

CHITTENDEN COUNTY REGIONAL PLANNING COMMISSION
MS4 SUBCOMMITTEE
 OF CLEAN WATER ADVISORY COMMITTEE – **Draft** MINUTES

DATE: **Tuesday, January 3, 2023**
 SCHEDULED TIME: 12:15 p.m. to 1:30 p.m.
 PLACE: ONLINE via Zoom
 DOCUMENTS: Minutes, documents discussed, and presentations accessible at:
<http://www.ccrpcvt.org/meetings/clean-water-advisory-committee/>

Committee Members in Attendance (all attending online unless otherwise noted)		
Burlington: James Sherrard	Burlington Airport: Catie Calabrese	Williston: Christine Dougherty
Colchester: Karen Adams	Milton:	Winooski: Ryan Lambert
Essex: Annie Costandi, co-chair	Shelburne: Chris Robinson	VAOT: Jennifer Callahan
Essex Junction: Chelsea Mandigo, co-chair	South Burlington: Dave Wheeler	Univ. of VT: Claire Forbes
DEC: Sam Hughes		
Other Attendees: Winooski NRCD: Adelaide Dumm; DEC: Thomas Benoit, Meagan Koss, Karen Bates		
CCRPC Staff: Dan Albrecht, Chris Dubin, Sai Sarepalli		

1. Changes to the Agenda and Public Comments on Items not on the agenda:

The meeting was called to order at 12:15 p.m. by Chelsea Mandigo. No changes to the agenda were made. No public comments were made. Dave Wheeler introduced Marisa Rorabaugh, the City of South Burlington’s new Stormwater Superintendent.

2. Review and approval of minutes (December 6, 2022)

After a brief recap by Mandigo, *on a motion by Dougherty, with second by Wheeler, the minutes of December 6th were approved unanimously.*

3. Continued discussion of Erosion Prevention & Sediment Control Plan enforcement

Thomas Benoit of DEC introduced himself. Mandigo described the purpose of the subcommittee and introduced staff, members and Rethink Runoff’s two subcontractors.

Wheeler recapped why we are having this discussion. He and James Sherrard started talking about the problem this fall of what to do when a contractor is not complying with their EPSC Plan. Sometimes they are unreasonable, sometime their measures are inadequate, so we want to have a conversation to see what is going on statewide, regionally, etc., how are people enforcing, how is the State dealing with this issue especially when staff is limited and can only see problems when they are on site after a big rainstorm. To me the issue comes down to what is on the approved EPSC, e.g. perfect rectangular silt fence on the plan but with notes also saying what to do if turbid water is leaving the site....then they say they only bid the project based upon what is on the plan..... but fence needs to be following the contour.....engineer only designs fence after construction is assumed to be complete rather than anticipating the needed midpoint steps (during construction).

Sherrard sees this issue come up every summer. Yes, discharges happen but people need to respond accordingly. Problem is city code enforcement not well suited to getting problems fixed right away. People need to adjust EPSC during construction. Problem is the word is out among contractors that no one has ever gotten into any real trouble if they ignore erosion control. It would be great if there was the potential for the State to step in.

Benoit responded. Members informed him that these issues are both state jurisdictional or sub-jurisdictional by MS4 municipality. Speaking for State jurisdictional issues, they have several avenues. They can give citations, they can seek formal enforcement. Yes, please reach out to us if you have questions or issues on a state permitted site. We only have 3 individuals for the whole state. We see the same issues you have. We want to see phasing plans for big sites. Contractors object but we point them to the regs that enable DEC to ask them to do more. We see the same common problems. We want to do

1 more outreach with designers and do trainings, especially in wintertime when it is slower. With regard to
2 discharges, they are supposed to provide a report on what happened and what did they do to address it.
3 You are the boots on the ground so please call us if you see repeated issues.
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5 Sherrard asked how State does do enforcement. Benoit responded that in his time with the State he can
6 think of only about two instances where they gave a Stop Work order. Most of time we enforce by
7 conducting daily/weekly site visits. We have the ability to enforce, we build a case with every visit.
8 Dougherty agreed that Stop Work orders can be a heavy hand. What is your philosophy on enforcement
9 and how can we support you? Benoit said he does not have a philosophy; we try to work with people to get
10 things fixed. They can give citations up to \$1,000. For bigger offenses these get pushed up to enforcement.
11 Benoit said typically, we do a site visit and then write up a report and send it to owner and contractor
12 identifying the issues and a schedule of when we would like to see them corrected. We ask for follow-up
13 photo documentation within 1-2 weeks and then they do a follow-up visit within a few weeks to make sure
14 the required actions are being done. We have one district review who focuses on Chittenden County and
15 down Route 7. If you see issues contact Taylor (Flanagan). [Editor's Note: taylor.flanagan@vermont.gov]
16 To be clear, our enforcement/complaint process can come from citizens, can come from municipalities to
17 specific district reviewer, can go through enforcement division and then an enforcement officer does it or
18 they assign it to Thomas' shop. We try to work with permittees on site; if that does not work we do
19 citation or give it to enforcement folks to handle.
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21 Wheeler noted that he once had an enforcement officer come once and it was very helpful. Yes, Thomas
22 noted, that was David Murrish who handles central Chittenden County and northwards. [Editor's note: see
23 Environmental Enforcement Officer districts here:
24 <https://dec.vermont.gov/sites/dec/files/ced/2019%20EEO%20Map.pdf> . Wheeler agreed on reviews now
25 separate for operational stormwater permits vs construction stormwater permits. Not being separate was
26 part of the problem in the past with not much focus being put on the latter. He also noted that on some
27 sites, the on-site plan coordinator is an engineer from one of the firms that knows what they are doing and
28 other times it is a contractor who may not know enough about erosion control, e.g. how to use a turbidity
29 meter, that they need to report discharges. Benoit again encouraged folks to reach out if people are not
30 following their EPSC plan. An EPSC specialist is a person for an individual site who reports to them every
31 2 weeks.
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33 Albrecht, speaking as a member of a DRB and as someone who has assisted in local planning & zoning
34 offices with staff review of development applications, he asked if there is anything that DRBs can do to
35 get more teeth into Decisions? Planning & Zoning staff have enough to do. DRBs can try to highlight
36 stormwater concerns especially in the conclusions on the last page of a decision.
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38 Members noted that yes municipalities have ticketing authority. The challenge, Wheeler notes, that
39 Planning & Zoning must write a letter and proscribe exactly what must be done and a time limit. But then
40 they would fix it, but if issue happens again, they just say they did what you asked and then the office has
41 to do another letter and so on. It should be on them to address discharges on an ongoing basis rather than
42 piecemeal. Dougherty noted that each municipality does things differently. It would be good to have
43 consistency across the state. It can be problematic because some sites are both on a state permit and a
44 municipal permit.
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46 Benoit said, we reference the plans and the permit that was issued and the associated EPSC plan that came
47 with it. For Williston, we require that State permit is in hand ahead of time but it is a slippery slope
48 because we don't have the authority to say someone is not in compliance with a State permit. Sherrard
49 noted that we municipal staff don't have a lot of good ways to do enforcement. He asked if State could
50 play a bigger role? Benoit noted he only has 3 staff for the whole state, we handle/review 100 permits per
51 month and then have to do site inspections in the meantime. We could do cooperative site inspections with
52 municipal staff. Want to continue cooperation and training/outreach. It is hard to share a summary of

1 specific violations and what they did about it, but he will look into it. Dougherty suggested some sort of
2 “Year-in-Review” document so they can do education and outreach to contractors and developers, and say
3 “yes, the state does do enforcement so pay attention to your permit.”
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5 Members thanked Thomas for coming to the meeting.
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7 **4. Rethink Runoff Stream Team 2023 water quality sampling sites and overall workplan**

8 Dunn recapped the current plans for 2023 sampling sites. 5 sites are being removed and 7 will remain.
9 Members asked why sites get removed. Dunn indicated that in short, DEC only needs samples for a few
10 years to get a snapshot that is indicative of questions. [Editor’s Note: DEC later wrote to Dunn and she
11 note they elaborated as follows: Reasons for removing sites include but are not limited to: access issues,
12 lack of flow, etc. Sites may also have been removed because they have been monitored for at least 3 to 4
13 previous years in LPP, or sites with very low levels of TP, TN and TCI have been removed because the
14 data is sufficient for consideration by Biomonitoring staff to conduct biological assessments for potential
15 reclassification.
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20 **5. Staff, member and guest updates as needed**

21 Chris reminded MS4 municipalities that they don’t need to meet any implementation requirements (???).
22 Will work
23

24 **6. Items for February 7th meeting agenda**

25 review & action draft 2022 Annual Reports for Minimum Control Measures #1 and #2
26 update from Probolsky Research on launch of 2023 Stormwater Awareness Survey
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29 **7. Adjournment**

The meeting was adjourned at approximately 1:30 p.m.

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31 *Respectfully submitted, Dan Albrecht*
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