

Central NH Regional Planning Commission

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Warner River Nomination Committee Meeting

Wednesday, April 20, 2016

Warner Town Hall, 5 East Main St, Warner NH 03278

7:00 P.M.

Minutes

Welcome and Introductions

Nancy Martin, Warner Conservation Committee, described the Warner River Nomination project and introduces the members of the committee that have been drafting the document over the last couple months. The members of the committee include:

Scott McLane (Bradford Conservation Commission)

Jack Noon (Resident from East Sutton)

George Embley (Representative of the Webster Conservation Commission)

Sue Hemmingway (Warner Energy Committee)

Peter Ladd (Warner Energy Committee)

Also present at the meeting are **Dick Ludders from the Piscataquog River LAC** who has over 20 years of experience, **Tracie Sales, NHDES Rivers Coordinator** and **Sam Durfee from CNHRPC**.

Presentation from Tracie Sales

History of the Program

The program began in the 1980s when a group of people came together to discuss the problem of competing interests and ideas affecting NH rivers. This group of people became the NH Rivers Campaign which lobbied for legislative policy that would solve this problem through management. In 1988 the Rivers Campaign helped pass RSA 483, creating the NH River Management and Protection Program. Today the NH Rivers Campaign is still active, having renamed itself the NH Rivers Council.

Purpose

The purpose of this program is to give local residents an opportunity to engage with the State (and even Federal) government about the future of YOUR river, with the goal of protecting “unique NH rivers for the benefit of present and future generations through cooperative local and state management.”

Advisory Groups

There are two advisory groups created by this legislation. The first operates at the state level and is a State-wide rivers advisory group which provides advice to DES and to the state legislature. This group is made up of members representing different interests and expertise in regards to the State's rivers. The second is a Local Advisory Committee which works with individual Rivers and the communities that they flow through.

Types of Rivers that are Able to be Nominated

Currently there are 18 rivers in the Program. The rivers range from small headwater streams to large rivers. You can nominate a main stem, and/or the tributary branches. A nomination can include locations where the river flows through impoundments, or the impoundments can be left out. In the end, it is a local decision as to what gets nominated.

Classifications

There are four classifications: Natural, Rural, Rural Community, and Community.

Natural (Free flowing, little development) → Community (Larger Rivers with a lot of development)

Benefits of Recognition

Benefits include recognizing YOUR River as a unique natural resource, giving it special status with the state and an opportunity to display signs. This status also gives additional protections against interbasin transfers and instream flow levels. The RSA also limits motor boat usage in areas designated as Natural. Additional restrictions are placed on new or expanding waste facilities if they are anywhere within the river corridor. There are some restrictions placed on dam development or dam rehabilitation, but these generally fall in stretches of river that are small or remote.

Perhaps the greatest benefit is the codified creation of a Local Advisory Committee. There is a LAC for each river and it is the LAC's job to create and implement a river corridor management plan, as well as to review development along the riparian corridor and make recommendations to DES.

River Corridor Management Plan

These plans identify issues facing the river and then develop a plan to address these issues. Having this plan allows the LAC to apply for grant money from state and federal programs.

WHAT IS THE INTENT OF THE PROGRAM, AM I GOING TO LOSE THE RIGHT TO DO THINGS ALONG THE RIVER?

No, as it says in the RSA, "Nothing in this chapter shall be interpreted to preempt any land and zoning authority granted to municipal bodies." Additionally, this program does not expand requirements already in place by other state and federal regulation.

The LAC also does not have a regulatory effect unless agreed upon through proper town channels. A LAC committee can only make recommendations to towns regarding the river, unless the town votes to give the LAC more power.

Where is the Warner River in the Nomination Process?

So far a group has been formed to study the river and identify potential support for the project. Since initial support was present a nomination document was created covering all things river related. The next step is a public information session. This is currently where the Warner River is in the process.

Moving forward the document must be submitted by June 1st to DES to be eligible to be presented at the next legislative session. DES will then review the document and hold a public session to gauge support for the project. If the support is still there then the commissioner of DES creates a report and bill to be submitted to the legislature for designation into law.

Audience member asks Tracie how Local Advisory Committees interact with the select board. Tracie explains that the select board is responsible for nominating representatives to the LAC. Because multiple towns are represented on the LAC this allows for coordination between towns in regards to river matters.

Warner River Nomination Presentation

Sam Durfee noted the high turnout at tonight's meeting and introduces the next speaker, Rebecca Courser from the Warner Historical Society.

History Presentation by Rebecca Courser, Executive Director of the Warner Historical Society.

Ms. Courser's presentation noted the rich history of the Warner River region dating back to the Native Americans who used the river corridor for transportation. Much of the development in the region was driven by the availability of hydropower, allowing for mills to be created in Davisville and Waterloo (originally known as great falls) among other locations.

Fisheries & Wildlife Habitat/Water Quality/Recreation by Ben Nugent, Fish and Game Fresh Water Biologist

Mr. Nugent opened by explaining that the Warner River is quote "Prime for Protection," noting that it has its issues, but it is definitely savable.

Hemlock pine is the largest habitat in the Warner River Corridor, followed by developed land. However, 25% of land within the corridor is designated as some of the most significant habitat in NH.

Avian – Over 110 types of common birds and fowl are present within the river corridor. Many birds depend on the riparian border for habitat.

Wetland Reptiles and Amphibians – Species such as the Wood Turtle and the Pygmy Dragon Fly are present and are tracked because they require special attention. Many reptiles and amphibians live close to the river corridor, and like fish, require access to different habitats to complete different sections of their developmental life.

Fish – Over the past four years 21 types of fish have been collected out of the Warner River, but Ben is still searching for an American Eel. Rivers are an excellent freshwater fish habitat because they provide variation in temperature and turbidity. He notes that the Brook Trout is an indicator species, and its collection from the Warner River shows that the habitat there is still healthy.

Aquifers in the region pull over 390,000 gallons a day. Rivers are very much a part of the hydrologic cycle and contamination of them can lead to contamination of the water supply.

There are many popular recreational opportunities on the river, including paddling and fishing. Even non-aquatic activities benefit from having an intact riparian area.

The Rivers program would help protect instream flows, which protect fish habitats and other aquatic organisms. Limiting massive withdrawals of water also helps protect the habitat. The LAC helps because streams and watershed don't reflect town boundaries.

Energy Presentation by Sue Hemmingway of the Warner Energy Committee

The Committee was formed in 2008 by a town meeting and convened by the select board. Their mission is to recommend local steps to save energy, curb emissions, and move the community towards better energy use and sustainability. Ms. Hemmingway noted that historically the river has been a source of power and an economic backbone supporting families and regional trade. Thousands of mill sites were once present in New England and by the mid-1800s 16 hydro sites were in Warner alone.

Only one Warner River dam has produced hydro power in recent past. Two mill sites have seen some restoration. Other dams are beyond repair. 3/4 land owners expressed interest in rebuilding hydro site on their land but they note the complex permitting and regulatory process involved in developing a dam.

Resiliency in a Changing Climate, Floods & Environmental Services by Chris Connors of Trout Unlimited

The Warner River drains into the Contoocook River. The Warner River watershed is part of the Contoocook watershed, which feeds the Merrimack watershed. A 2009 report indicates that the Contoocook watershed is in the 90th percentile for being threatened due to climate change and housing density. American Rivers ranks the Merrimack watershed in the top 10 for most threatened (the Warner River is part of this). The Contoocook watershed is number two on most threatened, and number one for being threatened for interior forest. 95% of the soil in the town of Warner is erodible. Ms. Connors also noted that 11% of the Town is made up of wetlands and that floods on the river are high volume and fast rising. There is only one gauge, and it is in Davisville, limiting its usefulness.

Proposed Classifications for the River by Sam Durfee of Central NH Regional Planning Commission

Mr. Durfee began by explaining the process which led to the creation of the proposed river classifications. In the beginning the committee looked at maps showing an overview of what is in the river corridor. The classifications were developed first on visual inspection. Then based on public input the classifications were changed. Areas with dams were changed to community so that they have the ability to develop hydroelectric power. The specific classifications can be found on the posted map.

Q&A with Audience

Alan Wagner, a Warner resident and dam owner, voiced hesitation over the location of the River's classification end points, specifically the one that is located at the dam on his property. He asked for clarification on if this classification end point will limit his ability to impound water above his dam. Ms. Sales said this is not an issue as the classifications only limit dams, not impoundments. Mr. Wagner also notes that there is a man in Sutton who has deeded rights to build a dam on his property, and perhaps these should be considered in the classifications.

John Leonard, a Warner resident, notes that he hasn't seen any access to information on this project and feels like this project is going to be jammed down the community's throat. He asked how people get appointed to a LAC? Mr. Durfee and Ms. Sales explained that they are appointed by the towns and approved by the State (DES). **Mr. Leonard** further asked how people are removed from the LAC. Ms. Sales says that while there is no measure to remove people, terms are only two years long, so it is easy to not reappoint them. Ms. Sales further explains that it is up to the communities to adopt or not adopt the river protection legislation. DES will host a public hearing before anything is approved where residents can speak or submit comment, so if residents have objections, the public hearing is the opportunity to let NHDES know. If there is significant opposition at this point than DES might discontinue the project. Ms. Sales concluded her answer by noting that other sections of the river, such as tributaries, cannot be added without going through this same process.

Susan Roman, a Warner Resident, comments that another thing to remember in this context is that no power within the town is lost. The LAC can't enact anything as it is not a regulatory body, an LAC may simply comment and make suggestions.

Cathy Creed, a Warner Resident, asked the committee about how the different classifications for the river were developed and if they can be changed later on. Mr. Durfee responded, explaining that the classifications were developed visually, then with input from dam owners. The classifications, as of now can be changed, but once the legislation is passed at the state level the classifications can only be changed through further legislation.

Ken Door, voices his hesitation for this program based on his dealings with the Shore Land Protection Act. Explaining that his trying to do the right thing in moving his old septic tank has cost him thousands of dollars because of compliance issues. He expressed concern that this is just another layer of legislation that will create more regulation. Mr. Door also expressed concern regarding the fact that there is no procedure to address removing someone from the LAC and that if an obstructionist is appointed than what will happen?

Rich Houston explains that his father was on the Contoocook River advisory board, and that this is just another way for DES to take away property rights without compensating land owners. From his Dad's experience, the LAC did almost nothing and has limited power.

Dick Ludders, from Wear and member of the Piscataquog River LAC, was asked to speak about his experience serving on a LAC. He explains that the main responsibility of the LAC is to raise awareness of the river, as clean water and the fact that rivers in good health are critical to the future of New Hampshire. The Piscataquog River LAC meets once a month and reviews applications for development within the quarter mile buffer around the river. He noted that while they don't do anything from a zoning standpoint, they do pay particular attention to development proposals that would impact the river, such as drainage and runoff.

Martha Michael, Warner Resident, asked if any of town along existing designated rivers put the issue to a vote at town meeting. Mr. Durfee noted that the legislation doesn't supersede any local laws and that it is up to the planning board and selectmen (board) to approve any management plans created. Ms. Sales added that some towns have brought this before their voters, but others have not. Ms. Michael strongly felt that the voters should have a voice. **Mary Jo MacGowen** made the point that anyone can make a warrant article through petition. **Ms. Michael** noted that no one knew that this was happening.

Bill Balsam asked what the problem this legislation is trying to fix. Nancy Martin explained that this is trying to head off potential problems in the future. Ms. Martin noted that other towns have had to use bottled water for drinking. She added that the water cycle is just that, a cycle. Everything is connected and it is important to add protections.

Dave Leathers asks if the map is available on the town website. The committee responded no, but it will be. He notes that he would prefer if the information was posted on an actual website and not using a shortened link.

Tracie Sales spoke on some of the successes that LACs have had in the past. Ms. Sales noted that one has filed for intervenor status with the FERC to deal with Northern Pass. Another group noticed a railroad track dripping a pollutant into the river and was able to get the railroad company to fix the problem and then provide environmental funding to the community. Others are working with local schools to involve their river in the education curriculum.

Marlene Fryler, Bradford Resident, added that she lives on the river in Bradford and that she has been trying to get the state to do something about the river flooding for a long time and it seems impossible to get them to do anything. Mr. Durfee noted that creating an LAC might be a good way for her to lobby for action at the state level.

Inaudible, voiced concern that this meeting is happening too soon and that the timetable is too quick. The process does not make sense yet.

Peter Ladd, Warner Resident and Energy Committee Member, asked about the instream flow protections and how the minimums are calculated. Ms. Sales said that the program quantifies existing instream flows that are described qualitatively. It creates a number based on the time of year that is appropriate for the multiple uses of the river. The flow levels are determined by groups of people with river and fresh water expertise, including biologists, geologists, etc. There is also input from river users, like dam owners, as well as people who withdraw water from the river.

David Hartman, Former Warner Selectman, voiced his continued support for the program but noted that the timeline seems expedient and that perhaps, with the current level of skepticism, it is worthwhile to bring it back to the current selectmen to let them delve into it further.

Inaudible, voiced support for holding off until next year.

Inaudible, agreed with previous statement, saying that this should be given time to digest and perhaps it would be smart to wait for town meeting.

Ms. Martin called the meeting to a close at 9:17 P.M. as several attendees were getting up to leave.