Vermont Housing and Conservation Board
Conservation Issues Committee Meeting Minutes
April 4, 2022, 8:00am-11:00am
Via Zoom

Committee members present: Kate McCarthy-Chair, Billy Coster, Diane Bothfeld, David Marvin, Neil Mickenberg, Amy Richardson

VHCB Staff present: Gus Seelig, Karen Freeman, Liz Gleason, Stacy Cibula, Trey Martin, Mark Martin, Ethan Parke, Kendall Lambert, Elizabeth Egan, Bill Dell’Isola

Partners present: Marli Rupe DEC, Tracy Zschau VLT, Britt Haselton VLT, Will Duane VTFWD, Peter Emerson VTFWD, Kate Wanner TPL, Hayden Smith TPL, Brenda Gail Bergman TNC, Jon Binhammer TNC, Ben Gabos VAAFM, Lisa Sausville WFW, Becca Washburn FPR, Kate Sudhoff FPR, Nancy Patch FPR, Kathleen Wanner VWA

Call to Order- Chair Kate McCarthy called the meeting to order at 8:00 am. No public comments made.

Approval of Minutes – Motion by David, seconded by Neil, to approve the minutes of October 25, 2021. Unanimous approval, with Amy abstaining.

Farm Retirement Project Guidelines: Stacy Cibula presented an overview of VHCB Farm Retirement Program. The program was initiated in 2017 and funded through state clean water funds. VHCB and partners have completed four projects so far, and acknowledge the need to be strategic when considering these projects. VHCB is ready to codify formal guidelines and seeks to encourage more participation and utilization of the funds. Stacy explained the need to ensure that farms targeted for retirement cannot be feasibly farmed without significant water quality impacts. The principal goal of the program is to protect and enhance water quality while also improving surface water and flood resiliency. It is critical that the program does not retire viable farm ground and soil. Stacy reviewed the funding priorities, eligible entities, leverage requirement, caps, and other facets of the policy. She described that the program could retire either a portion of a farm or the whole farm area. The policy accounts for potential habitat/wetland/river restoration, and the assessment of site for affordable housing. Stacy described the applicable legal mechanisms including conservation easements and conservation agreements and that conservation agreements could only be applied with state ownership of the project area. Both of these mechanisms would prevent sale or subdivision without permission from VHCB and assure perpetual protection. Stacy requested feedback from the board regarding eligibility and criteria for projects included in the draft policy.

Neil Mickenberg asked what the enforcement mechanism with a conservation agreement is. Elizabeth Egan explained that VHCB would get an injunction if a conservation agreement was violated and emphasized that conservation agreements are VHCB’s last choice and largely prefer conservation easements. Neil asked if the land could be held in fee by the state or a nonprofit. Stacy clarified that this is permitted under the policy, and as of right now the four projects that VHCB has completed are held in fee by the state and with easements held by non-profits. Neil mentioned overall the guidelines looked good to him. Billy Coster commented that the policy should be clear that maximization of water quality benefits is the primary criteria for projects, as this is the basis of the history and intent behind the program. He agrees with other facets of the policy overall but restoration and flood resilience and other attributes should be secondary criteria. Stacy agreed with Billy’s comment and stated the policy will be revised to reflect this and water quality will be specified as the primary funding criteria. Diane Bothfeld cited concerns of taking whole farm out where there were good soils and resources, and the need to keep good farming land and soils in production. Diane encourages partial portions of farms being retired from farming and assessing for other uses of non-farmable land including housing. Brenda Gail Bergman supports the idea of partial farm retirements, and commented that partial farm retirement may include questions about public access requirements, and that TNC wants to be part of that conversation. Stacy Cibula confirmed the policy keeps open the possibility for partial farm retirement, and we are open to discussing public access on a case by case basis. Relative to housing, we will not necessarily develop houses on agricultural land but look for opportunity to convert existing housing on farms into
affordable housing. Dual goal mission would have to be weighed against other affordable housing criteria. VHCB board members commented that we should be careful around affordable housing messaging, as we do not want housing where there are issues with wetlands. Also, it may get misinterpreted that VHCB is retiring farm ground for the purpose of affordable housing. We need to be careful with this wording. The board including Kate and Neil suggest moving any details around housing to the secondary criteria section to clear this up. Gus Seelig agrees with this approach.

Ben Gabos commented if we can consider adding references to groundwater in the policy. Billy Coster disagrees as groundwater has different connotations than surface waters. Gus commented to keep in mind these are guidelines which are intended to provide guidance and are not policy or statute. David Marvin commented that he is very comfortable with guidelines, and that he can think of certain village centers were uplands, wetlands, farms and villages meet, and that dual goal projects are applicable in these scenarios. He asked about the status of the farm retirement project that has not closed in Morgan. Pete Emerson confirmed that the process to include dual goal purposes in the Morgan project have increased time demands on the project but it is on track for closing. The house on the Morgan property is still for sale and it made sense to not remove housing stock and keep the house for a new potential buyer. Pete emphasized the need for flexibility within the program as details around optimizing the value of projects and coordinating on conservation easements is a complicated and demanding process. He mentioned having housing partners ready to collaborate on housing issues would be helpful. Ben Gabos agreed for the need of flexibility as it relates to stewardship partners, and legal agreements.

Kate McCarthy commented that farm retirements may not be eligible where Act250 mitigation funds have been applied, but it would be helpful for flexibility since there may be water quality issues in certain circumstances. Gus replied that this issue would need to be brought to the state Natural Resources Board as it may require a statutory change. We will address this situation when the opportunity arises. Diane agreed that this is important to look at. Tracy Zschau requested that the language around eligible costs and project caps be revised to be clearer on how these factors apply to projects. Stacy agreed and will revise as described. Billy Coster also pointed out some work is needed in regard with the eligible costs section and make things more clear. Kate McCarthy and Stacy addressed that we have one farm retirement project in the pipeline for the June board meeting, and we have the guidelines updated as soon as possible. Gus commented that conservation agreements and emphasized the need to have the most strength in our conservation agreements as possible while acknowledging the need for flexibility. There was discussion about having clearer criteria for when a conservation agreement would be used. Kate and David also expressed concern over the use of conservation agreements but that they are overall okay with the policy.

Kate called for a motion to bring the guidelines with applicable revisions to the May board meeting for discussion and adoption. David and Billy agreed with this plan. Motion by Diane to move the guidelines forward to the board, seconded by Billy with the changes to provisions as discussed. Amy Richardson abstains. All other board members vote in favor.

Forest Landowner Succession Report: Liz Gleason gave an overview of the program which primarily provides support for decision making processes relative to forest land use planning through workshops, curriculum and coaching. Current funding levels and efforts are not sustainable or enough considering importance and pace of forest fragmentation. Liz and partners are fundraising at the state and national levels and have recently been awarded a Congressionally Directed Spending award to enhance the program. Ethan Parke commented that discussions with partners including Vermont Natural Resources Council, have been very positive and there is a lot of excitement at the prospect of expanding program with more funding. Ethan explained the effort is about succession planning and family heritage rather than business and profitability. He described the plan to foster this program in conjunction with the private working forest program so that conservation of parcels and be integrated into succession planning. Kathleen Wanner emphasized the need for this program as professional help is much needed for families as this process can be difficult and emotional. Lisa Sausville, commented that legal matters such as this can be overwhelming to people, emphasizing the need for the program. Billy Coster thanked staff for the report. David and Billy commented strong support of this effort. Liz commented the
increase in base funding for VCHB should help continue and grow this program and other Viability programs in a more consistent way. Kathleen Wanner described how more resources can expand the impact and focus of the program and bring it to more landowners under the umbrella of succession planning. Liz and Diane discussed sources of funding for agricultural versus forestland succession planning. Amy wondered if the Farm First program could work with forestland owners. Karen Freemen commented that this is an opportunity for conservation and viability staff to work more closely together.

Private Working Forestland Conservation Guidelines: Ethan Parke provided an overview of the history of the program which initiated in 2013 and proposed changes. The changes include increased recognition of the importance for forest conservation for all values including water quality, recreation, climate, wildlife and the new opportunity for NRCS funding to be used for sugarbush conservation. Since 2013 we’ve had only some interest with this funding category. Now there is heightened interest in the program and we are looking to improve the policy to be more effective now that more funding is available. So far we have cast a wide net and have gained feedback from state agencies and partners regarding the guidelines. Changes to the guidelines include: raising the per acre cap commensurate with percentage increase in farm cap, lowered project threshold acreage, included linkages with landowner succession program, and defaulting to UVA management standards for sugarbushes.

David Marvin commented that we need to resolve any correlation between easements and other state guidelines or documents especially related to UVA. Overall David likes the new guidelines. Diane commented we should be aware correlation with this program and others in the state relative to climate including the EQIP program. Billy commented that he has not had enough time to thoroughly review the document with ANR staff and calls for more time to review the policy before moving forward. He has concerns about the public access requirements being loosened and interplay with the forest legacy program.

Kate McCarthy and other board members voiced concern for the public access facets of the policy. Ethan and Gus described how VHCB approaches public access on farms and other types of VHCB projects. In regards to this policy we may want to have public access as a competitive factor. Board members voiced concern over public access having implications for match requirements. This may affect landowners of varying economic means unequally. Questions were also raised relative to public access in circumstances were it may not be appropriate given ecological features, and relative to landowner preferences and issues with users (litter, misuse etc.), and sugarbushes. Amy Richardson mentioned how Garvin Hill has become a favorite spot for community groups from church to elementary schools to VAST, and is example of how this program can benefit communities. She disclosed that Garvin Hill is located on her family’s property. Kate Wanner described how Forest Legacy projects have been lost due to landowner concerns with public access. Billy Coster, Stacy Cibula and other board members echoed need for a safeguard and flexibility for landowners in regards to public access. Staff will revise the document relative to public access and we will revisit this document at the next Conservation Issues Committee meeting later this year.

Vermont Forest, Ag, Climate and Environmental Justice Legislative Initiatives & VHCB’s Work: Trey Martin gave an overview the Vermont Climate Action Plan (CAP), including its five actions areas/strategies and how it relates to VHCB work. Trey then gave an update of legislative bills relative to forestry (H606, H697, H566), agriculture (H704, S188, H704, S188), and environmental justice (S148, H273). Trey described how VHCB has been involved in the drafting of these bills and where VCHB provided testimony. Gus described how our increase in base funding from the legislature is imperative to meeting goals outlined by the legislature in all of these categories. Billy Coster and Karen commented on the need to understand where ANR and partners stand on these issues especially related to H606 so we can be proactive in applying VHCB funds in meeting target metrics. Trey’s presentation included five discussion questions centered on how can VHCB best meet the needs of the VT CAP and other legislative priorities. The committee will take up questions 3-5 at the next CIC meeting.

Meeting Adjourned at 10:00am