

Winooski River Basin Water Quality Council Meeting

April 21, 2022

Agenda

- 1:00 Call to order & Roll call
- 1:05 Updates to agenda
- 1:10 Public Comment
- 1:15 Welcome & Introductions
- 1:30 Recognition of alternate representatives
- 1:40 Meeting ground rules
- 1:45 Context for empaneling the Basin Water Quality Council
 - ◇ Act 76
 - ◇ **Clean Water Service Provider (CWSP)** rule
 - ◇ Open Meeting Law & Public Records Requirements
 - ◇ Timeline

Agenda

- 2:15 Roundtable Discussion
 - ◊ “Why I chose to serve on the BWQC”
 - ◊ Training needs
- 2:35 Council Administration Overview
 - ◊ Bylaws
 - ◊ Conflict of interest policy
 - ◊ Public participation policy
 - ◊ Guidance for sub-grants
 - ◊ Procurement
 - ◊ Stipend
- 2:45 Timing to elect Chair & Vice Chair
- 2:55 Establish regular meeting schedule
- 3:00 Adjourn

Recognition of Alternate Representatives

Representing	Name	Organization
NRCDS ¹	TBD	Lamoille NRCD
NRCDS ¹	Russ Barrett	Winooski NRCD
Land Conservation Organization	TBD	
Watershed Protection Organization	Shawn White	Friends of the Winooski River
Watershed Protection Organization	Brian Shupe	Friends of the Mad River
CCRPC ²	Garret Mott	Buels Gore
CVRPC ³	Robert Wernecke	CVRPC Board Member
Municipality (Costandi alternate)	TBD	
Municipality (Hicks-Tibbles alternate)	Alice Peal	Waitsfield

1: Natural Resources Conservation District

2: Chittenden County Regional Planning Commission

3: Central Vermont Regional Planning Commission

Meeting Ground Rules

- ◆ Culture of collaboration
- ◆ Ask questions – let's learn from each other
- ◆ CWSP Goals:
 - ◆ Establish the baseline information needed to operate efficiently & effectively
 - ◆ Set the stage for upcoming meetings

Empaneling the Winooski River Basin Water Quality Council

- a) Act76
- b) CWSP Rule
- c) Open Meeting Law & Public Records Requirements
- d) Timeline

Act 76 (Clean Water Service Delivery Act of 2019)

- ◆ Provides long-term funding
- ◆ Prioritizes CWF support to non-regulatory programs
- ◆ Establishes a network of decentralized Clean Water Service Providers (CWSPs) and Basin Water Quality Councils (BWQCs) to meet P reduction targets
- ◆ Establishes grant programs

Implementing Rule (for Act 76)

- ◆ Purpose: Assign a Clean Water Service Provider to each basin
- ◆ Definitions
- ◆ Selecting Clean Water Service Providers
- ◆ Technical Implementation
- ◆ Appointing Basing Water Quality Councils
- ◆ Conflict of Interest
- ◆ Review of adequate progress & maintenance – corrective action plans
- ◆ Renewal and removal of CWSP assignment

Clean Water Service Providers

- ◆ 5-year service agreements
- ◆ Funding level based on P reduction target
- ◆ Provide guidance for sub-grants & sub-contracts
- ◆ Adopt a procurement policy
- ◆ Pre-qualify sub-grantees
- ◆ Adhere to management requirements
- ◆ Engage the public
- ◆ Follow Vermont Open Meetings & Records Retention Laws

Clean Water Service Providers

- ◆ Support Basin Water Quality Councils
- ◆ Identify & implement **non-regulatory** projects to meet P reduction targets
- ◆ Establish partnerships & sub-contract work
- ◆ Verify & inspect projects over time
- ◆ Ensure consistency with TBP
- ◆ Help BWQC consider pollution reduction & co-benefits

Basin Water Quality Councils in Act 76

- ◆ Provide local water quality knowledge
- ◆ Establish policy guiding Clean Water Service Provider
- ◆ Make decisions regarding “most significant water quality impairments in the basin”
- ◆ Prioritize projects that address impairments and are consistent with the TBP
- ◆ Participate in the basin planning process
- ◆ Quorum required – majority votes binds the result
- ◆ Meet at least 4 times / year
- ◆ Alternates may be designated
- ◆ Conflict of interest procedures – member must recuse but may answer questions about a project they are proposing

Other Participants

- ◆ DEC
 - ◆ Establish P reduction targets & funding formula
 - ◆ Issue guidance materials and cost data
 - ◆ Disperse funds
 - ◆ Monitor progress
- ◆ Clean Water Board
 - ◆ Funding allocation
- ◆ Local & Regional Partners
 - ◆ Propose & implement projects

Funding Sources

- ◊ Clean Water Fund: Meals & Rooms Tax Allocation, Property Transfer Tax Surcharge, Unclaimed Bottle Deposits
- ◊ Capital Dollars: State bond funds
- ◊ American Rescue Plan Act: Direct appropriation from General Assembly

\$25.9 M +	\$11 M +	\$10 M =	\$46.9 Million
Estimated SFY23 Clean Water Fund revenue from Meals & Rooms Tax, Property Transfer Tax Surcharge and Unclaimed Bottle Deposits	Estimated SFY23 funds from the clean water section of the Capital Bill	Federal American Rescue Plan Act (ARPA) dollars appropriated to the clean water budget	Estimated SFY23 Clean Water Budget

State Fiscal Year 2023 Clean Water Budget Recommendation

Agency	Activity	Clean Water Fund (no change)	Board Recommendation (SFY2023)	Governor Recommendation
ANR-DEC (CWIP)	Water Quality Restoration Formula Grants to CWSPs	\$7,000,000	\$7,000,000	\$7,000,000
ANR-DEC (CWIP)	Water Quality Restoration Formula Grants to CWSPs (O & M)	\$210,000	\$210,000	\$210,000
ANR-DEC (CWIP)	Basin Planning, Basin Water Quality Council Participation, Education & Outreach	\$650,000	\$650,000	\$650,000

Eligible Projects

- ◊ Floodplain & stream restoration
- ◊ Buffer plantings
- ◊ Stormwater management improvements
- ◊ Wetlands & lakeshore restoration
- ◊ Funding can also be used for project development:
 - ◊ Assessment reports & maps
 - ◊ Stormwater master plans
 - ◊ Stream geomorphic assessments
 - ◊ Lake watershed action plans

Winooski River Basin TMDL Phosphorous Reduction Targets (kg)

Regulatory Phosphorous Reductions (kg)				
Farm Field	Developed	Forest	Stream	Total
12,543 (41.0%)	5,027 (16.4%)	1,904 (6.2%)	11,147 (36.4%)	30,622

CWSP Phosphorous Reductions (kg) Targets				
Farm Field	Developed	Forest	Stream	Total
1,394 (13.3%)	3,605 (34.4%)	0 (0%)	5,491 (52.3%)	10,489

Winooski River Basin Year 1 Funding & Phosphorous Reduction Targets

Annual Funding Based on Formula				
Design, Engineering & Construction	Project Identification & Development	Total Project Funding	Maximum Administrative Costs	Total Project Funding + Max Admin
\$827,068	\$57,737	\$884,805	\$156,142	\$1,040,947

First Year Phosphorous Reduction Targets (kg) (based on available funds)				
Farm Fields	Developed Lands	Forest	Streams	Total
9.2	23.9	0	36.4	69.6

Cost / kg P reduction: \$14,953

Vermont's Open Meeting Law

(1 VSA §§ 310 – 314)

- ◆ What: all **meetings** of **public bodies** are required to be open to the public at all times, unless a specific exception applies
- ◆ Why: promote transparency, accountability & better decision-making in government
- ◆ How:
 - ◆ Advance public notice of meetings, including an agenda
 - ◆ All business is discussed and actions are taken in an open setting (unless an exception in statute applies)
 - ◆ Allow members of the public to attend & participate
 - ◆ Take meeting minutes and make them available

Definitions

Public Body

- ◆ Any state or municipal board, council or commission – we're doing our work on behalf of the state
- ◆ Committees and sub-committees of these bodies
- ◆ Examples: Selectboard, School Board, Planning Commission, Development Review Board, Boards of Civil Authority, Cemetery Commissions
- ◆ Does not apply to individual officials

Meeting

- ◆ A meeting occurs any time a quorum of members is assembled to discuss the business of the body
- ◆ Regardless of physical location
- ◆ No exceptions for phone conversations, work sessions, or retreats
- ◆ Meetings can occur over time – string of emails or social media posts
- ◆ Limited exceptions: day-to-day administrative matters that do not require action by the public body – no money is appropriated, spent or encumbered

Key Elements of the Open Meeting Law

◆ Notice:

- ◆ Set a regular day & time
- ◆ Post agenda at least 48 hours in advance (24 hours for special meetings)

◆ Agenda:

- ◆ Posted in several locations and online
- ◆ Provide sufficient detail so the public understands the meeting topic
- ◆ Opportunity to adjust the agenda
- ◆ Includes location or details to participate virtually

◆ Minutes:

- ◆ Record of attendance
- ◆ Motions, proposal & resolutions + vote results
- ◆ Available & posted within 5 days

Executive Session

- ◆ Meet in private under limited circumstances
- ◆ Motion to enter Executive Session must be made and passed in the Open Session
- ◆ May invite staff, legal counsel, clerical assistance
- ◆ No formal action taken, except real estate purchase
- ◆ Examples: contract negotiations, personnel records, public safety
Can't think of a reason why a BWQC would need this, but ...

Electronic Meetings

- ◆ Allowed under the Open Meeting Law
- ◆ Must have a physical location open to the public
- ◆ Roll call vote required if the vote is not unanimous
- ◆ Temporary changes:
 - ◆ Physical location **NOT** required until January 2023
 - ◆ Public access by telephone required
 - ◆ Meetings must be recorded (legislative body & school board)

Vermont's Public Record Requirements (1 VSA §§ 315 – 320)

- ◆ Applies to all Public Agencies – including CWSPs & BWQCs
- ◆ Public records must be available for public inspection and copying
- ◆ Every member of the public has the right to inspect and copy any public record or document of a public agency unless it is exempt from disclosure
- ◆ Applies to paper & electronic records
- ◆ Records must be:
 - ◆ available during customary office hours of the custodian of the records
 - ◆ retained according to the retention schedule

Winooski River BWQC

- ◆ Open Meeting Law
 - ◆ CVRPC will post meeting notices, develop meeting agendas & take minutes
 - ◆ BWQC Chair will ensure the public has the right to comment
- ◆ Public Records Law
 - ◆ CVRPC will retain the official Winooski River BWQC records
 - ◆ CVRPC will respond to public records requests
- ◆ Individual Actions
 - ◆ Do not 'Reply All' via email
 - ◆ Retain emails & text messages sent about BWQC business
 - ◆ Respect the intent of the laws

Resources

- ◇ Vermont's Open Meeting & Public Records Laws:
 - ◇ <https://legislature.vermont.gov/statutes/section/01/005/>
- ◇ Vermont's Open Meeting Law Guide
 - ◇ <https://sos.vermont.gov/municipal-division/open-meetings/>
- ◇ Public Records Law Guide
 - ◇ <https://sos.vermont.gov/municipal-division/public-records/>

Project Phases

- ◆ Phase 1: develop & maintain a web site, establish sub-award & project tracking processes, set up accounting & legal services, develop CWSP policies, participate in meetings with the state to establish CWSP operations, process invoices
- ◆ Phase 2: establish & empanel the BWQC, capacity development & training, develop & adopt BWQC meeting rules, policies & bylaws, prepare for procurement
- ◆ Phase 3: project management & data tools, prepare for procurement, local priority scoring & evaluation of co-benefits, legal expenses for site access, attend trainings, host BWQC meetings

BWQC Timelines

- ◆ Short-term
 - ◆ Elect Chair & Vice-Chair
 - ◆ Review & adopt Bylaws & Rules of Procedure
 - ◆ Review & adopt a Public Participation Policy (jointly with CWSP)
 - ◆ Attend trainings
- ◆ Medium-term
 - ◆ Provide direction to CWSP for identifying & prioritizing clean water projects
 - ◆ Establish policies to achieve pollution reduction targets
 - ◆ Provide guidance on process to solicit projects within the basin
- ◆ Long-term
 - ◆ Consider scoring & ranking of CWSP projects
 - ◆ Vote to advance projects

BREAK

Roundtable Discussion

Tell us more about yourself

1. "Why I chose to serve on the BWQC"
2. Training needs

Training Ideas

- ◆ TMDL Primer
- ◆ Basin Planning
- ◆ Block Grants – Lessons Learned
- ◆ Project Identification & Scoring
- ◆ Watershed Database
- ◆ Legal – Site Access
- ◆ Co-benefits
- ◆ Indigenous Perspectives
- ◆ O & M + Project Verification

Required Documents

- ◆ CVRPC will prepare a draft rules of procedure (bylaws)
 - ◆ Legal basis, membership, voting, election of officers, dealing with vacancies
- ◆ Public participation policy – both BWQC & CWSP need to approve
 - ◆ Suggestion: Start with an initial barebones policy that could be developed over time
- ◆ Guidance for Sub-grants & Sub-contracts
 - ◆ Procurement Policy
 - ◆ Draft Request for Qualifications

Election of Chair & Vice-Chair

- ◆ Scheduling the election for Chair & Vice-Chair
- ◆ Take the time to get to know one another
- ◆ Hope that your job as chair is not onerous
 - ◆ Facilitate meeting
 - ◆ Finalize agenda
 - ◆ Shouldn't involve any extra work unless that's something you want to do
- ◆ Anyone with interest should reach out to Brian (voigt@cvregion.com)