMRLAC's position that the contamination has depressed the property's value, and that the linear calculation does not take that into account.

Mr. May asked whether LMRLAC wants to consider pursuing a legal avenue to seek mitigation. Ms. Mineau explained that Nashua currently is experiencing some turnover in City Hall with the election of a new mayor, and suggested such a discussion wait until Nashua's new corporate counsel is in place.

Ms. Mineau commented that Mayor Donchess has expressed interest in having Nashua develop a Master Plan for Greeley Park.

New Business

Nashua: Residences at Waterfront Landing Alteration of Terrain Application (File #20160125-007)

Alteration of Terrain area of disturbance: 381,980 square feet

This project is located at the easterly end of Bridge Street in Nashua, along the Merrimack River levee south of the confluence of the Nashua River. This phase of the project proposes to construct two 5-story residential buildings, plus a maintenance building and a building for retail/restaurant space.

Chairman Porter commented that the word "landing" in the name implies boats, although he then pointed out that the proposed project does not actually abut the river. He introduced the representatives of the U.S. Army Corps of Engineers (USACE) present and asked them to summarize the conditions defining use of the levee.

LMRLAC – January 28, 2016

Mr. Bachand gave a brief background on the levee. It was constructed as a flood damage reduction project, with costs shared by the City of Nashua. There is a legal agreement between the Federal Government and Nashua, whereby the City agrees to own and to operate the levee in accordance with the Operations and Maintenance (O&M) Manual. Any proposed changes have to go to the USACE for review and approval. The bottom line is that any proposed changes cannot alter the function, or intended purpose, of the levee.

Mr. Bachand referred to Section 408

(<http://www.usace.army.mil/Missions/CivilWorks/Section408.aspx>), which “authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers (USACE), to grant permission for the alteration or occupation or use of a USACE civil works project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project”.

Ms. Mineau commented that the current O&M Manual from the 1950s states that no paths are permitted on the levee. Mr. Bachand stated that, through the 408 process, the O&M can be updated to allow a pathway. He further commented that having more people in the area means there are more people monitoring the state of the levee.

Mr. May asked whether a stairway could be installed to cross over the levee. Mr. Bachand responded that it could be considered under the 408 process. The stairway would need requirements that it would not hang up debris, etc. Mr. May asked whether it would have to rest on the levee, or if it could be installed in the levee. Mr. Bachand replied that it depends, for example, on the structure of the levee itself. Mr. Garneau added that there is a section of the levee that has an impervious core.

Chairman Porter next brought up the building height and that they would be visible from the river. He asked whether plantings could be placed on the landward side of the levee to provide a visual screen. Mr. Bachand replied that USACE generally does not want vegetation on levees because root systems can undermine the integrity of the levee, plantings can interfere with levee inspection, and the like. Chairman Porter then stated that a change from 5-story back to 4-story structures would reduce the visual impact from the river.

Mr. Vayo next introduced himself and explained the full Master Plan for the site involves 26 acres; the current phase of the plan involves 6 acres. He stated he would e-mail a copy of the multi-phase Master Plan to Chairman Porter.

Mr. Vayo explained that the fifth story of the building allows at-grade parking and reduces surface parking and impervious surface on the site. This also removes residential units from the first story of the buildings.

Mr. LeBourdais asked whether the site had been flooded as a result of any flood events in recent years. The response was that the site has not flooded since the construction of the levee.

Mr. Vayo continued that the plan has been approved by the Nashua Planning Board and that the Alteration of Terrain and Shoreland permit applications have been submitted to DES. Chairman Porter replied that he received a copy of the Alteration of Terrain application in the mail, but had not received a copy of the Shoreland application. Mr. Vayo will check with the consultants about sending a copy of the Shoreland application to LMRLAC. *(Note: as of close of business on Friday, January 29, the DES OneStop site does not yet show the Shoreland application in the database.)*

LMRLAC – January 28, 2016

Mr. Vayo pointed out the location of the proposed buildings on the plan. He further explained that the retail/restaurant building will include a patio, level with the top of the levee.

The discussion next turned to stormwater issues. Mr. Disco asked what protection was in place to prevent backflow from the site to the river. Mr. Bachand explained that there is a flap valve at the water's edge, and a gate to prevent backflow.

Mr. Vayo explained that if water seeps through the levee it gets collected and redirected; the toe drain drains to a pipe and either goes to the sewer systems or is bilged via an emergency pump.

Mr. LeBourdais asked what the roof surface area was; Mr. Vayo replied that each roof is about 20,000 square feet. He also explained that each building has a cistern system.

Mr. Vayo explained that the parking areas will use porous paving, and the driving areas will use asphalt.

Mr. May asked whether there would be rain gardens on the site. Mr. Vayo replied that 'typical' landscaping is what's proposed.

Chairman Porter stated that among LMRLAC's comments are the desire for future access to the river over the levee (e.g. for cartop boats), and seasonal dockage for motorized boats to dock and thereby access the site.

Mr. May requested that sight lines be taken from the river to determine the impact of the buildings on that view. Mr. LeBourdais added the comment that the view should not be unsightly.

Chairman Porter asked again about planting trees on the levee. Mr. Bachand replied that it was not really possible. He suggested that planter boxes would be the type of approach that could be used on the levee.

Mr. Vayo pointed out that the site plan has been developed as a result of years of discussions with the City and other interested parties and does provide an improvement to the area. Mr. May agreed the project provides a benefit, and pointed out that it will be at one of the City's main entrance points. Mr. May continued that the project should be a benefit to all interested parties.

Mr. Disco asked about the plans for proper maintenance of the porous paving surface. Mr. Vayo replied that there will be a maintenance plan to keep the areas properly vacuumed.

Members thanked Mr. Vayo, Mr. Bachand, and Mr. Garneau for coming in and discussing the project.

Merrimack: Anheuser-Busch Proposed Brewery Expansion; Alteration of Terrain Application (File #20150319-058)

Chairman Porter explained that there has been a change to the permit. Mr. Disco summarized that the project scope has reduced the amount of impervious surface and that there will be a reduction in runoff to the Merrimack River. The project has less of an impact to the river and to the groundwater. Chairman Porter will submit a comment to DES indicating that LMRLAC has no comment on the revised application.

Litchfield: 53 Naticook Avenue; Shoreland Application (File #2015-03431)

Mr. Croteau had reviewed the application prior to the meeting and summarized his review of the project. He explained that he felt the calculations looked correct on the application. His main

LMRLAC – January 28, 2016

point is that the project is in an eagle habitat area. Chairman Porter asked him about the potential for a shorefront trail easement. Mr. Croteau explained that the Litchfield Conservation Commission has its next regular meeting on Thursday, February 4, and the project will be discussed at that meeting. He plans to bring up the subject of a trail at the meeting. Mr. Croteau recommends submitting a “no comment” comment on the application.

Nashua: Beazer East Alteration of Terrain Application (File #20151231-200) and Shoreland Application (File #2015-03425)

Alteration of Terrain area of disturbance: 548,085 square feet

Shoreland impact: 236,004 square feet

Chairman Porter summarized the proposed project to install a roughly 40-foot deep wall along the Merrimack River along the top of bank; the project includes cutting into the bank, reconstructing the bank and installing a reactive core mat and riprap, and stabilizing some of the creosote on site using a chemical which encases it.

Current conditions include an existing sheet pile wall along the river’s edge, monitoring wells, pumping and material recovery, and containment booms in the river.

Mr. Sawchuck continued with some additional details about the process. The new wall will be a slurry wall, constructed in approximately 20-foot sections at a depth of 40-45 feet. The wall will be about two feet wide. He explained that this approach has been used on other coal tar-related sites.

Mr. Disco asked how the site’s stability will be maintained during the wall construction process. Mr. Sawchuck replied that the wall is installed in sections and will be installed as close to the top of the bank as possible. The bank will be graded to ensure stability as it currently is unstable.

Mr. Sawchuck explained that the chemical reactant will be used to stabilize the creosote in the Greeley Park section of contamination as well as between the two walls. He also explained that contaminated soils will be excavated from the river bed and the bank.

Chairman Porter asked what will happen with the excavated contaminated soils. Mr. Sawchuck replied that they will be placed in the former lagoon area on the site, which will be capped with a synthetic liner and clean soils.

Chairman Porter asked about future use of the site. Mr. Sawchuck replied that he expects there will be activity use restrictions. Mr. Sawchuck gave a couple of examples of formerly contaminated sites now in commercial use in other states.

Mr. Sawchuck also explained that Beazer will continue to monitor the site during and after the remediation project. He explained the remediation project will take two years to complete, starting in the late spring or early summer 2016 with the stabilization on the Greeley Park portion of the contamination. He indicated if the stabilization isn’t effective, the monitoring on-site will reveal that. Mr. Sawchuck indicated Beazer has financial surety for the project as well.

Chairman Porter raised his concern about the riprap calculations and whether it would stand up to possible ice damage. Mr. Sawchuck explained the riprap calculations used a safety factor of 1.5 to determine the size riprap to use.

Chairman Porter asked about the process for installing the turbidity curtain and whether it could be in place for the early part of the project as well. Mr. Sawchuck explained that there will be erosion and sediment controls and associated monitoring for all bank grading work. Thus the need for an in-river turbidity curtain is not anticipated. Additionally the curtain requires

LMRLAC – January 28, 2016

monitoring and maintenance. Mr. Sawchuck also explained that the curtain is held in place with anchors and floats.

Mr. LeBourdais asked about whether the dredged soils being added to the former lagoon area could compress and force the contamination to seep. Mr. Sawchuck replied that the soil types are sand and gravel, which are not expected to compress under the anticipated loads. He also pointed out that rain water will no longer get into the former lagoon area because of the liner.

Mr. Sawchuck stated they would be able to arrange access to the site, and provide copies of the phase 1 report and safety plan. Chairman Porter asked for copies of the weekly monitoring reports as well.

Mr. Disco expressed concern about maintaining stabilization while excavating 20 feet below the surface of the river. Mr. Sawchuck summarized the process in that the slurry mixture would be continually added to the excavation sections and that the pressure of the slurry would prevent the sidewalls from collapsing.

Chairman Porter thanked Mr. Sawchuck for coming in and discussing the project with LMRLAC.

Merrimack – Jones Chemical – Chemical Spill

Mr. Disco briefed the meeting attendees on this situation. Jones Chemical is located on Railroad Avenue in Merrimack and deals primarily with chlorine, making bleach and other chlorinated chemicals. An employee of the Merrimack Waste Water Treatment Plant was called to the Jones Chemical site to inspect in response to a reported spill. The inspector expressed concern about surface water runoff on the site, and whether the site has appropriate permits in place. There was some question about what the next steps were; the inspector had suggested contacting the EPA regarding the situation. Chairman Porter suggested contacting NH DES should be the next step, rather than the EPA. Mr. Disco will pursue this further and will contact NH DES.

Proposed Northeast Energy Direct (NED) Pipeline Project

Chairman Porter reminded attendees that LMRLAC has submitted comments on the proposed project and highlighted the request that best management practices be followed, boring under the river for a pipeline crossing rather than dredging. He informed attendees that the Federal Pipeline Safety Commission has come out with guidelines for river crossings which echo the points made in LMRLAC's submitted comments. Chairman Porter reiterated that LMRLAC has taken no position on the pipeline itself and is focused on appropriate measures and precautions for the Merrimack River pipeline crossing.

Nashua – Urbanized Shoreland Exemption

Chairman Porter explained that Nashua had applied for, and received, an urbanized shoreland exemption for a portion of the Nashua River in downtown Nashua (in 2009). He passed out copies of a map which outlined the area.

Ms. Mineau explained that Manchester had applied for a similar exemption.

This led to a brief discussion on the merits of seeking Designated River status for the New Hampshire portion of the Nashua River. The discussion led to a general consensus that, since only Hollis and Nashua would be involved in a Nashua River LAC, it didn't seem to have sufficient 'critical mass' to warrant such a pursuit.

Mr. May pointed out that LMRLAC can still be interested in what's going on along the Nashua River, since it affects the Merrimack River.

Hudson – 6 Harvest View Circle, Apparent Clearcut to River

LMRLAC – January 28, 2016

Chairman Porter distributed copies of a photograph of a house at 6 Harvest View Circle in Hudson. The photograph shows apparent clearcutting to the river. Chairman Porter has contacted DES and the Town of Hudson to find out when the house was constructed and the cutting done, to determine whether it may have been in violation of the State's Shoreland Water Quality Protection Act (SWQPA) or its predecessor, the Comprehensive Shoreland Protection Act (CSPA).

Mr. May suggested this issue remain on future agendas as an ongoing discussion item.

Membership

Mr. McWeeny introduced himself and expressed interest in applying to represent Merrimack on LMRLAC. He explained that he is a marine engineer, and that he lives in Merrimack in a house abutting the Souhegan River.

Mr. Murphy indicated he might be interested in joining LMRLAC as well.

Chairman Porter encouraged members to recruit prospective new members.

Corridor Management Plan Update

Chairman Porter will approach NRPC to discuss writing a grant to request funds to update the Corridor Management Plan.

Meeting adjourned at 9pm.

Next LMRLAC Meeting

The next LMRLAC meeting is tentatively scheduled for Tuesday, February 16, 2016, at 7:00 pm at the Nashua Public Library. *(Note: the February meeting was later rescheduled to Wednesday, February 17.)*

Respectfully submitted,
Karen Archambault
Secretary