



2022-02-22 Otter Creek Basin Water Quality Council Minutes

Present: Ellen Cronin, Barbara Pulling, Arabella Holzapfel, Kate Kelly, Nanci McGuire, Hilda Haines, Erin De Vries, Pam Stefanik, Gioia Kuss

Absent: none

Public: Angie Allen (VTDEC), Chris Robbins (Alternate), Mary Beth Poli (OCE), David Johnson (LDFLA), Matt Witten (ACRWC)

Staff: Mike Winslow, Adam Lougee

1. Amendments to the Agenda
2. Approve [Minutes](#) of January meeting Moved by Ellen. Second by Hilda. All in favor.
3. Review of projects submitted for funding - vote on each project individually for next steps
 - a. **Ellen moved to approve all projects for funding. Gioia seconded.**
 - i. All projects seemed viable and we have funding. We'd still be able to get additional information, but Ellen felt it would be worthwhile to move them all forward. Would still require ranking and reviewing.
 - ii. Gioia - if we approve before going out. How much of total funding - 35-40%. BWQC would still have a chance to tweak moving forward
 - iii. Kate has concerns that not all projects are eligible. Some projects require tweaks in order to achieve objectives. She is hesitant to approve the slate without discussion of each one.
 - iv. Funding available is for FY23
 - v. Gioia - is conflicted on the process, but wants to be able to use the money. Adam noted that we can extend the currently available funds for some time but not sure for how long, but it won't roll over indefinitely
 - vi. Barbara - wants a staff opinion. Mike said staff are comfortable with funding all projects. She also thinks we have two years to spend down. Adam would have to check
 - vii. Ellen also has questions about the projects but recognizes not all funds will be spent in this year. The BWQC can approve the projects and get the projects on the list and allow the state and the CWSP to continue to do diligence.



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- viii. Barbara asked about why we have a scoring matrix. Mike answered that the matrix was set up without knowledge of how many projects might come forward.
- ix. Nanci put time into reviewing and scoring and would not like to approve all
- x. Kate feels the BWQC is on the hook to approve project eligibility and she is hesitant to fund in advance. Also the CWSP is on the hook to not just fund projects, but ensure cost effectiveness.
- xi. **Vote: Motion failed 2-7 with Pam and Ellen voting in favor**

b. LDFLA - Lake Shoreline Stabilization

- i. David Johnson gave a brief overview of the project. It was a high priority identified in a Watershed Action Plan. This proposal is only a part of the project identified in the plan as some pieces of the full project are associated with the municipal road and not eligible.
- ii. Kate expressed concern about putting multiple phases together (final design and implementation). This generated concern with the budget. Could projects be split to final design now and implementation later? David's consultants felt there was little work needed to go to final design and would not be an efficient use of funds. Mike had cautioned David that DEC would need to sign off prior to implementation. Some permits will be needed - shoreline stabilization and stream alteration. Stream alteration would require additional information.
- iii. Kate asked about Rare Threatened and Endangered Species (RTEs) in the vicinity of the project. She suggested approval be contingent on final review
- iv. Barbara asked where the screening stood. Adam noted the BWQC could approve with the condition that permits are approved. Angie agreed that would be the standard procedure.
- v. Gioia asked if there were farms involved with this application. David said there were no farms involved
- vi. Gioia asked about the list of species for planting. Mike noted this is not the role of the BWQC
- vii. Kate asked if the match should be removed from the direct cost estimate. David noted that the match reflected volunteer hours and was not tied to the cost.



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- viii. Ellen asked if the volunteer hours would change cost effectiveness. Mike noted those hours have already been accounted for.
- ix. BWQC discussed co-benefits
- x. **Ellen moved to prioritize the project for funding. Erin seconded. Motion passed 8-1.**
 - 1. Kate voted no because she wanted to add conditions related to permit approval
 - 2. Ellen -anything the BWQC approves will still need permits, so conditions are not that relevant. Adam noted that the CWSP would not fund projects that have fatal flaws.
- c. LDFLA - Westside Drive
 - i. David described the project. Design is ready for implementation. No permits required. Mike noted the project is similar to Grants in Aid projects municipalities and ACRPC have been managing
 - ii. Chris asked if this was at the boat launch - David said no.
 - iii. Kate asked about the eligibility screen and the presence of RTEs. She suggested it be completed before funding is approved. She also asked about DEC approval about the eligibility of private roads projects, and if this project was a high priority for DEC. Angie said it is a high priority project. She did say if the cross culvert is less than 18" it should be up-sized. She also suggested due diligence for all permits and final design, and she will help with that.
 - iv. Ellen asked about sediment trap maintenance. David answered that had not yet been discussed with the landowners. The CWSP would need to get landowner permission for maintenance access for the duration of the design life.
 - v. **Ellen moved to prioritize the project for funding. She then amended the motion to poll the BWQC on preferences. Gioia seconded. Following the poll, Ellen moved to prioritize with conditions. Gioia seconded. Conditions: 1. Signed landowner approval from both sides of the road for maintenance prior to implementation; and 2. F&W approval from Everett Marshall. Motion carried 9-0.**
- ci. LDFLA - Silver Lake Trail
 - i. David described the project which would take place on National Forest Land. The fact that this is on federal land presents a complication, but the



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- District Forest Ranger is supportive and is aware of the problem.
Preliminary design would help the ranger with his process
- ii. Ellen said this is a great project to figure out how to move forward with federal land partners. David added there's more opportunity for public education
 - iii. Chris Robbins wondered about the parking lot. Mike suggested the BWQC doesn't have the authority to discuss projects not brought to us
 - iv. Barbara asked the level of design. David said 30%
 - v. Gioia asked why use these funds for a project in the GMNF. She suggested the CWSP is not an appropriate funding source. Ellen felt spending money on public land is a higher priority than doing so on private land. Adam suggested the proposal is to gather enough information to get the project into the Forest Service process.
 - vi. Kate had questions about the eligibility and where this falls in the suite of eligible projects. It's not a stormwater project and trails aren't mentioned except under forestry practices. Mike scored it as a gully erosion project. Angie also viewed it as a gully erosion project.
 - vii. Kate does not believe concept design is an eligible project phase. Angie did not have an immediate answer.
 - viii. Gioia asked where the matching funding came from -Answer: LDFLA
 - ix. **Barbara moved to table until the next round. Kate seconded. Erin expressed concern about delaying the project too long. Angie said this is the first time going down the path where the eligibility of the project type has been questioned. If the BWQC instead put conditions on the project could move prior to the next round. It probably won't be the last time we face this scenario. Barbara withdrew her motion.**
 - x. **Ellen moved to approve with conditions. Conditions being 1. clarification of project eligibility as tied to design; and 2. to get approval from VTF&W. Barbara seconded the motion. Motion carried 7-1 with Gioia voting against and Nanci abstaining.**
- e. VLT - Dimuzio and VLT - Baldwin
- i. Mike noted that the two VLT projects received approval from AAFM. These are the most cost effective projects on our list
 - ii. Matt Witten commented that ACRWC would see the project as extremely favorable as it's in a stretch of Muddy Branch that has been identified as a high priority



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- iii. Gioia did not see actions to minimize invasives. Pam feels VLT needs to respond to this question. Mike noted that O&M will be built into the project and funds will be available for that, but DEC has not offered guidance on that yet. Matt expressed that invasive management is within VLTs best interest.
- iv. Kate felt there was information missing from both applications. She would support with the condition of DEC staff approval
- v. **Ellen moved to approve with a condition that an invasive management plan be included, and ANR screening be completed. Pam seconded. Motion carried 9-0.**
- vi. Kate requested the CWSP clarify with VLT that RTEs exist in the vicinity of the Baldwin project
- f. West Rutland - wetland restoration
 - i. Mary Beth Poli described the project. The area is town owned and conserved for recreational use. The project has been identified as a priority. They have contacted various DEC and F&W staff. There is a rare plant about 0.25 miles from the site, but shouldn't be impacted by the project. There are concerns about invasive species, particularly phragmites, but it hasn't taken hold in this area. There's public river access also. Floodplain reconnection would be done by creating depressions and a pit and mound topography. Preliminary design presented possibilities for locations that would get narrowed down and staged in the final design process
 - ii. Gioia expressed concern about the staging and ensuring creation of depressions did not lead to loose soil. Mary Beth noted that's the purpose of developing the final design.
 - iii. Erin asked if Phase I ESA needed to be completed. Mary Beth will need to look into this.
 - iv. Erin asked for clarification about the need for bank hardening at access areas. Mary Beth noted the areas now have steep slopes and bare soil. The work envisioned would include reducing the slope and adding defined gravel paths to reduce erosion with plantings between paths.
 - v. Kate questioned where the numbers in the P-calculator tool came from. What are the 15 acres to be restored? The project stood out in the P reduction scores due to the high acreage. Mary Beth identified eight different areas that would be restored with depressions. One area (highly



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- used recreation area) would not have depressions, and would just have planting.
- vi. Barbara asked how many acres for the site and how many acres in the surrounding parcel? Mary Beth answered there are 35-40 acres in the entire restoration area, but 15 acres of focus that already get some level of flooding.
 - vii. Gioia observed that the depressions in addition to planting will assist with remediating P loading.
 - viii. **Ellen moved to approve with review of the P calculator and clarification about eligibility of boardwalk design funding. Gioia seconded. Erin noted there may be additional co-benefits. Gioia observed that the boardwalk would be more expensive than proposed, but that's not part of the project. Motion carried 9-0.**
- g. OCNRCD - Halnon Brook/Wainwright Dam removal
- i. Pam introduced the project. It's been discussed for many years and needs some stream restoration efforts as well.
 - ii. Kate asked about the screening form, support from landowners, and when final design will be completed. Pam noted that the land owner letter was in the packet. Pam says she sent the screening form to Mike. Final design is imminent.
 - iii. Ellen agreed that documentation provided was below expectations for the amount of money being requested
 - iv. Barbara recommended adjourning and calling a special meeting for the other projects.
 - v. Kate proposed we table the Wainwright Dam discussion until our next meeting. Barbara seconded. Motion carried 8-0. Pam had left prior to the vote.
- h. RNRCD - Stormwater Master Plan for West Rutland
- i. Mike noted that the CWSP has funding for projects assessment projects like this, but it is not possible to calculate P reductions from assessment projects. It is up to the BWQC to determine where and what type of assessment projects should take place.
 - ii. Gioia asked about other funding sources. Nanci said there are none.
 - iii. **Barbara moved to approve Ellen seconded. Hilda asked if other towns would pursue such funding if West Rutland were successful. Adam noted he hopes so. Angie noted that Nanci submitted a new watershed projects**



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ID form yesterday but she hasn't had a chance to review it. Should be done soon. **Motion carried 7-0. Nanci abstained and Pam had left prior to the vote.**

i. ACRWC - Overbrook Condos

- i. Matt reviewed the project. ACRWC is expanding from monitoring to implementation. This is an initial step in that direction. They have seen high P and CI- levels on this section of stream during their regular monitoring. The project is near the center of Middlebury.
- ii. Erin asked about the project stage, should it be implementation. Matt was confused about the process and thought they should divide into phases. He'd be happy to apply for all stages. Mike had advised Matt to apply for as many stages as they had good budget numbers for. Once a project is accepted by the BWQC, it can advance through subsequent stages without additional applications so long as there are not dramatic changes in costs or anticipated P reductions.
- iii. Erin asked about invasive species management. Matt thought it was in the budget.
- iv. Barbara asked where ACRWC is in gaining landowner approval? Matt noted there were two letters of support that represent the two landowners, the town of Middlebury and the Condo. Association
- v. Kate suggested that design only might not be eligible for funding. She noted that the natural resources screening form needs to be completed. A Watershed Projects Database number is needed. The density of stems needs to accord with DEC guidance. Other funding sources might be available to supplement the budget for planting in particular. Angie observed that the standards are a 35' of planting from the buffer and 300 stems/acre.
- vi. Gioia asked about the match - Matt noted it's in-kind labor
- vii. Gioia asked how this area rose to the top as a project. Matt reiterated that it was based on ACRWC monitoring results. The chair of the condo. residents' association approached Matt. Chris had reached out to the person as well.
- viii. Gioia asked about land ownership and how O&M would be managed. Matt observed there are two owners, the bulk of it being owned by an association, and they will need to commit to a long term management plan. Gioia expressed concern about the long term viability of the project.



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Angie pointed to Appendix B to note that a 10-year minimum access or easement agreement is required.

- ix. **Kate moved to approve with conditions including: 1. NR screening completed and approved, 2. a WPD # is approved, and 3. the work phase is clarified. Hilda seconded. Angie clarified that this is a priority site for a project. Erin suggested there are additional co-benefits. Motion carried 6-1 with Gioia voting against, Ellen abstaining, and Pam having already left.**
- 4. Approve a suite of projects for funding. Since all projects were funded it was not necessary to approve a suite.
- 5. **Ellen moved to adjourn. Hilda seconded. Adjourn at 4:37 PM**
- 6. Next Meeting - April 26, 2023 at 2PM. The next meeting will concentrate on a review of the process of soliciting and approving projects for funding.