VERMONT
VERMONT ECONOMIC PROGRESS COUNCIL

MEETING MINUTES
SEPTEMBER 22, 2016
DEANE C. DAVIS BUILDING
1 NATIONAL LIFE DRIVE, MONTPELIER

CALVIN COOLIDGE CONFERENCE ROOM, 6TH FLOOR
9:30 A.M. TO 12:00 P.M.

Members Present: Stephan Morse, Chair; Michael Keane; Emma Marvin; John Davis; Tim Briglin; Warren Kitzmiller; and Rachel Smith

Members Present by Phone: Betsy Gentile; Mary Lintermann

Members Absent: Kevin Mullin

Staff Present: Fred Kenney, and Kimberly Baker

Others Present: Brian Poulin, VEGI Manager, Vermont Department of Taxes; Joan Goldstein, Commissioner, Department of Economic Development; Ken Jones, Policy Analyst, Vermont Agency of Commerce and Community Development; Bob Flint, Executive Director Springfield Regional Development Corporation (Phone); Curt Carter, Vice President, Greater Burlington Industrial Corporation; Albin Voegele, Regional Designee, Franklin County; Steve Gibbs, Vice President and Chief Accounting Officer, Keurig Green Mountain; Chris Lyon, Community Services Manager, Seventh Generation (phone); Rebecca Ellis, Senior Counsel, Agency of Natural Resources; and Bob Zider, Director and Chief Executive Officer, Vermont Manufacture Extension Center.

9:31 a.m. Roll Call and Agenda Review

Chair Stephan Morse called the meeting to order.

Chair Stephan Morse requested a roll call. Members present are noted above.

Chair Stephan Morse inquired as to any additions or deletions to the agenda. Fred Kenney stated he would like to discuss the remainder of the 2016 meeting schedule, the 2017 meeting schedule.

With these items added to the Agenda, Chair Stephan Morse moved to the next Agenda item.

9:33 a.m. Minutes – August 25, 2016

Chair Stephan Morse inquired as to any corrections or changes to the draft meeting minutes for August 25, 2016. Hearing none, requested a motion.

- At **9:33** am Michael Keane moved to accept the August 25, 2016, meeting minutes as presented. Warren Kitzmiller seconded the motion. Chair Stephan Morse requested a roll call for the vote, all voted in favor and the motion passed. 9-0-0.
  - Aye: Chair Stephan Morse, Michael Keane, John Davis, Warren Kitzmiller, Mary Lintermann, Betsy Gentile, Rachel Smith, Emma Marvin, and Tim Briglin
  - Nay: None
  - Abstain: None

9:30 a.m. 2017 Meeting Schedule

Fred Kenney discussed a slight change to the meeting schedule for 2017, where the Board would meet on the ***last*** Thursday of each month (except December) instead of the ***fourth*** Thursday of each month. This would only impact three meetings but would provide additional time to process VEGI applications. Chair Stephan Morse noted that he would not be physically available the first three meetings in 2017, but could participate via conference call and the Vice Chair could run the meeting.

Fred Kenney continued the remaining 2016 meetings are currently scheduled for October 27, November 17, and December 8. The November meeting was identified to address Windham County Economic Development competitive grants and provide a time for applicants to present their grant requests. Discussion ensued regarding Act 157 requirements, WCEDP grant applications, VEGI applications and the timelines.

- The Board came to consensus that the 2016 meeting schedule will change as follows:
  - Postpone the October 27 meeting to November 3 and plan for a long meeting to include Act 157 participants. Meet in Montpelier.
  - Make the meeting on November 17 definite, plan to go to 2:00 p.m. and to be held in Montpelier.
  - Keep December 8 meeting.

Fred Kenney noted that Mary Lintermann has resigned and will not participate once a replacement has been named. Two names have been submitted to the Governor for consideration. Notification will be provided to this Board once confirmation is received. This will leave the position of Vice Chair vacant. Nominations and voting for a Vice Chair will be included on the November 3 agenda.

Chair Stephan Morse inquired as to any further discussion, hearing none, moved to the next agenda item.

9:50 a.m. Public Comment

Chair Stephan Morse inquired as to any members of the public present to provide public comment or announcements, hearing none, moved to the next Agenda item.

9:51 a.m. VEGI

- **Bariatrix, Georgia (Termination)**
- **SOH Wind, Burlington (Termination)**
- **Triad Design (Rescission)**

Fred Kenney provide a short overview regarding Triad Design rescission stating the company successfully completed the first round of training with the HiTECH program. However, the large contracts that would require additional hiring have not materialized and a final application will not be submitted.

- ❖ At **9:51** am Rachel Smith moved to rescind the initial incentives for **Triad Design Services, Inc**. given initial approval on February 26, 2015. Michael Keane seconded the motion. Chair Stephan Morse requested a roll call for the vote, all voted in favor and the motion passed. 9-0-0.
  - Aye: Chair Stephan Morse, Michael Keane, John Davis, Warren Kitzmiller, Mary Lintermann, Betsy Gentile, Rachel Smith, Emma Marvin, and Tim Briglin
  - Nay: None
  - Abstain: None

Fred Kenney stated SOH Wind has maintained Year 1 and Year 2 performance requirements, they have not been able to meet Year 3, 4 or 5. The Vermont Department of Taxes has provided notification to VEPC.

- ❖ At **9:53** am Michael Keane moved to terminate the incentives scheduled to be earned in 2013, 2014 and 2015 by **SOH Wind Engineering, LLC**, based on the incentives authorized on December 8, 2011, provided that the remaining incentive installments for incentives earned in 2011 and 2012 may be paid if SOH files claims indicating that the performance requirements for 2011-2012 are maintained. Emma Marvin seconded the motion. Chair Stephan Morse requested a roll call for the vote, all voted in favor and the motion passed. 9-0-0.
  - Aye: Chair Stephan Morse, Michael Keane, John Davis, Warren Kitzmiller, Mary Lintermann, Betsy Gentile, Rachel Smith, Emma Marvin, and Tim Briglin
  - Nay: None
  - Abstain: None

Fred Kenney stated that Baritarix Nutritional Corporation, Georgia, filed a VEGI Claim on April 30, 2016, which documented that Bariatrix reached the 12-month limit without meeting their 2014 Performance Requirements. The Vermont Department of Taxes has provided notification to VEPC that Year 4 and Year 5 incentives cannot be earned.

- At **9:53** am Warren Kitzmiller moved to terminate the incentives scheduled to be earned in 2014 and 2015 by **Bariatrix Nutritional Corp**, based on the incentives authorized on March 24, 2011, provided that the remaining incentive installments for incentives earned in 2011, 2012, and 2013 may be paid if Bariatirix files claims indicating that the performance requirements for 2011-2013 are maintained; provided further, that none of the new jobs created to earn incentives under the VEGI Initial Approval dated June 23, 2016 may be counted toward maintenance of the 2011-2013 performance requirements. Tim Briglin seconded the motion. Chair Stephan Morse requested a roll call for the vote, all voted in favor and the motion passed. 9-0-0.
  - Aye: Chair Stephan Morse, Michael Keane, John Davis, Warren Kitzmiller, Mary Lintermann, Betsy Gentile, Rachel Smith, Emma Marvin, and Tim Briglin
  - Nay: None
  - Abstain: None

9:57 a.m. Act 157

- **Steve Gibbs, Keurig**
- **Chris Lyon, Seventh Generation**
- **Rebecca Ellis, ANR**
- **Bob Zider, VMEC**

At 9:57 a.m. Chair Stephan Morse welcomed Steve Gibbs, Chief Accounting Officer with Keurig Green Mountain (KGM), noting that he will be contributing on Issues 2, 3 and 7.

Steve Gibbs stated issue number two is whether and how to include a mechanism for equity investment in incentive recipients. With public companies and especially with KGM there is opportunity for a significant upside in value creation. The complexities linking government incentive programs to equity creates a number of compliance and independence issues, in appearance and in fact. The incentives are supposed promote employment growth in Vermont. The State benefits through payroll taxes and employees having money to spend in the State, which helps other business and further creates sales taxes, and creates additional income taxes. It just seems overreaching to also want to participate in the equity and the unpredictability of the selling prices. Also this would need shareholder/board approval. Dissolution of the corporation is another complexity. The way KGM considers these incentives and having to deal with the complexities, the administrative burden inside/outside would actually hurt the participation in this program. Georgia and Tennessee does not require this so the more complex these types of programs the more disadvantaged Vermont will become in competing for jobs and capital investment in this State.

John Davis inquired if the opinion is that if the State has some investment equity that it would deter a lot of businesses from pursuing the program or perhaps locating in Vermont. Steve Gibbs responded yes and that one of the considerations businesses makes is simplicity and reasonableness. It takes risk to create and grow a business. And then to have to fight the media for moving 5 jobs to Switzerland, laying off 100 people when the cold system failed and yet we created 2,000 jobs in Vermont. If the stocks drop by 75% like it did in 2011 and then having to have another fight against "our State" because of that value drop is just more noise that the company does not need. I am not sure if that type of risk and uncertainty is understood amongst all the people who would need to understand it to buy equity in a public company. Buying one equity in one public company is the riskiest investment you could ever make. So what they are asking you to do for the State's money, no one is going to understand it. I don't believe that tax or enough people in legislature understand it, the risk of buying one equity in one company because it moves around so much. Yes, it would be a deterrent.

Michael Keane stated that he was glad that Steve Gibbs brought up the notion of risk, because when you buy into something you buy into the risk. I am not sure that a State wants to buy into the risk.

Steven Gibbs continued with issue number three: whether and under what circumstances the department of taxes should have should exercise the authority to recapture value incentives paid to a business that is subsequently sold or relocated out of the State or that eliminates qualifying jobs after receiving an incentive. Again, the program can be set up however it is deemed appropriate and if that is one of the factors then it just becomes a consideration point for the applicant company. Seventh Generation and Dealer Dot Com have been sold and KGM is now owned by a Dutch company. But that is not going to impact one job in the Waterbury plant. I struggle with the notion of why who owns the company should matter to the person who is driving the forklift or even the 500 people working in Essex Vermont. Under whether or what circumstances, I don't think it should be because the ownership change of the equity of the company has no impact on jobs in the local plants. The VEGI program does track as to whether we hire to certain milestones and if we don't meet certain milestones then we don't get the incentive which is a perfect way to measure because you are measuring jobs in Vermont.

Chair Stephan Morse inquired if, during the negations of this sale, the incentives were noticed by the Dutch company. Steve Gibbs responded absolutely. What we do during the due diligence process is evaluating what risk is being picked up. We stated that we have been awarded $7.7 million in incentives from Vermont and we have earned and been paid a certain amount of that million by making payroll, adding employees and making capital investment milestones. We also told them what remains at risk. The Dutch company was aware and understood the risk. The Dutch company wants to know this as they want to know how we are making good decisions and where we are placing assets. Chair Stephan Morse stated that it added to the negotiations and value. Steve Gibbs stated that in a $14 billion transaction, that it was not material but certainly picked up by the lawyers and accountants.

Tim Briglin asked Mr. Gibbs to comment on whether when a company has been bought, frequently that company can bring assets to the table to invest in the Vermont operation. Steve Gibbs stated as we discuss the strategy with the new owners and we look at where our future capital investment is going to be and there is significant capital that can be invested in any State where we will get the best return. What I want as a Vermont resident and what I think all Vermonters want is to make a place where the corporation is going to be able to operate in a manner that will continue to allow them to continue to drive value and drive growth. And that they would be supported in such a manner for employing people, spending money and building plants. One third of our employees are based is in Vermont and it is easier to invest where you have these types of infrastructure.

Stephan Morse clarified that this question is coming from the Legislature and agrees that as long as you are meeting your goals/milestones, meeting the criteria of the application and creating jobs, there should be not issue with the company being sold.

Steve Gibbs continued with the last point of this question: eliminating qualifying jobs after receiving an incentive. The incentive is written in a way that it is over a certain amount of years and I think that is captured and goes to the risk. Companies grow and then they expand and shrink constantly. Companies just want to know what the rules are, we will evaluate the rules and decide whether this is a viable option for the company.

Fred Kenney, stated the thinking that underlies the assumptions of the question in Act 157: a company comes to the state and says "we need the incentives to make this happen", the "But For" clause. The company is successful and then acquired, and what is being said is that the State should receive a portion of the profit, beyond the jobs and capital investment made, because they received an incentive. Secondly, aside from the benefits the State receives from the company's job growth and capital investments, are there other ways the State benefits from a company that is acquired. Steve Gibbs stated if the state should benefit from the "windfall" goes back to the way the program is designed and fluidity of the company. If the company goes bankrupt, then the State should write the company a check – quid pro quo. The mindset that every company is going to grow is just not reasonable.

Steve Gibbs continued in response to the "other benefits" the state receives, when our company was sold at $14 billion, the state tax rate on just the gains on the employee shares was 9%. And who ever lived in Vermont that had a gain on their shares, those funds went directly into the State's treasury. On this type of transaction, the State gains on its tax base and the compensation to its employees. I wouldn't say the State received nothing, I would say they benefited, from employee payroll taxes, capital gains taxes, and bought other assets in Vermont. The money that is earned here is generally spent here. The notion that the State received nothing is unfounded.

Chair Stephan Morse stated that there are some people who believe the public would benefit from more transparency of company information. Steve Gibbs: As a public company there were certain laws that we are required to follow such as security and exchange laws, accounting laws, and there are confidentiality clauses in a number of our contracts. We operate as a business and follow all the rules and regulations required of a business. Currently, our auditors can see what they need, they provide a report on the operations and each quarter I produce a 150-page report for publication.

Steve Gibbs continued, we also need to take into account what our competitor sees and how that can directly impact our business and our negations with customers. We are not going to support something that will hurt our business.

Stephan Morse inquired as to how KGM felt during the process and if they felt they were divulging more information than they wanted to. Steve Gibbs stated no. We provide only the information required and we understand where this information is maintained confidentially and we are comfortable with that.

Emma Marvin inquired if the information provided was to become more public, after milestones are achieved or not, for example, would that change your level of comfort. Steve Gibbs responded, absolutely because it gives people an inside look into our business that is a competitive advantage for us. And if you have an audit function and a board that says your met the requirements, others should accept that. Fred Kenney ask if it would be an issue if it was after the performance requirements were met and all incentives had been earned. Steve Gibbs stated yes, because it's about maintaining our competitive edge.

Joan Goldstein stated after having been through the VEGI process are there any changes or improvements you would like to offer. Steve Gibbs stated no, it's a fair and thorough process. At times, if felt like Vermont didn't want to give us the incentive because they thought we didn't need it. As business owners, the incentive is significant and there are other States begging us to build plants in their State. And at time it felt like we were fighting for the privilege to build a plant in Vermont. KGM spent millions in capital, added millions in salaries and hired thousands of new employees due to this program.

Fred Kenney asked if there are any comments regarding Issue 8, quantifiable standards for the type, quality, and value of employee benefits for a new job to count as qualifying. Steve Gibbs stated as long as the expectations are clearly laid out. Offers from other States are compared to what is being offer by Vermont.

Chair Stephan Morse inquired as to the other States KGM has plants located in. Steve Gibbs stated Georgia, Tennessee, California and Quebec.

Rachel Smith inquired as to when you applied, if the VEGI program was set up so that you would have to repay the incentives, even if you met all the goals, would that have changed your consideration at application. Steven Gibbs stated yes, absolutely.

Michael Keane asked if KGM was going through this process all over again, would you still do it. Steven Gibbs stated yes, absolutely.

Joan Goldstein inquired as to the plans for future growth for KGM and if they would apply to VEGI again. Steve Gibbs stated yes, KGM wants to grow and grow in Vermont.

Chair Stephan Morse thanked Steve Gibbs for his input noting the information is quite helpful.

At 10:26 a.m. Chair Stephan Morse move to the next contributor, Chris Lyon with Seventh Generation. Fred Kenney noted that Chris Lyon is participating via conference call and provided the Board with written comments.

Chair Stephan Morse welcomed Chris Lyon, Manager of Community Services, Seventh Generation, Inc. (SG) and opened the floor to him.

Chris Lyon provided some background information on how VEGI has affected SG's growth in Vermont. In 2011-2012 SG was actively looking at site locations in North Carolina and opened a small office in Raleigh to grow some of our strategic initiatives. Raleigh is a growing city and offers many amenities for the workforce, inexpensive housing, lower cost of living, and a larger applicant pool for the employer. A very desirable place to start and grow a business.

We are a big fan of VEGI and when we looked at the VEGI incentive, we compared it against North Carolina's, and although landlords and Mayors might be able to offer us sweet heart deals on the local level, we found that VEGI made a very strong case compared against North Carolina and came out on top. Specifically, because of the Green VEGI provision and multiplier. Our choice to stay in Vermont was influenced by this incentive. In the grand scheme of things, the award was not a huge number. Compared to our payroll, the incentive on a piece of paper is not much of a deciding factor. What it is, is a commitment that once made really does encourage businesses fulfill the performance metrics and it certainly came up in conversation when we were deciding where jobs were going to land. And in the last few years we did choose Vermont over Raleigh.

VEGI has been instrumental in our decision-making. VEGI also represents a really high return on investment for the State. For each of the employees we have added, most of them are higher paying jobs, which pay higher income taxes, they are buying houses around $400-500,000 based upon their income. And so we know that bringing those professional jobs to Vermont is important to the State. So full support from SG to make sure VEGI works and works well for folks.

Lastly, on the recent acquisition, we wanted to share with you and the Governor that Unilever wanted to make sure that the State knew that the jobs were staying here. There is this piece regarding windfalls in the policy review and we want to remind everyone that with any windfall, the State is going to do well with on taxes. It's going to be in the millions of dollars that are going back into our employee base. SG will be sending a letter asking the VEPC Board for affirmation and continuation of the VEGI incentive following the acquisition.

Chris Lyon stated his appreciation for being asked to provide commentary and chose to respond to the items that are most pertinent to SG.

A.1. Whether the enhanced incentives available are appropriate and necessary, as well as looking at environmental technology sector in Vermont. We really believe that the workload (to apply) is not insignificant. SG has the staffing resources to be able to go through the VEGI process and it is somewhat onerous if you are not familiar with working through State grants and leave that as a consideration on the table. A lot of businesses, ourselves included, do not necessarily have the time or energy to invest in the process while doing our regular jobs. SG would like to see the State recognize that environmental and socially responsible businesses in general are really what the future of Vermont's businesses atmosphere will benefit from. The enhanced incentive made a huge difference in the choice for us. The incentive is great and believe the enhanced incentive is honestly the smartest thing that came out of the VEGI program for those that it applies to. SG recommends that you keep the enhanced incentive and also look at the opportunity to consider what might be qualifying beyond just environmental technology sector. We understand that there are a lot of folks doing great work that do not cleanly fit in Green VEGI so there might be some consideration for socially responsibility within a business. There might be some smart businesses or start-ups that don't meet the current criteria that would deserve the same opportunity that we had. It is self-serving – but necessary for Vermont - to build up that talent pool, that otherwise doesn't exist in Vermont and that is one of the biggest challenges.

We didn't have a lot of commentary on issue 2. The general sense was that we believe that including a mechanism program for equity investments could be a viable option. It would be another layer of conversation during the process where we decided would we or would we not. It would involve some different folks than would be involved in the first conversation. We certainly think that could be a smart way for the State to be involved with the project a little bit more closely should a sale or acquisition take place.

Also under that piece is the commentary about the Department of Taxes. One thing we would discourage against placing a risk in the application that would cause people to hold back. SG believe that incentives are a really good investment on the part of the State. The risk of having to pay back the incentive would make us look at the incentive again and say maybe it's not worth the risk because the business landscape changes so rapidly. SG is open to it, just want to be sure that it is exercised in the right way and not be something that is viewed as a major risk.

Fred Kenney asked for clarification regarding repaying incentives if the company was sold or acquired and that this is something that SG was not supportive of. SG does not support repaying incentives. To have that as part of the deal is not desirable. This is highly contextual which makes it hard to answer.

Chris Lyon continued with issue 4, stating SG believes firmly that anybody who receives funding should be an example of what to do. SG thinks a self-certification process through the application paired with the ability to audit should any questions arise, would support this issue.

Chair Stephan Morse stated knowing that VEPC does not have the expertise and that this appears to be a duplication of what the Agency of Natural Resources does, that is does not make sense. Chris Lyon stated that it does not make sense if this is a duplication of effort.

Chris Lyon continued with issues 6 stating SG wants to make sure that small businesses get a chance in Vermont because some of our best businesses started small here. SG thinks there are a lot of smart folks in Vermont that have the wealth and ability to start-up, even with the start-up it can be expensive and not every business will succeed. Spending more time and energy on figuring out how to support small businesses would be a great area for growth. You really do need a person in your company to own the VEGI application and reporting, and it is not intuitive for someone who has not done grant work before.

Chris Lyon moved onto issue 7 stating much of the language is open to interpretation. SG shared some proprietary information with VEPC during the application process. This was difficult for SG because we heavily embrace transparency in our organization and share a lot of information with our employees and with other folks in the industry, but we control the context of the information. We would suggest strategic plans or supporting information would be held 100% confidential. Reporting in aggregate is a really good way to go. If you start looking at SG's performance, we really would hesitate to have to too much of that information shared. If there was a really good reason to have more information, then maybe a request for information with a sign-off process but we would want to start with confidentiality and work from there.

Emma Marvin inquired, with the types of information SG is currently providing, and after all goals have been met, would you then be comfortable with the information being shared? Or is that still considered highly proprietary? Some of the items are number of jobs created, payroll dollars, some of those pieces of information currently shared with us on a regular basis. Chris Lyon responded, it would really need to be on a case-by-case basis on all of those items. We prefer confidentiality. We view the application and the resulting incentive a good faith agreement between the State and Seventh Generation and is information we don't share out very widely with anybody else. A lot of that information could be used in a way that could discount our position in the market place or gives them insight into how we are doing.

Chris Lyon commented on issue 8 stating there is already a lot that goes into an application and it's just not an intuitive application process. The concern would be adding more requirements in a metric form may not actually result in the desired outcome. If the outcome you want to know is that there are good quality benefits provided, we believe that asking for a more qualitative statement about benefits given might give much more insight into the benefits given. We would not enjoy seeing flexibility taken away from growing organizations that are increasingly refining their benefits and their culture. There are a lot of layers that go into benefits and we would not businesses default to the standard set for VEGI.

Fred Kenney stated appreciation for the comments regarding small businesses and agreed that businesses have to set aside personnel time and resources to complete this process. Could you comment, provide a little more detail and/or suggestions on if it is the application process or the claims process that is more onerous. And are there certain things that could be simplified in either of those processes. Chris Lyon responded stating it is tough, when going through the process with the application it is actually very clear process wise. Sometimes it the size of the list and the perceived complexity that stop people. The pre-application process is fine. It's just a lot and not sure that this is a fix for that. VEPC does a good job at vetting the process but there needs to be more outreach for the smaller businesses.

Chair Stephan Morse inquired as to any additional questions, hearing none, thank Chris Lyon for his time and comments.

At 10:50 a.m. Chair Stephan Morse move to the next contributor, Bob Zider with Vermont Manufacturing Extension Center (VMEC).

Bob Zider provided an overview of VMEC noting that they are a public private partnership which 4is part of a nationwide network with 20% of the budget comes from the State of Vermont and 50% comes from fee-for-services. VMEC provides four "buckets" of services: operational excellence and continuous improvement; innovation, growth and technology acceleration; workforce strategies and talent development; and resources for Vermont manufactures.

Bob Zider stated that there are 1,100 manufactures currently identified in the State. There are an additional 300-400 that started as research and development organizations that are now manufacturing. Of the 1,100 manufacturers approximately 80% have less than 50 employees and 60% of the 1,100 having less than 10 employees, 6% with 100-200 employees and 1% over 500 employees. VMEC primarily services manufacturers with 10-50 and 100-200 employees in that order.

Bob Zider continued stating that it does not seem that Vermont fully understands or grasps the importance of manufacturing to Vermont's economy. Manufacturing is a huge economic multiplier as well as a huge employment multiplier. Every manufacturing job supports an estimated 1.6 jobs which is significant. In terms of economic employer every $1 that ships out the door it generates at least $1.37 in additional economic impact. In the broad scale, manufacturing represents, in 2014, 10.3% of Vermont's GDP (Gross Domestic Product). This is the highest contributor to Vermont's GDP and during an economic downturn the State should focus on manufacturing.

Bob Zider noted the major crisis being faced today in manufacturing is the innovation gap. Most manufacturing companies in Vermont say they have reached their peak and are now on the downside of profitability, looking for opportunities to cut costs. These companies need to have a system or way to continue to innovate. We are looking for ways to help these companies jump-start their business. National research shows that 85% of CEOs are reactive. So we are taking some of the principals of successful companies, we have created tools that will help small manufacturing companies and helping them implement these principals. These companies have been able to move products to market 6 times faster and with 10 times more success than in the past.

Chair Stephan Morse inquired as to comments regarding the legislation. Bob Zider responded that he had no comments other than to say that Vermont has very little to offer attract and hold companies. And most of the small companies that we work with don't have the time or inclination to work with the bureaucratic stuff that they hear all the time, they are overwhelmed by it. They really have a hard time just making it from day-to-day. Most of them are on the downside of the profit curve. It's not that they are not interested, not that they wouldn't want to, but they are not at a sufficient size where they can take staff to work through the requirements. We understand that they have to be accountable and there has to be standards. Reality is that manufacturing today, the trends are such, that you are not going to see a lot of job growth. What does that mean for the manufacturing and their ability to access this program. Manufacturing is changing and the small manufacturing companies in Vermont are falling behind and we need to work on changing their mindset and their culture of innovation. So as you think about the constraints you are putting on your program, you need to think about how those changes will impact the ability of people to grow and to access these programs.

Emma Marvin inquired as to how these changes will impact the role and skill sets for the needed workforce. Bob Zider responded that you will need people who know how to operate the systems. There will need to be workforce development, training, are we training our young folks, at the core are they learning how to be good problem solvers or are we training to a particular skill set for today. We need to train beyond that, we need people who are critical thinkers and who are very adaptable.

Michael Keane noted that it was mention there are 1,100 manufactures in Vermont, how many of those 1,100 are going to be able to jump the "S" curve. Bob Zider stated the biggest problem currently is the culture of the organization and whether the CEO understands this and if they are willing to embrace change.

Chair Stephan Morse inquired as to any additional questions, hearing none, thank Bob Zider for his time and comments.

At 11:13 a.m. Chair Stephan Morse move to the next contributor, Rebecca Ellis, Senior Counsel of Governmental Affairs with the Department of Environmental Conservation (DEC), Agency of Natural Resources.

Rebecca Ellis stated she would be addressing issue 4 of the policy questions which is how to most effectively ensure, through the application and award process, that recipients of VEGI incentives are in compliance with all federal and State water quality and air quality laws and regulations. The context of where this issue came from is in 2015-2016 Vermont Legislature passed the Vermont clean water act and so there was a lot of attention on clean water. This issue was initiated by Representative Cynthia Browning who also introduced another bill, H.507, which raises the same question. The House Fish and Wildlife Committee did take testimony on this bill. The Agency of Natural Resources working with other agencies in the State of Vermont came up with a proposal in response to H.507, which has been provided to this Council.

Rebecca Ellis reviewed the comments provided in the handout and stated that DEC believes this should be a self-certification process. That having ANR staff perform on-sight certification was not a good use of resources. The self-certification of Good Standing would apply to the applicant business and any business that held more than 10% of the applicant business interest. We suggested defining Good Standing with a bright line test. The bright line test we suggested is that the applicant should not be a named party in any judicial order, consent decree or an administrative order issued by the Agency of Natural Resources.

Rebecca Ellis continued stating that DEC also recommended that this requirement, to respond to H. 507, should apply only to grant programs, not loan or incentive programs. Adding this requirement to Attachment C of Bulletin 5 was a good place to include this. In this recommendation the requirement was narrowed down to just grants. It was also recommended that the State have the ability to exercise its discretion whether or not to award a grant to an applicant that is not in good standing. We also included that it was the applicant's obligation to notify the State if it falls out of Good Standing.

Rebecca Ellis stated that if an applicant falsely certifies that it is in good standing, the State of Vermont at its discretion may seek to recover the grant award and costs, to claw back those funds. And that the State may deny future grant awards for up to five years.

Fred Kenney stated that anything we might consider suggesting to the Legislature would be built on this model and be in addition to the proposal responding to H507. We could use the same model, applied to VEGI, to respond to Act 157. Rebecca Ellis stated that would be correct. That is what DEC is suggesting.

Rebecca Ellis continued stating she also provided what was passed by the Legislature, Act 154 Section 13. For the most part the recommendations were followed with one addition noted on page 23. The Legislature included not just the bright line, but added "is in compliance with all federal and State water quality laws and regulations." Which we feel is a bit hard for applicants to certify but certainly is in the right spirit.

Chair Stephan Morse stated that what he is taking away is that the Agency of Natural Resources is already addressing this issue. Rebecca Ellis commented that ANR is taking care of this for grants. Fred Kenney noted that VEGI is not considered a grant and that is why the question was included in Act 157.

Fred Kenney stated that VEGI works with a lot of small businesses that might not have the personnel required to complete a VEGI application, let alone a compliance person or division. How would a company, in good conscience, complete a self-certification for clean water, let alone all federal and State regulations and rules? How would they know if they are in compliance? Rebecca Ellis responded stating that is why we recommend the bright line test and that a person should know if they are a named party in a judicial order, administrative order, or consent decree. What would be expected is that any person starting a business that might require some type of permitting would check with an ANR permitting specialist. Fred Kenney noted that at the application process they will be certifying this and when they file claims with the Tax Department to receive the incentives, under the suggested policy change, they are going to have to continue to certify that they are in compliance. Rebecca Ellis affirmed this statement.

Fred Kenney noted the second question is at the time some companies are applying for incentives, approximately 25% of the companies are not even established in Vermont. We are trying to get the company to come to Vermont or to start a business in Vermont. The language assumes that they are in Vermont, operating. We will need language that will allow for companies not currently in Vermont. Rebecca Ellis stated the model proposed said they are not a named party in Vermont or any of its Agencies, in a judicial order, administrative order, or consent decree. Certainly, ANR's focus was on Vermont companies and we would suggest an ongoing obligation.

Fred Kenney noted that the charge in this Act includes compliance with federal and State, and water and air. Was the Legislature okay with the model even though it did not include federal and air? Rebecca Ellis responded that ANR is delegated to address both, federal and State. In terms of whether it is water and air, we would add air into the model.

Chair Stephan Morse summarized that there is not expertise in this Agency to address compliance, but that there is within ANR and that it is being address in that Agency.

Michael Keane inquired if ANR has or is building a data base of entities that are compliant or non-compliant. Rebecca Ellis stated that on the website there is a list of any entity that was or is a named party in an administrative order, or consent decree. Certainly a party should know if they are a named party.

Rachel Smith stated that what I've heard at this point is more like a stick, not a carrot and VEGI is an incentive program, not a grant program, and this seems negative and more bureaucracy. Small businesses are not applying for these incentives because of the bureaucracy. Rebecca Ellis responded that as part of the Clean Water Act, they created a clean water fund which is to provide grants to people to comply with the act. So there is definitely an incentive side.

Chair Stephan Morse inquired as to any additional questions, hearing none, thank Rebecca Ellis for her comments.

Fred Kenney stated that additional data sets for Act 157 are provided and briefly reviewed the documents provided.

Chair Stephan Morse noted that the next meeting is scheduled for November 3, 2016.

Chair Stephan Morse inquired as any other business, there being none requested a motion to adjourn.

- At 11:34 p.m Warren Kitzmiller moved to adjourn the meeting. John Davis seconded the motion. Chair Stephan Morse requested a roll call for the vote, all voted in favor and the motion passed. 9-0-0.

Minutes taken by Kimberly Baker: September 30, 2016
Revised by Fred Kenney: October 5, 2016
Approved by the Board: November 3, 2016