

Winooski River Basin Water Quality Commission Meeting Minutes – September 15, 2022

BWQC Members:

| NRCDS | | RPCs | |
|---|--|-----------------------|-----------------------------------|
| | Peter Danforth, Lamoille NRCD | ✓ | Darlene Palola, CCRPC |
| ✓ | Emily Porter-Goff, Alternate | | Garret Mott, CCRPC, Alternate |
| ✓ | Remy Crettol, Winooski NRCD | ✓ | Alan Quackenbush, CVRPC |
| ✓ | Russ Barret, Alternate | | Robert Wernecke, CVRPC, Alternate |
| Land Conservation Organizations | | Municipalities | |
| ✓ | Steve Libby, VT River Conservancy | ✓ | Annie Costandi, Essex |
| | Vacant, Alternate | | Sarah McShane, Stowe, Alternate |
| Watershed Protection Organizations | | ✓ | Nigel Hicks-Tibbles, Northfield |
| ✓ | Michele Braun, Friends of the Winooski River | | Alice Peal, Waitsfield, Alternate |
| | Shawn White, Alternate | | |
| ✓ | Corrie Miller, Friends of the Mad River | | |
| | Brian Shupe, Alternate | | |
| | Ira Shadis, Alternate | | |

CVRPC Staff: Brian Voigt

Guests: Karen Bates (VT Department of Environmental Conservation), Dan Albrecht (Chittenden County Regional Planning Commission)

Meeting called to order: 1:05 PM

Updates to the agenda: none

Public comment: none

Review & Approve minutes from August 18, 2022 meeting

A. Costandi moved to approve the minutes of the August 18, 2022 meeting. N. Hicks-Tibbles seconded. Motion carried unanimously.

CWSP Policy Updates

B. Voigt introduced the seven policy areas that the Clean Water Service Provider (CWSP) needs to address to meet the obligations of the Act and the Rule. These policy provisions are to be included in CVRPC policies governing its behavior when functioning as the CWSP for the Winooski River Basin. The goals of this update is to

provide a high-level overview of these policies. He noted that the BWQC helped to draft the recently adopted Bylaws and provided substantial input on the Public Participation Policy.

B. Voigt introduced the Procurement Policy and noted that provisions in the Rule governing the procurement of goods varies from those in the existing CVRPC policy. He explained that in cases like this, CVRPC's existing Procurement Policy will be modified to distinguish when CVRPC is acting on its own versus when it is functioning as the CWSP. As examples, he noted the CVRPC and CWSP thresholds for small purchases as \$3000 and \$1,000, respectively. Procedurally, vendors are required to pass on the provisions of the Formula Grant to subcontractors and subgrantees, BWQC members may not participate in procurement decisions and CWSPs are responsible for procurement under the Formula Grant. Lastly, he recapped the pre-qualification process, the types of services a CWSP might seek to pre-qualify and when sole-sourcing is permitted.

The Records Retention Policy specifies timelines for records retention related to the procurement of goods. B. Voigt noted that the CVRPC Records Retention Policy was shared with the Vermont State Records Administration (VSARA) for their review. VSARA will recommend updates to the CVRPC policy to ensure compliance with the provisions of the Rule.

The Internal Controls Policy governs the day-to-day functions through the establishment of a system of checks and balances enabled through the separation of key duties, including: i) the custody of assets and accounting; ii) the authorization of the use of assets; and iii) reconciliation. In addition, the Internal Controls Policy requires a single Principal Director (CWSP Director) responsible for the CVRPC's compliance with the CWSP obligations set forth in the Rule. Lastly, this policy also governs financial reporting practices, insurance and dissolution.

The Personnel Policy promotes high quality service. The policy prohibits discrimination against protected classes under federal and state law, requires the CWSP to maintain evidence demonstrating adherence to its stated practices and details a separation of duties.

The Conflict of Interest Policy requires CWSP and BWQC members to conduct themselves according to high ethical standards. B. Voigt pointed to the definition of "conflict of interest" contained in the Rule. He noted the requirement for disclosing potential conflicts and described the role the "conflicted" party may play during project advancement, ranking and prioritization.

R. Crettol asked if the organization that brings a project to the BWQC is the de facto project manager or if the CWSP makes that decision. B. Voigt explained that this depends on several things, including whether the entity that brought the project forward is pre-qualified, has the bandwidth to take on additional project work at the time and is able to complete the project at a competitive cost. He described a scenario where the project proponent does not have the bandwidth to complete a project that they bring forward, but they would like the project to be advanced / implemented. In that case, the CWSP would either look to its roster of pre-qualified entities or issue an RFP to allow for entities that are not pre-qualified to compete for the project. R. Crettol highlighted the “sticky” nature of a scenario where an organization that has worked to develop a project over an extended period is not the entity that is selected to implement the project. B. Voigt responded that the CWSP has identified a narrow set of conditions where that scenario would play out. One example might be a case where another entity is able to complete the project at a substantially lower cost than the original project proponent can. He reiterated that it is not the intention of the CWSP to award projects to entities other than pre-qualified project proponents. However, the CWSP bears the responsibility for financial management and for meeting the P-reduction target.

M. Braun noted that the Rule calls for the establishment of a sub-grant process and wondered if that was different than procurement and how the sub-grant process will work. B. Voigt responded that the sub-grant process is part of procurement and that there may need to be tweaks to the CVRPC Procurement Policy to accomplish this. D. Albrecht offered to share the sub-grant language CVRPC included in their Procurement Policy.

N. Hicks-Tibbles asked for clarification on where the responsibility for updating the policies discussed today lies. B. Voigt responded that this is the responsibility of the CVRPC and that he was presenting this information today to educate BWQC members, not solicit their input on policy development.

Updating the Winooski Tactical Basin Plan Outreach Strategy

K. Bates (DEC Basin Planner) offered an update on the Winooski Tactical Basin Plan, noting there would be a series of meetings focused on riparian buffer plantings, lake protection and Japanese knotweed (among other topics) where partners will have the opportunity identify barriers to project implementation. She noted that the DEC is required to solicit information about pollution from the public and described her efforts to satisfy that requirement through the use of a survey (that the Clean Water Advisory Committees have contributed to). The DEC Basin Planner will continue to collect data through late winter / early spring (2023). A draft update of the Tactical basin Plan will be available for public review in the fall (2023). The planning process

will conclude by the end of 2023. K. Bates noted there is no mandate to coordinate with the BWQC, but would like to come back to a BWQC meeting in the spring (2023) to discuss preliminary draft strategies identified through the planning process. She is willing to come back sooner if the BWQC prefers.

N. Hicks-Tibbles asked if it would be problematic for the BWQC to prioritize projects prior to the release of the updated Tactical Basin Plan. K. Bates responded that this would not be an issue given that the overall goal for projects funded by a CWSP is consistent with the goals of the Tactical Basin Plan. B. Voigt clarified that there is a current Winooski Tactical Basin Plan and that the DEC is in the initial stages of updating the plan to meet the 2023 deadline.

B. Voigt noted the BWQC members participating in the Tactical Basin Plan update (M. Braun, R. Crettol, P. Danforth, C. Miller) and solicited their thoughts on the relationship between the planning process and BWQC / CWSP goals. C. Miller noted that it would be helpful if the planning process helped identify the co-benefits that the BWQC considers when ranking and prioritizing projects.

N. Hicks-Tibbles asked about the timetable for when BWQC project review would commence. B. Voigt responded that policy updates are ongoing and the final draft of the Formula Grant has been shared with CVRPC. He hopes to engage the project review process by the end of the year.

B. Voigt asked K. Bates if she thought the draft plan would be ready to discuss in March. Instead, she suggested that she would rather discuss the draft strategies at that time. B. Voigt will coordinate with K. Bates to arrange time at a future meeting for this conversation. B. Voigt will also keep members apprised of opportunities to participate in the planning process and / or attend upcoming topic meetings.

Project co-benefits

B. Voigt reminded the BWQC of the UVM Co-benefits whitepaper, noted that the Chapter 6 guidance document (from the DEC) has not yet been distributed and solicited input from the BWQC on co-benefits generally and how they fit into the project evaluation process. A. Quackenbush asked for the link to the UVM Co-benefits whitepaper and B. Voigt noted that it can be found on the [CVRPC BWQC Meeting Agendas and Minutes web page](#). R. Crettol noted the consideration of co-benefits for many of the other programs associated with water quality improvements and suggested they be highly valued in the context of BWQC project evaluation. C. Miller agreed with R. Crettol's position. B. Voigt concurred, but also noted that ultimately the decision to fund a project comes down to the cost per unit P. He went on to describe a scenario where two projects achieve a similar P reduction at the same cost,

but one project features co-benefits while the other does not. In that case, the project with co-benefits should be the priority. He described another scenario where the project costs vary and the more expensive of the two projects includes co-benefits (while the more cost competitive one does not). In this case, co-benefits are not likely to result in a higher ranking for the more expensive project. He also noted the potential to couple CWSP funds with those from other programs / donors to maintain an efficient cost per unit P while implementing less cost-competitive projects that include co-benefits.

N. Hicks-Tibbles asked if the BWQC creates their own matrix for evaluating co-benefits. B. Voigt responded that is permissible, and notes further that the weighting scheme applied to the categories of co-benefits could accomplish that as well. N. Hicks-Tibbles followed by asking if the BWQC should wait for the release of the Chapter 6 guidance to commence or if the BWQC could begin this process now. B. Voigt responded that Chapter 6 covers project advancement more broadly, and the evaluation of co-benefits is just one part of this. The whitepaper presents a potential set of factors (co-benefits) for the BWQC to consider. He thinks the BWQC should focus on identifying co-benefits that are important to the basin and that the BWQC and CWSP should work together to outline approaches to quantifying those benefits. N. Hicks-Tibbles suggested that the six types of co-benefits listed in the UVM whitepaper represent a good place to start.

C. Miller asked about the examples from the previous meeting and whether the development of a matrix with co-benefits and corresponding weights is what should happen next. N. Hicks-Tibbles wondered who should take the lead and whether the CWSP has the bandwidth to support this effort. B. Voigt responded that he could produce a draft for the BWQC to respond to, but that what he needs to take the next step is feedback from the BWQC on co-benefits in general or specific co-benefits to be included in the matrix.

B. Voigt noted the lack of data to support an objective evaluation of potential co-benefits associated with a project. He continued by stating that a subjective evaluation of co-benefits is less likely to be repeatable and may lead members to become more entrenched in their own ideas while being less receptive to other points of view. Additionally, he highlighted the potentially broad nature of some of the categories presented in the whitepaper and the complicated nature of quantifying their values. He concluded by suggesting that if the BWQC wants a draft matrix to react to that he can have that ready for the October meeting. A. Quackenbush supported that proposal. C. Miller asked for clarification of what the CWSP would be proposing. A. Quackenbush responded that the CWSP would produce a draft matrix and highlight areas of concern (related to the quantification of co-benefits). C. Miller

requested a list of what the quantifiable elements might be. N. Hicks-Tibbles wondered if it would be useful in the development of this draft to distribute a survey to the BWQC to assess their co-benefit priorities. B. Voigt described an approach to accomplish this where each BWQC member is (hypothetically) allocated \$100 and each member distributes their funds to the co-benefit categories based on their priorities. The values assigned to the individual co-benefits by BWQC members will be averaged and used to help establish the initial weighted co-benefits matrix. He concluded by asking the BWQC to identify co-benefits that were not included.

M. Braun suggested that the unique nature of individual projects mean that the evaluation will necessarily be subjective, and that she thinks the BWQC will find they are reasonably comfortable performing subjective assessments of projects. She wondered why the level of consistency that the CWSP is advocating is necessary unless a proposing entity (of a project that was not funded) feels they did not receive the same consideration (as a project that was funded). B. Voigt responded that that is exactly why an objective evaluation process is necessary. He continued by stating that although there may be room for subjectivity in the project evaluation process, the process should not be entirely subjective. C. Miller reiterated M. Braun's point and stated that there is not a need to engage a scientific study for each project evaluation. B. Voigt replied that he is not suggesting a scientific study for each project; rather he would like to identify local, regional and state data that could support the valuation process. N. Hicks-Tibbles understands the perspectives of both sides. He shares the concern that a subjective evaluation process may lead to unequal treatment (real or perceived) of project proponents. He provided a couple of example scenarios and stressed the need to be aware of the potential risks. M. Braun recommended the CWSP discuss project selection with organizations that currently administer clean water sub-grant programs. R. Crettol suggested identifying what we can quantify, and what we cannot, and take stock at that point. B. Voigt agreed, and noted the most efficient way forward is to hear the co-benefit priorities from BWQC members. N. Hicks-Tibbles hopes that is what the member survey will assist with and requested that survey be distributed to the BWQC members by the end of the following week.

B. Voigt expressed concern about the proposed timeline and noted that considering co-benefits, defining specific co-benefits within the broader categories and responding to the survey is likely to be time intensive. To give members more time to address these topics, B. Voigt suggested skipping the October meeting and reconvening in November. A. Quackenbush expressed a desire to meet in October to keep the momentum going. N. Hicks-Tibbles asked B. Voigt if he thinks the Chapter 6 guidance will be available for the next meeting. B. Voigt responded that DEC has promised that Chapter 6 guidance will be ready shortly. M. Braun noted that she has not received a draft and there are no meetings scheduled to discuss Chapter 6.

M. Braun posted in the chat that the BWQC and CWSP are required by law to consider co-benefits (§ 39-403 (d)(5)). B. Voigt responded that although it is the intention of the CWSP to consider co-benefits, it's the method(s) of quantification that give him pause. C. Miller noted that for other clean water funds that DEC staff weigh in on project evaluations and that this might be a path for the Winooski BWQC to consider.

Tools, Calculators & Databases

This agenda item was tabled until the next meeting. B. Voigt noted that the slide deck from the meeting includes a list of tools and data resources that may be useful for the BWQC. The slide deck will be posted to the CVRPC website.

Agenda items for next meeting

The next meeting is scheduled for October 20, 2022. Agenda items for the next meeting include continuing the co-benefits conversation and an overview of DEC tools and data resources.

Adjourn

A. Quackenbush moved to adjourn the meeting at 3:02 pm; D. Palola seconded. Motion carried unanimously.