**DRAFT MINUTES**

**Act 73 Working Group on Water Quality Funding**

**National Life, Catamount Room, Montpelier**

**Call-In Number: (802) 448-4858**.

**Friday, November 3, 2017**

**9:00-10:30 AM**

Working Group Members: ANR Secretary Julie Moore, VLCT Dominic Cloud, John Grenier of Grenier Engineering, VCGI John Adams, AAFM Diane Bothfeld

Advisory Council Members: VTrans Sue Scribner, Jared Carpenter (Lake Champlain Coalition), Chuck Ross (University of Vermont Extension)

Public: Rep. David Deen (by phone), Matt Musgrave (Vermont Realtors), Jane Clifford (Lake Champlain Regional Chamber of Commerce), Jeff Wennberg (City of Rutland), Jenna Olson (City of Burlington), Andrew Stein (Tax Dept), Rebecca Ellis (DEC), Ashley Romeo-Boles (Vermont Chamber of Commerce), James Sherrard (Town of Williston), Annie Costandi (Town of Essex), Tim Lueders-Dumont (by phone), Dan Dickerson(JFO)

The meeting came to order at 9:00 AM.

1. Review Agenda

The Working Group reviewed the draft agenda for 9/8/2017. There were no changes to the draft agenda.

1. Brief Overview of Comments Received and Next Steps

The Working Group received 26 comments from 35 entities on the October 18 draft. All of the comments are posted on the Act 73 Working Group website: <http://anr.vermont.gov/about/special-topics/act-73-clean-water-funding>. Secretary Moore thanked all of the people who submitted comments. The final meeting of the Act 73 Working Group will be on November 14, and the report is due on November 15. Secretary Moore anticipates a roundtable with the press prior to issuance of the report.

1. Discuss Report Recommendations

Dominic Cloud wants the report to convey a greater sense of urgency, and he distributed a set of suggested changes to the recommendations section. He suggests that the Working Group (1) identify FY20 as the target for an alternative funding source instead of FY24, (2) encourage the legislature use the next 2 years to create a clean water authority, (3) acknowledge that fees are more effective than taxes, and (4) recommend an impervious surface fee.

The Group then walked through each of the recommendations in the October 18 draft.

Recommendation #1 (Use of existing revenues): Responding to the need for urgency, ANR Secretary Moore clarified that the draft did not mean to suggest that state should rely on current level of capital funding (~$22 million) for each of the next five years. John Adams of VCGI stated that the data for an impervious surface fee won’t be ready until, at the earliest, December 2020, which means an impervious surface fee couldn’t be operationalized until FY21. Andrew Stein of the Tax Department would need 12 to 18 months to set up a new tax or fee system; to be ready by July 1, 2020 (FY21), the Tax Department would need direction from the Legislature no later than July 1, 2019. Secretary Moore proposed that the group recommend capital bill funding for the next biennium (FY19-20), making FY21 the goal for alternative funding.

Dominic Cloud posited that a clean water authority could build the political consensus for the next step. He suggested a standalone bullet that says it shouldn’t be either the Tax Department or the municipalities that collect the fee. Rep. Deen advised the Working Group not to tie the hands of the legislature.

The group discussed whether municipalities would have the option of opting out of a statewide stormwater fee. Jenna Olsen from the City of Burlington said it would be preferable to reserve the right of existing utilities to administer the statewide fee through their existing system. James Sherrard of Williston said MS4s would like to “write a check” to the central authority, rather than collect the same fee as the central authority.

Andrew Stein of the Tax Department noted that the discussion had conflated two issues: collection and service delivery. He suggested that the state has technical and administrative knowledge regarding how to set up a system to collect money, and would likely not need a consultant to design a collection system.

Recommendation #2 (Adaptive Management): Secretary Moore noted that it’s important to recognize that costs are not static. The State will be gathering more information on costs and needs as we go through implementation, and this should be explicitly addressed. Dominic Cloud agreed this an important point, but should move lower on the list of priorities. Secretary Moore suggested that adaptive management could possibly be incorporated in the Clean Water Fund Board’s annual clean water investment report.

Recommendation #3 (Flexibility): Secretary Moore observed that this recommendation is included in Dominic Cloud’s handout. She suggested adding the Treasurer’s VEDA recommendation to the list of bullets. Acronyms will be spelled out in the final draft.

Recommendation #4 (Innovations): Secretary Moore suggested merging the discussion of technological and regulatory innovations into adaptive management, to which there was general agreement. Jeff Wennberg suggested the report mention integrated permitting in this recommendation.

Recommendation #5 (Next Steps): Secretary Moore acknowledged that a number of the comments requested more specific next steps.

1. Pros and cons of a consultant. The conversation turned to whether or not the next step should include hiring a consultant. Secretary Moore explained that the recommendation for a consultant reflects the agencies’ capacity, that it needs to be somebody’s job to create an authority. Jared Carpenter stated that the environmental advocates would like to see the Act 73 group make more decisions and move forward more quickly. If the state hires a consultant, it should be to build the car, not to design the car. Dominic Cloud opined that there’s real value in the conversations between the legislature, the municipalities, and the agencies. If it’s led by a consultant, it will all go on the shelf.
2. Cost of an authority. Brian Musgrave questioned the cost of an authority. Efficiency Vermont costs $50 million a year. The realtors would like to see what’s best for Vermont. In his words, “we don’t want to put a car in the garage without knowing how to drive it.” Andrew Stein noted that Efficiency Vermont can lean on existing electrical utilities to collect revenues. He would be interested to know how Burlington, Williston and Colchester collect fees. In response to Andrew Stein’s question, the municipalities offered to fill out a survey. Jenna Olson stated that Burlington uses its existing water utility to send out 10,000 bills and collects $1.5 million to administer a stormwater program. Williston uses an existing utility but had to had to double the number of bills that are sent out. Williston collects $750,000 at a cost of $15,000. Colchester outsources the cost of setting up a billing system, which cost $30,000. Colchester sends out 6500 bills and collects $1 million.
3. Sunset date. The group discussed the idea of creating an authority that would sunset in two years. Some felt that the authority could live or die based on how much it accomplishes; others felt that the authority would need more than two years to get established. John Grenier suggested that the group recommend an authority is authorized to work on this problem until FY21.
4. Inside or Outside State Government. The group discussed whether the authority should be inside or outside of state government. Dominic Cloud said the advocates’ letter does not necessarily require that the authority is outside of state government. He is okay striking from his recommendation the phrase “as outlined in the enclosed proposal from stakeholders.”
5. Scope of Authority. Chuck Ross advised that the legislature needs to be very clear about what decisions are being delegated to the Authority. If an Authority has ability to raise money, that’s a lot of power. There’s a huge policy difference between the authority to raise money and authority to spend money. Jeff Wennberg suggested that the discussion of an authority could be facilitated by separating two concepts: rate setting and collection.
6. Innovation Group. With regard to spending money effectively, Chuck Ross mentioned that he has been working with a group to discuss how to identify and support technological and regulatory innovations. In Chuck Ross’ opinion, it will be a stretch to meet the reductions set in the TMDLs, but we’ll have a better chance if we keep current with the latest technology. Secretary Moore suggested that an innovation group could be part of the adaptive management strategy.
7. Spending Priorities. Rebecca Ellis noted a divergence of opinion among the comments about how new revenues should be used, and whether they should be used to increase total amount of spending, or to adjust relative contributions from the federal, state, local and private sectors. Secretary Moore suggested this might be an appropriate question to address to the legislature. Matt Musgrave said the realtors were satisfied with the pragmatic approach in the draft report, including self-funding of private lands, but that they would be commenting more once they see the draft stormwater rule.
8. Other Comments or Suggestions.

Dominic Cloud moved that the recommendations be amended as proposed in his handout, and that the working group meet again on to take a vote on the final version of the recommendations. John Adams seconded the motion. A discussion ensued as to whether or not the group needed to vote on the recommendations. The general consensus was to take a vote on the recommendations but not on the entire report.

Secretary Moore made a friendly motion to amend Dominic Cloud’s as follows, that a draft of the recommendations will be distributed to the Working Group late next week (Thursday 11/9), that the Working Group will hold a teleconference on Monday (11/13), and the Working Group will vote on the recommendations on Tuesday 11/14.

The motion passed unanimously.

The meeting adjourned at 10:30 AM.