

Waterfront Revitalization Subgroup Meeting #3 Minutes

April 28, 2014 | 1-3pm

Dane County Land & Water Resources Department
5201 Fen Oak Drive, Conference Room AB, Madison, WI
or Call-In at (888) 291-0310 passcode 7526216#

ATTENDEES

Bruce Keyes, Foley & Lardner (Waterfront Revitalization Subgroup Co-Chair)
David Misky, City of Milwaukee (Waterfront Revitalization Subgroup Co-Chair)
Andrew Mott, AECOM
Tiffany Goebel, WE Energies
Laurie Parsons, NRT
Margaret Brunette, DNR
Ann Werth, City of Wausau
Dan Helsel, DNR
Larry Kirch, City of La Crosse
Tom German, BCPL
Mike Friis, DOA
Michael Prager, DNR
Jesse Jensen, DNR
Sharon Gayan, DNR
Steve Ales, DNR
Eric Nitschke, DNR
Charles "Buck" Sweeney, Axley Brynelson
Mark Thimke, Foley & Lardner
Brad Basten, WisDOT
Darsi Foss, DNR
Ken Potrykus, Foth Infrastructure & Environment
Sheri Walz, WisDOT
Christine Haag, DNR (Waterfront Subgroup "Buddy")

AGENDA ITEM #1: Reminder to Sign In

Relevant Attachments: None

Discussion: None

AGENDA ITEM #2: Waterfront Initiative – Summary of March 31, 2014 Meeting

Relevant Attachments: March 31, 2014 meeting notes

Discussion: Co-Chairs Misky and Keyes provided an overview of the March 31 meeting, where the group discussed topics of concern and organized them into four sub-topics: Aging Infrastructure and Legacy Issues; Regulatory Process; Financial; and Contamination Issues.

| Action Item | Decision/Recommendation | Dissenting Opinions |
|-------------|-------------------------|---------------------|
| None | | |
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| Assignments | Timeframe | Person(s) Responsible |
|-------------|-----------|-----------------------|
| None | | |
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AGENDA ITEM #3: Topic – Regulatory Process

Relevant Attachments:

- March 31, 2014 Meeting Minutes – Agenda Item #4
- New York Executive Article 42: (910-923) Waterfront Revitalization of Coastal Areas and Inland Waterways (http://www.dos.ny.gov/opd/programs/pdfs/Article_42.pdf)
- “The Complexity of Urban Waterfront Redevelopment”. Barry F. Hersh, NAIOP Research Foundation, 2012
- “Brownfields Redevelopment: Reclaiming Land, Revitalizing Communities. A Compendium of Best Practices.” United States Conference of Mayors, Volume 5, November 2010.

Discussion: Co-Chairs Misky and Keyes opened the discussion by suggesting that the group discuss the list of regulatory process issues identified by the subgroup at the 3/31 meeting and consider how these issues could be further separated into two categories:

1. Immediate opportunities for Brownfield Study Group Action
2. Larger issues for Brownfield Study Group Action

Discussion occurred on the following:

- We don’t have a consistent pathway for projects to get regulatory direction
- OHWM and public rights in the water sometimes cause delays if not addressed early
- Need a checklist of steps. The SER water leader has a “Big 4” checklist to address stormwater, Chapter 30, dredging, solid waste disposal, etc. but this checklist is not used around the state
- Water doesn’t join RR until at the secretary’s level. Projects are impaired by this silo approach. This approach needs to be addressed especially on brownfields. Who is in the lead? How will sediment contamination cleanups work between Water and RR? Need one point of contact.
- Different answers are given by DNR depending on where in the state the project is located
- When projects are not looked at holistically - just each program separately – time and money can be invested but not given the right answers
- For brownfields on waterfronts – who is the driver?
- DOT has lots of silos. If there isn’t a prescribed process or checklist, people get stuck. It helped to put a higher-up from the secretary’s office in the lead. If a checklist is in place the process could be more at a staff level
- There is a process issue and a transparency issue
- Staff should work with Water Leaders and AWaRe program managers and those people should work with Integration Management Teams
- NR 700 specifies a process for soil and sediment cleanups. It specifies standards for soil cleanups but no standards for sediment cleanups. Then Chapter 30 comes in. Who makes the decisions?
- Find a way to avoid the “let’s get together” model for dealing with conflict because it is not timely
- Consultants needs clarity and concise direction so consultants can advise the client
- We are trying to answer to the mundane project, not the big project
- We need a proactive approach with inventory of assets and upfront planning
- The Water program is reactive because it doesn’t have funding to be proactive, and therefore doesn’t have that charge

Co-Chair Keyes described New York Executive Article 42: (910-923) Waterfront Revitalization of Coastal Areas and Inland Waterways (provided in advance of the meeting) and asked the group whether something similar should be considered in Wisconsin. Discussion followed.

- Act 42 would be a big deal because it gives Water (and to a lesser extent RR) the charge to be proactive
- The way the development relates to the water (e.g. stormwater management) has to be protective of water quality. We (DNR) get plans too late to shape for best practices
- The lead should be RR for waterfront projects that involve brownfields
- Act 42 would change the paradigm in Wisconsin

The group then returned to the general regulatory issues discussion:

- Are the issues being described due to regulatory issues or lack of project management? (e.g. how to communicate, how to review the scope and assign leadership and management)
- One process scenario:
 - Intake recognition. Someone at DNR hits the red “waterfront” button
 - Develop scoping questions and a flow chart
 - Identify project liaison – one point of contact
 - Conflict resolution process
- One of the biggest issues is timing. The project is moving forward and an issue comes up and that sets the project back. This could happen at the state or municipal level
- A key issue is “where is the ordinary high water mark”. Original meander was not intended as the legal boundary. This is a staff issue – not enough staff to address this without responding to specific projects. DNR doesn’t have the staff to make a general determination for “what’s developable”. All project specific right now.
- No one is collecting information on geotechnical issues
- We need a pro forma Chapter 30 permit for dredging projects
- In a perfect world, the legislative lakebed grants, bulkhead lines, and lakebed leases would be digitized and publically available so that DNR would just need to make a finding
- We need better coordination with ACOE

| Action Item | Decision/Recommendation | Dissenting Opinions |
|-------------|-------------------------|---------------------|
| None | | |
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| Assignments | Timeframe | Person(s) Responsible |
|-------------|-----------|-----------------------|
| None | | |
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AGENDA ITEM #4: Topic – Financial

Relevant Attachments:

- March 31, 2014 Meeting Minutes – Agenda Item #4

Discussion: Co-Chairs Misky and Keyes opened the discussion by suggesting that the group discuss the list of financial needs identified by the subgroup at the 3/31 meeting and consider how these issues could be further separated into two categories:

1. Immediate opportunities for Brownfield Study Group Action
2. Larger issues for Brownfield Study Group Action

Identified issues include:

- There is no “big home run” for waterfront project. No big pot of money. Project sponsors cobble together funds from different sources.
- Grant application and award timelines don’t match up – deadlines vary.
- Should it be one big program like NY?
- Transaction costs are too high on individual grants. Work costs too much for the return. Bundle grants, make them easier to get, make it easier to manage.
- Great Lakes Initiative – Legacy Act: (limited to AOCs), big money right now. Huge success stories. How could this be expanded?
- How to we bundle projects to get real money?
- Harbor Maintenance Trust Fund: Is there a chance for the state to manage this instead of ACOE?
- BCPL funds – if BCPL loans money for a project we could ask that this not count against the muni debt ceiling
- Old SUDS program – should this be resurrected?
- Fox River Remediation Bond Program – statutory authority created but never used. Revenue neutral but would set up a remediation authority. Take cash, buy people out or lend money. This would allow bundling and was tax exempt for RPs.
- Funding to digitize and make publically available legislative lakebed grants, bulkhead lines, and lakebed leases so that DNR would just need to make a finding
- Planning assistance – identified by developers at Secretary Stepp’s December 2013 roundtable meeting and at March 31 BSG Waterfront subgroup meeting. Must identify and incorporate ingredients for success (e.g. providing planning money alone will not ensure implementation).
- LaCrosse has established 6 TIF districts, augmented with grants, related to waterfront projects
- Harbor Assistance Program – assists projects for waterborne transportation for commercial freight or commercial fisheries that meet a threshold of 1000 tons. The program is over-subscribed: in 2013, \$125 million was requested for projects; of these \$25 million would have been considered top priority; there was \$17 million available.

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| None | | |
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| None | | |
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AGENDA ITEM #5: Next Steps

Relevant Attachments: None

Discussion: None

NEXT MEETING

Date: May 12, 2014

Time: 1:00 to 3:00 pm

Location or Call-in Info: Racine Radisson. Call-in info: (888) 291-0310 passcode 7526216#