

Local Government Subgroup

Meeting #1 Minutes

March 26, 2014 9AM - 12PM

Conference Call

ATTENDEES

John Stibal - City of West Allis (Co-chair)
 Dan Kolberg - DNR
 Michael Prager – DNR
 Jenna Soyer – DNR
 Karen Dettmer – City of Milwaukee

Bill Scott- Gonzalez, Saggio, Harlan
 Jason Kruchko – Key Engineering
 Lanette Altenbach – AECOM
 Adam Gallagher – Dane County

AGENDA ITEM #3: Review list of prioritized issues. Discuss the background of the issue and any comments.

Relevant Attachments:

Issue Priorities List (handed out prior to the meeting)

Discussion:

Dan Kolberg provided a brief overview of the history of the Brownfields Study Group, previous reports, and the purpose of this report. Dan also talked about the setup of the six subgroups and their assigned issues.

Tax Issues (these issues were grouped together into one tax topic)

1) Negotiated sale in lieu of bidding
 Not discussed

2) Assign tax deed judgment w/o taking title

Reluctance on the part of counties to enter into 75.17 agreements because of the stigma of contaminated properties: This is really serving as a barrier to municipalities doing brownfields work. (Dan Kolberg)

Adam Gallagher commented that it is difficult to justify taking these properties if there is no guarantee that the municipality will take it. John Stibal commented that perhaps a model clause should be developed to be included in a development agreement.

3) Authorization of counties to cancel delinquent taxes outside of 75.105/75.106

Use of 75.105 agreements between municipalities and counties: These agreements were really meant more for private parties and are not needed when the LGU liability exemption applies. LGUs should be transferring properties via tax processes instead. Maybe this topic really just needs clarification/guidance. (Dan Kolberg)

Acquisition and Liability Protection Issues

1) Authorization to access contaminated properties

In some cases LGUs do not know about the authorizations that exist or are reluctant to use them. (Dan Kolberg)

Karen Dettmer suggested that we look at setting up criteria for different levels of access. Level 1 would allow the LGU to come onto the property to look around. Level 2 would allow sampling. Level 3 would allow demolition or cleanup. Karen also noted that New York provides this sort of access authority through their nuisance laws.

Michael Prager commented that the group should consider this topic for tax delinquent properties as well as non-delinquent (e.g. underutilized) properties. The liability sub-group is also discussing access needs by RPs on

to neighboring properties. Greater access authorities for governmental units may be needed to assist in these situations.

2) Separate state (provided by Wisconsin) 3rd party liability protection

Federal CERCLA LGU protection also provides 3rd party lawsuit defense. There is no state equivalent for such law suits. (Dan Kolberg)

3) Revised definition of LGU and implications

Should the state definition of LGU be revised to include other entities? What would be the implications of this? For example, when DNR administered had the SAG program, it was thought that if the definition of LGU included school districts, the program would have been flooded with requests for demolition of old schools and asbestos management. (Dan Kolberg)

4) Exemption criteria/methods of acquisition under 292.11(9)(e)

Clarify the methods of acquisition that are eligible for LGU exemption. Greater clarification could be provided on what statutes apply to the various methods. John Stibal asked if this might affect classes of cities differently?.

Funds for LGUs

Dan Kolberg talked about coordinating any funding recommendations with the Financial Subgroup, as per BFSG guidance.

2) PACE program (Property Assessed Clean Energy) model for brownfields funding

Art Harrington had discussed the PACE program at the previous Study Group meeting and suggested we look at it as a model for brownfields funding. The program uses a special assessment that stays with the property for any improvements (in this case) for energy efficiency. (John Stibal)

This approach needs to be explored further, and coordinated with the Finance sub-group. Is legislative authority needed to apply this to brownfields? Are outreach efforts needed to make brownfield owners familiar with this opportunity?

3) Developer incentives/business needs

May want to also talk about incentives for developing on brownfields properties. Could include streamlining permitting processes, and providing term guarantees (5-10 years?) on air pollution control equipment initially approved for the operation. (Dan Kolberg and liability sub-group)

Outreach & Public Participation

The group did not identify anything in this category that needed to be tackled at this time. Dan mentioned one item under this topic that could be addressed was electronic access to liability letters.

Federal/State Interface

This topic (originally under Outreach above) was identified as a "For Future Study" issue. Particularly the interpretation of liability (fed v. state) and the difficulty of obtaining liability clarification from the feds.

Technical Issues

1) Model ordinances- Demo/Salvage

Jenna Soyer discussed the background of the model Non-Structural Salvage ordinance and the status of its development. Bill Scott elaborated on the history of the topic and the need for such an ordinance. This topic was also discussed, in a way, at the Liability Subgroup meeting on March 25th under the Sole Source LLC topic. Bill will

check in with the Liability group to make sure this is included as part of the recommendations to tackle the sole source issue, and report back.

The Local Government subgroup will handle any other issues regarding the topic not covered by the Liability subgroup, if necessary.

2) Vapor Intrusion- model ordinance, BMPs

Jenna Soyer provided background on the ordinance to address siting issues (with particular focus on day cares and schools) and noted that the Vapor Intrusion Partnership Initiative (VIPI) project that the DNR is working on will be looking at this issue as well. Addressing VI pathways in utility construction was also mentioned at the Study Group meeting.

Karen Dettmer noted that the Technical Subgroup will be looking at the federal/state interface and regulations regarding vapors. Bill Scott suggested that the Local Government subgroup identify triggers for additional investigation or protection that would be important to local governments (e.g. siting of a day care, etc.) and how to enforce those triggers (i.e. through an ordinance to protect LGU needs).

This needs to be coordinated further with the Technical Subgroup and assigned to one of the two groups for issue paper development.

4) Area-wide cleanups

Jenna Soyer provided background that this topic was mentioned in the Study Group as a lack of resources/incentives for looking a brownfields cleanup and redevelopment on an area-wide basis instead of parcel by parcel. Some topics that may need to be looked at include financial tools for planning, guidance and technical resources, addressing process/program issues with regard to redevelopment of large swaths of land, and streamlining processes.

Bill Scott commented that areawide-focused resources/strategies can be the impetus to bringing in developers and getting a cleanup done correctly and efficiently. We should make sure all groups are keeping such a goal in mind.

Action Item	Decision/Recommendation	Dissenting Opinions
Prioritize which topics the group will tackle	See Issue Assignment list	None

Assignments	Timeframe	Person(s) Responsible
Provide clarification on acquisition methods	By next meeting	DNR staff
Review NY's authorization for access laws	By next meeting	Karen Dettmer/Michael Prager
Check in with Liability Subgroup on model salvage ordinance	By next meeting	Bill Scott

AGENDA ITEM #4: Next steps for tackling issues/ Assignments for drafting of issues papers.

Relevant Attachments:

Issue Paper Template
Issue Assignment List

Discussion:

Subgroup members present volunteered for various, but not all, issues. See Issue Assignments list for more information. The group agreed to flesh out the issues and have draft proposals ready for discussion at the next meeting.

Subgroup members can use the previous Study Group reports as a reference for what information should be included in a final issue paper.

1999 Study Group Report: <http://dnr.wi.gov/files/PDF/pubs/rr/RR615.pdf>

2000 Study Group Report: <http://dnr.wi.gov/files/PDF/pubs/rr/RR655.pdf>

Assignments	Timeframe	Person(s) Responsible
Draft issue papers (please use template) and identification of questions/research needed to draft recommendations	By next meeting	See Issue Assignment list – There is still plenty of room for all group members to sign up for issues and leadership roles.

NEXT MEETING

April 17, 2014 (face-to-face)

9AM - 12PM

West Allis City Hall

Room 128

7525 W. Greenfield Ave

West Allis, 53214

For those who cannot make it in person, call-in is available:

Dial In: 1-888-291-0079

Passcode: 8543 340#

Attachment(s):

Issue Paper Template

Issue Assignment List