

Northern Lake Champlain Basin Water Quality Council Special Meeting, December 14, 2022 10 a.m. (Online) Minutes

See meeting recording & meeting materials at:

<https://www.ccrpcvt.org/northern-lake-champlain-basin-water-quality-council/>

1) Introductions, Changes to the Agenda and Public comment on items not on the agenda

The meeting was called to order at 10:01 a.m. by Chair Ken Mirvis. A quorum of 9 seats out of 9 were represented as noted in Bold (with Mr. Pierson joining the meeting at 10:40 a.m.).

(# seats)	Members Present	Alternates Present
Watershed Protection Organizations (2)	Kent Henderson, Friends of Northern Lake Champlain	<i>Don McFeeters, Friends of Northern Lake Champlain</i>
	Andrea Morgante, Lewis Creek Association	<i>Roger Crouse, Lake Iroquois Association</i>
NRCDs (2)		<<Oliver Pierson, WNRCD (10:40 a.m.)
	Molly Varner, Grand Isle NRCD, VICE-CHAIR	
Municipalities (2)	Ken Mirvis, Grand Isle, CHAIR	
	Dave Wheeler, South Burlington	
RPCs (2)	Dean Pierce, Northwest RPC	
	Karen Adams, Chittenden County RPC	
Land Conservation Organizations (1)	Emily Alger, South Hero Land Trust	
Primary Clean Water Service Provider Staff		Secondary CWSP Staff
<i>Dan Albrecht, Manager</i>		<i>Chris Dubin</i>
Guests		
	<i>Kate Kelly, Lewis Creek Association</i>	<i>Ken Minck, Georgia Conservation Commission</i>
	<i>Nicholas Prussock, Town of Milton</i>	<i>Chris Rottler, VT DEC, Water Investment Division</i>

On a motion by Pierce with a second by Wheeler, the draft agenda was approved unanimously. No public comments were made on items not on the agenda.

2) Review and approval of Minutes for Meeting of November 16, 2022

After a brief recap by Albrecht, on a motion by Wheeler, with a second by Pierce, the 11/16/2022 draft minutes were approved unanimously.

3) Review and comment on received pre-applications

In response to a query posed by Morgante, Albrecht agreed with her yes, that this pre-application process is an exercise to ask questions, to identify any pitfalls, and to see how we might look at formal applications. He acknowledged her concern about whether the Council can act to fund projects in the absence of finalized guidance from DEC. He also noted that at the last Council meeting the Council stated a goal of eventually having pre-applications only reviewed by Albrecht. Given that we are at least a few months away from the Guidance being finalized. Addison County RPC has already issued a Call for Proposals for their CWSP region and DEC has not told them to stop. Albrecht plans to issue subgrants and will run anything by Karen Bates, Chris Rottler and others at DEC. He hopes to issue a Call for Proposals in late December and then have the BWQC vote on project as their February 15. He thinks that as long as we can keep DEC in the loop it will work out. Pierce noted that as long as the BWQC and the CSWP does it consistent with the law (Act 76) and the Rule we should be safe.

The Council, staff and applicants briefly discussed the following projects which submitted pre-applications. Some points and issues noted were as follows:

Mill River Road NW Re-grading & Plunge Pool BMP, Final Design & Construction (Kent Henderson, Friends of Northern Lake Champlain) located at intersection of Mill River Road and Georgia Shore Road in Georgia. The proposed BMP includes reshaping the lower approximately 250ft of Mill River Rd to drain to the ditch on the

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north side of the road and allowing the water to flow in the existing culvert under Georgia Shore Rd. The water would then enter a plunge pool basin. The rough estimated cost is \$21,740. The project would remove 1.5 kg of phosphorus annually.

Mill River Road SE Infiltration Chamber and Gully Restoration, Final Design & Construction (Kent Henderson, Friends of Northern Lake Champlain) located at the west end of Mill River Road near the intersection with Georgia Shore Road in Georgia. The proposed project consists of two BMPs that will reduce the volume of stormwater reaching the existing gully and stabilize the area to prevent future erosion. The first component of the project includes the installation of subsurface infiltration chambers within the Town right-of-way along Mill River Rd. The second component involves stabilizing the gully with stone and allowing for infiltration within the stabilized area. The rough estimated cost is \$52,470. The project would remove 5.3 kg of phosphorus annually.

Swanton Town Beach Bioretention System and Roadside Sand Drain, Final Design & Construction (Kent Henderson, Friends of Northern Lake Champlain). Swanton Beach is located on the shoreline of Lake Champlain in Swanton, west of a bend in Maquam Shore Road (Route 36). The beach property is owned and maintained by the Village of Swanton and serves as a public recreation area with waterfront access. The goal of this project is to manage and treat the stormwater runoff from the parking lot using a bioretention system, and the runoff from the road using a roadside sand filter. The proposed practice includes an under-drained bioretention system to the south of the parking area and a roadside sand filter near the Maquam Shore Rd and Lasnier Rd intersection to treat runoff prior to its discharge via a stream that flows along the northern edge of the property. The rough estimated cost is \$39,128. The project would remove 0.924 kg of phosphorus annually.

Albrecht noted that the formal application for all three of these FNLC projects should clearly separate out which elements are associated with compliance with the MRGP and which would be voluntary and thus eligible for a subgrant from the CWSP. Henderson noted that they had discussed these with the Basin 5 Planner and feels that these projects go above and beyond what is required in the permit. Albrecht recommended that Henderson talk to Jim Ryan of DEC who coordinates the Municipal Roads General Permit and Pierce confirmed that Bethany Remmers at NRPC can assist as well.

Falls Trail -unmanaged stormwater runoff, Final Design (Ken Minck, Georgia Conservation Commission). Falls trail is located between Cline Rd. and Mill River Rd. On the North end there is a short section of CL3 town road, at the bridge (Mill River) it changes to a legal trail. The project is in the south end of the trail. Falls trail has 2 gullies that have developed because of non-existent trail maintenance. The South gully will be addressed with this application water bars would need to be installed on the trail to correct sheet flow to the gully. The gully would need stone gabions installed to stabilize it. The rough estimated cost is \$72,000. The project would remove 20.74 kg of phosphorus annually. Pierce noted that we need to make sure applications include a projected construction cost (even if rough) as DEC requires us to use it as a metric. The Selectboard will consider a request from the public to close the trail to motorized vehicles.

Henderson noted that the application process is challenging because we are being asked to come up with construction costs even before a design is complete. Albrecht agreed but noted it is not like prior types of grants where you could just say, "yes, phosphorus will be reduced", and that was good enough. Now, we have to keep a eye on cost efficiency by Rule. In practice, we may just fund Final Design first and then decide whether to release funds for construction. In response to Briselden, Albrecht noted that DEC has come up with standardized cost per kilogram of phosphorus reduced for different types of projects. Project on ag land are the most efficient followed by forestry projects. Next best is stream restoration related projects at about \$10,000 per kilogram while traditional developed lands stormwater practices are the most expensive.

Process-based restoration on McCabe's Brook, Preliminary Design (Kate Kelly, Lewis Creek Association). Location is McCabe's Brook near the Teddy Bear factory on U.S. Route 7 in Shelburne. McCabe's Brook (downstream of this area) is impaired by nutrients for aquatic life support. There is substantial streambank erosion downstream of the site. Water quality sampling indicates very high nutrient levels just downstream. By designing and

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implementing a process-based restoration project (e.g. beaver dam analogues and/or strategic wood additions to this section of the brook), we hope to jumpstart stream restoration to the least erosive condition, and allow the stream to access its floodplain. Final Design would follow but that type of work is not too intensive. Construction costs are hard to estimate at this point but she included a ballpark of \$30,000. Kelly used the phosphorus calculator and came up with an estimate of 13.81 kg in the first year and 7.01 kg in the following years.

Mirvis asked Henderson, Minck and Kelly and the Council as well, what are we learning from this pre-application process. Kelly noted that the process of getting quotes during the application process is sort of an unfunded task. Normally, we would get the grant first and build that cost into the grant. What if we put in hours to write the grant and detail costs but then we don't get the grant. As others have noted, it is hard to estimate construction costs so early in the process. Minck asked if a pre-application was required. Albrecht said for now that will not be required. The formal Call for Proposals will not require it but he will encourage applicants to contact him ahead of time. Henderson appreciated Albrecht's reminders to get in writing the conversations he is having with the Basin planner and the Better Roads staff. He is still unclear on budgeting requirements especially regarding indirect and fringe benefits. Albrecht stated that Fringe is part of salary, aka Hourly Rate + Fringe equals Salary (i.e. a loaded rate). Regarding indirect he used 10% as it was in the form from Watersheds United Design Implementation Block Grant. He will seek guidance on what rate should be used for organizations that don't have a formally negotiated indirect rate with a State or Federal agency. Morgante raised a concern about how to assess a project when it comes back a 2nd time for an amendment to obtain additional funds. Albrecht noted that the draft guidance does allow such amendments but as far as what that looks like in practice when Council reexamines the project remains to be seen. Fortunately, we have about \$550k per year in project money and thus amendments for an extra few thousand won't have much of an impact. Pierce noted that the primary purpose of the Council is to prioritize projects and in the future the Council should develop a policy for how to deal with project amendments. He noted that projects that are exploratory in nature should be dealt with separately since construction costs are so fuzzy at that point. Albrecht noted that we can use a small portion of the funding for projects that are in the early identification/development phase.

4) Set preliminary relative weighting of three metrics for project scoring/funding

a. Phosphorus Reduction Benefits, b. Other Considerations c. Co-Benefits

Albrecht started the conversation saying he would like this weighting issue addressed before he issues a Call for Proposals. He stressed that the goal of the CWSP program is phosphorus reduction and he would like a minimum weighting for phosphorus reduction of 75-80 points. The details shown in the agenda of the various factors that would go into each metric he will use when he scores each project. He needs the council to settle the relative value of each metric. In response to Minck, he agreed that yes, some project's P-reduction value drops after the first year. Therefore, we will track each project's P-reduction both in the short term such as Basin 5's four-year target as well as its performance over the longer term. Pierce noted that he disagrees with the State's interpretation that phosphorus reduction is primarily about cost-effectiveness. He put the criteria from the Rule in the Chat which read: Pollution reduction; Cost effectiveness of reduction; Design life; Cost of operation and maintenance of the project; Conformance with the basin plan; Cobenefits There is also the issue of absolute p-reduction with which it should not be conflated. He noted that the recent Addison RPC CWSP Call for Proposals uses 75-15-12 with the Other Considerations metric being mostly about 'likelihood of success.' Briselden thinks we should look at proposals as a group sort of like an investment portfolio which blends high risk and high reward projects with low risk and low reward projects. Looking at the five proposals presented today he noted that as a group they achieve about 90 kg in two years which exceeds our target. Wheeler noted that readiness is a key measure to him as well as cost uncertainty and perhaps project's would have penalties if there are too many uncertainties. Albrecht noted he is not looking for input on the internal calculations he as a CWSP will use. Pierce noted we are still a ways away from prioritizing all the projects in the basin. Pierce referenced the requirements criteria from the Rule he put in the chat which means the Other Considerations should be: Design life; Cost of operation and maintenance of the project; and Conformance with the basin plan.

Pierce made a motion, with a second by Morgante, that 70 points be assigned for Phosphorus Reduction, in all its various forms, in the prioritization model that it develops for scoring projects. Wheeler proposed an amendment of 90 points for phosphorus, -10 for Other Considerations and +10 for Co-Benefits and Pierce seconded it for discussion. Pierce spoke against the concept of negative points which are not discussed in the draft Guidance. A motion was held on the amendment which failed. *A vote was held on Pierce's original motion that 70 points be assigned for Phosphorus Reduction, in all its various forms, in the prioritization model that it develops for scoring projects. The motion carried 7-2 with Henderson and Wheeler opposed.*

Pierce made a motion, with a second by Mirvis that 15 points be assigned for Other Considerations and 15 points be assigned for Co-Benefits. In response to Wheeler's query, Pierce stated that what goes into the Other Considerations still needs further development. Pierson introduced himself as Crettol's alternate. He thinks co-benefits are very critical and some of those elements in Other Considerations are really screening issues. Pierson made an amendment, seconded by Wheeler, to the original motion that 10 points be assigned for Other Considerations and 20 points be assigned for Co-Benefits. Pierce said he could live with it and noted that last month the Council endorsed a range of 5-20 points for Co-Benefits. Morgante feels that co-benefits recognize the broadness of what can be accomplished while other considerations are administrative criteria. Albrecht expressed his frustration with DEC adding this Other Considerations concept to Chapter 6. CWSPs were given money to meet P-reduction targets not to implement the Basin plan. Additionally, by definition, every single project a CWSP will do will by definition be in compliance with the Basin Plan as those plans are laundry lists of projects and goals. Lastly, design life is already factored into the computing the p-reduction value of a project. Pierce called for the question. *A vote was held on Pierson's amendment, seconded by Wheeler, to the original motion that 10 points be assigned for Other Considerations and 20 points be assigned for Co-Benefits. The motion carried unanimously. A vote was held on Pierce's overall motion that the weighting be 70 points for Phosphorus Reduction Benefits, 10 points for Other Considerations and 20 points for Co-Benefits. The motion carried 8-1 with Henderson opposed.*

5) Provide input to planned CWSP late December call for proposals for vote by BWQC at 2/15 meeting

Albrecht explained that he will work over the next few weeks to finalize the details of the scoring rubric and issue a Call after Christmas. He will then use that rubric to score proposals in advance of the meetings. He stressed that the BWQC has authority to change the value that he assigns to co-benefits. He is thinking of a deadline of January 31st and then he presents his scores and recommendations at the February 15th meeting so he can get contracts out the door by the end of February. In response to Morgante, he stated that yes, they won't really be looking at the proposals ahead of time and that the BWQC will be looking at his scores presented at the February 15th meeting and then voting on them. Albrecht stressed that three years ago we were laboring under the illusion that DEC already had an internal project scoring system in place and that it would be easy to plug in its phosphorus and it would spit out a number between 0 and 80 or 0 and 70. He noted that ultimately the Council votes to move a project forward. Albrecht noted he is trying to be responsive to partners who want to apply for grants but at the same time developing a scoring system is complex. He wants to work with the other CWSPs on developing the details of the mechanism for assigning a Phosphorus Reduction Benefit. He anticipates issuing a 2nd call for proposals relatively soon as based upon the pre-proposals discussed so far, they would only use \$100k of the \$550k in project funds available for this first year. He can issue Task Orders relatively quickly to the subgrantees. For applications, applicants will need to attest that they contacted at least three firms with the opportunity to provide quotes for design services. For construction, applicants will need to attach the bids received. For P-reduction benefits, Albrecht stated a hypothetical approach of 30 points for cost-effectiveness is at or better than standard rate for the type of project and 40 points if a project spends 10% of the CWSP annual budget dollars and meets or exceeds 10% of the Basin 5 p-reduction target. Pierce stated that the RFP does not need to have the details of how the scoring system will work (Addison's RFP did not) but it would be good to nail those details down internally. Given that DEC is still working on a CWSP project eligibility policy, we could tell applicants that DEC may require additional information before we can award and grant and to apply at their own risk. Henderson encouraged the CWSP to move forward to the best of their ability and to keep on the schedule of with a Council vote on February 15th.

6) Additional updates as needed from CWSP staff, DEC, BWQC Members and Guests

Albrecht thanked Pierson for joining as well thanking Minck for coming. Prussock indicated that the Town of Milton was okay with him taking over for Allerton in a municipal seat. Albrecht will check the policy regarding seating of Prussock. It may not be done formally until the January meeting.

7) Agenda Items for January 18th

Review & comment on pre-applications received, further information from Albrecht regarding scoring rubric.

8) Adjournment

On a motion by Pierce, seconded by Wheeler, a motion to adjourn at 11:58 a.m. was passed unanimously.