

Friday, February 14, 2020

2:00– 4:00 PM

CWSP Stakeholder Engagement Meeting Minutes

In Attendance

- Vermont DEC – Neil Kamman, Chris Rottler, Ethan Swift,
- VAPDA/ RPCs – Charlie Baker, Peter Gregory, Dan Albrecht (skype)
- VACD/ NRCD – Gianna Petito, Holden Sparacino
- WUV/ WRP – Lyn Munno
- GMWEA – Amy Macrellis
- LCC/ Water Caucus – Jared Carpenter
- Christopher Koliba (Skype)

Agenda:

- Review Notes from 1/24/2020
- Housekeeping/process check
- Decisions document

Review of Notes from 1/24/2020

- Gianna Petito had questions regarding page 2 of the notes, bullet #7
- Comments made by Peter on conflict of interest need to be incorporated into the minutes

Housekeeping/Process Check:

- Neil enquired as to whether members of this group are communicating with their stakeholders/constituencies. With meetings being set up in light of the RFP, DEC wonders what types of resources may be helpful.
- Lyn Munno has been meeting with Missisquoi basin members about the decisions document and will have comments throughout on insights from their perspectives
- Neil offers DEC members as a service/resource for any meetings that are beginning to kick up around the conversation of act 76

Decisions Document

Consensus Items from the Group:

Process and Role

- **CWSP may participate in the BWQC if they are a statutory member**
 - Conversation arose around conflict of interest (COI) and voting on one's own project or not. Consensus will be subject to COI discussion later in the document.
- **Chair is selected by the BWQC. Shall have a one-year term, that can be renewed.**
 - Agreed
 - Discussion on what the position of Chair will entail and if there is an already established standard for being Chair
 - Question: Will the Chair be the one to set the agenda?
 - Concerns were raised regarding the power of a Chair in establishing an agenda without consulting BWQC
 - Missisquoi group wondered about how much DEC will decide versus the CWSP/BWQC deciding on functionality of the group

- Question of rule versus guidance and what is the minimum consistent expectation across the state and how critical is it to be done exactly as laid by DEC
 - Conversation around the term structure and liking the one-year term to allow change
 - Question of if the CWSP will be a statutory member of the BWQC should they not be allowed to be selected as Chair to avoid accrual of power?
 - This may make members of the BWQC more comfortable
 - Chair working with CWSP for the administrative side of meetings and having a process to set agenda
 - Chair won't have financial role in meetings (signing of checks)
 - Should check out already well-established Chair roles from other bodies to avoid starting from scratch
- **BWQC terms shall be two years. Terms shall be staggered, so that 5 members have a one-year term to start, after which they shall be appointed for a two-year term. Also, at start-up, four members shall have a 2-year term to start.**
 - Holden – Term questions: if the BWQC members are renewing every two years and the chair every one-year won't there be a lot of turn over every single year? That seems like a short amount of time if in the scope of a seeing through a project from design to implementation.
 - Lyn: like the one year to allow the BWQC council to decide if they need a change, it is a good check in point to renew or try someone else
 - Neil: Good point that you may lose a Chair you don't want to lose due to pressure of rotations, up to members to decide but a good point to flag
- **There shall be 9 members on a BWQC (per statute).**
 - From Lyns' meeting with the Missisquoi groups: They thought it would make sense to have the discretion to add another member to BWQC
 - Nine is an odd number and would be hesitant if BWQC start voting on numbers
 - Discussion around what happens if a basin cannot fill all the nine seats?
 - Could adjust quorum requirement?
 - South lake basin may be one such basin subject to this issue
 - Holden: can there be two representatives from the same organization?
 - Yes, if the constituency says so
 - Concerns raised over two votes from one watershed group in the same area and having that slippery slope
 - Lyn: split or lump organizations as needed and if you have two people from the same group that is fine, they could split duties and focuses to set priorities and provide context
 - Statute = shall included a minimum of nine members, it doesn't cover the issue of not being able to make the nine members
 - Discussion arose around one person being hired to represent three groups, is that allowed?
 - As a duly appointed person by the groups they are given the power to represent and report back
- **Guidance shall state that members shall be knowledgeable.**

- Must be knowledgeable however, does the basis of knowledgeability set up a situation where someone can protest a decision that was made based on a member's knowledge level?
 - Potential for blame on person not as knowledgeable on BWQC if project voted down
 - Trust in agency to select the best representative and ask municipalities to elected appointed member
 - Maybe include a suggested best practice or guidance on selecting, be a good opportunity for towns to select a person knowledgeable on water quality issues in their basin
 - Reminder that there is mutual accountability with this whole process and with- it success or failure
- Lyn: Complicated when it comes to defining a watershed group, what is an applicable watershed organization, who decides this how does this get structured?
 - Propose that guidance requires consultation with applicable watershed organization that includes tactical basin planning partners as a safety check for who is an eligible watershed organization.
 - WUV is considering guidelines that would provide qualifications for which WA's may serve on Council seats. There was discussion on how strict the eligibility rules should be, given this could be quite open-ended.

Non – Member Input

- **Subcommittees are allowed, with membership approved by the BWQC.**
- **Meetings shall be public and noticed per Vermont's Open Meeting Law, with minutes taken and published after the meeting.**
- **Any BWQC member can solicit information from their constituency.**
- **Subcommittees do not have decision making authority. If they would, then they should be open meetings, with minutes.**
 - Charlie: Not my understanding of the open meeting laws. Even advisory committees are part of the process and officially appointed subcommittees must be transparent about what they are doing
 - How are we defining what basin planning is, can you go out into a field and talk basin planning without being subject to the open meeting laws?
 - Conclusion: Advisory Group needs to discuss whether subcommittees are subject to Open Meeting Law, and if so, revise this section, accordingly per that policy.

BWQC Alternates/Substitutions

- **Alternates are allowed - must be appointed as noted in 924(g).**
 - Change to: Designated Alternatives are allowed – must be appointed as noted in 924(g).
 - Named a priori if member cannot attend
 - Discussion around who may be considered an alternate
 - Must be somehow affiliated with the same organization to keep the vote still attached to the same organization as well as keep that organization informed on conversation

- Lyn comment from Missisquoi group alternates important to maintain informed on BWQC decision/discussion to avoid missing information
 - Allow the group to determine the best method for choosing what it means to be affiliated. Having a formal board member, commissioner would be to be constricting and challenging for some groups.
- **Proxies are allowed, subject to guidance.**
 - Change to: Proxies are not allowed.
 - Chris K: Most boards don't allow proxies and require a member to submit in writing their perspective on a subject as well as a leave of absence notification. You don't want to delegate decision making to someone else
 - Proxies incentives people not to show up

Quorum Requirements

- **Quorum – need a majority (rule)**
 - Majority of the nine members is five
 - Same for decision making
 - Subject to open meeting laws
- **Meetings minimally happen one/quarter**
 - Discussion of language and if meeting quarterly would be too often from some basins and if a basin could decide to meet fewer times
 - Issue tied to funding availability
 - Minimum of four times per year is best
 - From the basin planning perspective some basin may be more efficient and not need as many meetings, however as a matter of guidance rather than rule, suggest four times per year as minimum
 - Purpose of the meeting is also to keep the public informed and allow check in
 - Suggestion: Certain times of year, especially field season, can be difficult for people to meet. Change language from quarterly to meeting a minimum of four times per year
 - Adequate annual progress will be the hammer to ensure productivity
- **Decision-making methodology: Consensus or majority vote of members (i.e. 5 to pass, regardless of those present.)**
 - Discussion around what consensus means and does it mean everyone agrees 100% or super majority?
 - Lyn comments from Missisquoi group: want to operate in consensus
 - Goal of consensus however have majority vote be the backup
 - Chris: Culturally seek a consensus from group however don't want to kill the whole process by requiring consensus, allow vote and discuss the no and why
 - Outcome – seek consensus, but finish with a vote, so that outcomes are on record to create transparency

Executive Session

- **When permitted by statute, with outcome voted in public.**
 - o Only when permitted by statute

Conflict of Interest

- Yes, there shall be a policy, using LCBP as a guide.
 - o Charlie: concerns raised about voting on one project and that it doesn't make sense for the group to function in that way. Need to reach consensus on the priority projects and look at a group of investments in an entire year, like a pallet of projects
 - Vision of how the process will work: proposer or reviewer of CWSP will run through projects with a calculator/tool to develop cost estimate, reduction values and create a portfolio of scoring matrix to rank proposed projects. Each person will have projects in the mix and everyone will have a COI under that model
 - Don't see COI as an issue it's in everyone's interest to reduce pollution on targets and the voting will be on that reduction of pollution
 - Not trying to construct a competitive grant program notion
 - o Gianna: some pieces are a challenge in the package deal method, some metrics are subjective like feasibility and town willingness, what is the score given to those?
 - o Scoring schema will be developed by DEC with point values assigned that will be constant across the state.
 - o Lyn comment from Missisquoi group: you can't rank your own project, but you can vote on the package
 - o Subjectivity is an issue and valid point, how to view co-benefits, project development, landowner outreach is an open question.
 - o Charlie: This isn't intended to be a subjective process. It is intended to have a basis in quantitative analysis where the provider will inform council of the ranking and co-benefits determined by the tools
 - CWSP is put on hook to meet targets and will have pressure and responsibility to recommend technical aspects of projects to council
 - Need to have a bigger discussion on the different perceptions people have regarding the ranking system process
 - o Responsibility of CWSP to provide recommended projects and the BWQC votes
 - o Lyn comment from Missisquoi group: recommend that CWSP has a reachable target number to get BWQC to that point
 - o We need everyone on the council making decisions, not a good idea to have people who are most knowledgeable about a project excluded, the State is too little to not have COI
 - o This is a collaborative process
 - o Ethan: building in whole cost of project from infancy to implementation with check-ins as part of the process
 - 30-60-90 check in
 - Ensure projects are providing the environmental benefits previously calculated
 - Projects have different phases and a push/pull that occurs when getting landowner commitments and surpassing hurdles

- Charlie: looking at risk of each project and whether to move forward with progress even if someone has a vested interest and a conflict with said project you still have eight people voting on it
- Matter of Guidance: CWSP and BWQC shall develop reasonable COI guidelines that do not impede the process
 - Consistent for all basins across the state
 - Need to determine decision making process before COI process
 - Parking lot: Process for BWQC to approve at 30-60-90 and able to pull plug at various check ins, ensure a review process

The COI discussion led to a couple of spin off threads:

- Conversation around the efficiency of the process and getting a project approved through various DEC/other organizations/landowner
 - Amy: Agency of Transportation: useful methodology for this process as they deal with projects involving several landowners, conflicts of right of way... project won't go too far until the constraints of permits and permission are figured out and a project becomes feasible, an interim stage
- Organizational funding discussion:
 - Paying for P pounds, current thinking in initial year(s) is to establish ceiling based on pounds targeted, and the CWSP bills actuals incrementally up to that amount based on actual costs
 - Once a project has been implemented the continued reduction of P from implemented project that is well maintained will be funded using Operation and Maintenance dollars
 - Charlie: DEC should articulate the visualized money flow over the span of the next 20 years for everyone to be on the same page
 - Lyn: How is DEC visualizing approaching things like easements that will prevent future P but may not be wrapped up in P reduction such as functioning floodplain or a buffer planting that will become more effective as it matures.
- Holden: Have we considered whether year one money can be invested in O&M for already implemented projects? It would be huge if it could.
 - NCK – noted. Not sure, as there are stewardship agreements in place for ERP funded work, so we should not pay twice for that.
- Discussion around how approval and check-ins with DEC will operate under increased flow of projects through the program. How will DEC handle this change and address resource concerns?
 - Ethan: DEC developing SOP about how programs are speaking to each other and the parallels with other state agencies to create coordination and communication. This will incorporate pathways of communication between basin planners, BWQC, and CWSP and will be seen in guidance.
 - Give on point of contact for information to flow through
 - Stacy: recommend adding in Archaeology as a resource with future project communication