

## South Burlington

### Stormwater Services

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November 14, 2017

South Burlington Legislators,

I recently reviewed the draft “Report of the Working Group on Water Quality Funding 2017 Act 73, Section 26” prepared by the Vermont Agency of Natural Resources (ANR). In collaboration with other municipal stormwater staff from Colchester, Essex, Essex Junction, and Williston, I provided comments on this report (see attached). Since this draft report has been issued there has been ongoing discussion regarding development of a Clean Water Authority or similar entity. This Clean Water Authority would be tasked with raising and disbursing the funds necessary to make the investments required to improve Vermont’s water quality. I would like to offer the following comments on this concept:

1. The City of South Burlington established Vermont’s first Stormwater Utility (SWU) and I have served as the City’s Stormwater Superintendent for ~10 ½ of the ~11 ½ years that it has been in operation. Since that time, the SWU has collected impervious area based fees from all developed property in the City. Currently, all single family residential properties in the City pay a monthly stormwater fee of \$6.69 (\$80.28 per year). Non-single-family-residential properties (e.g. commercial properties) are assessed a fee based on the amount of impervious surface located on the parcel. Through this program, the City collects about \$1.8 million in revenue each year. That funding is used to support a robust local water quality program. This includes the development and administration of numerous programs that improve water quality including: public education related to the impacts of uncontrolled stormwater runoff, design and construction of capital improvement projects to address existing stormwater runoff issues, maintenance of existing stormwater drainage and treatment infrastructure, watershed scale planning, and several other tasks intended to improve water quality and maintain compliance with the City’s Municipal Separate Storm Sewer System (MS4) permit.
2. I support creation of a statewide entity that can collect and manage the funds needed to address Vermont’s water quality issues and assist Vermonters in their efforts to comply with the requirements of Act 64 (Vermont’s Clean Water Act). We have seen the stormwater utility model work at a municipal scale in States across the nation. We have also seen this model work locally in South Burlington, Burlington, Williston, and Colchester. While there would be challenges associated with developing a regional or Statewide program there would also be significant benefits for the State to have a dedicated revenue stream that can be used to address water quality issues.
3. If Vermont creates a Clean Water Authority we must carefully consider how this new entity will interact with Vermont’s existing municipal stormwater programs. The goal should be to create an entity that can collaborate with and support these local programs. Care should be taken to ensure that the funding required to support a new Statewide entity does not siphon away the funds that these successful local programs rely on. This includes both MS4 regulated

communities and communities with impervious area based fee programs. MS4 communities are already required to implement a number of additional stormwater Best Management Practices (BMPs) above and beyond what other communities will be required to do by Act 64. In addition, communities with established impervious area based fee programs have already made the initial and ongoing investments necessary to administer and collect funding to support their water quality programs. The attached graphic summarizes the stormwater costs associated with being a Vermont municipality and demonstrates how these costs increase for MS4 communities, and then increase further for municipalities that administer impervious area based fee programs. Any new legislation that creates a Clean Water Authority must account for this additional work and cost by including one or more of the following items:

- a. Provide an exemption for municipalities that implement successful MS4 programs.
- b. Provide a significant discount or credit to municipalities that implement successful MS4 programs.
- c. Provide a significant discount or credit to municipalities that implement impervious area based fee programs.
- d. Allow communities that collect impervious area based funding programs to retain these funds locally as long as they (1) exceed what the Statewide fee would be for the community and (2) can demonstrate that the funding is used for water quality.

If Vermont moves forward with creation of a Clean Water Authority I would encourage legislators to solicit input from Vermont's existing municipal stormwater programs. Existing local programs have already demonstrated their ability to successfully implement water quality programs and projects. These programs support the "all in" approach that has been voiced by Vermont ANR, but we must ensure that we are not putting these communities "all in" twice, by double charging the properties located within their boundaries. Worse yet, we need to make sure that we don't undermine the effectiveness of these programs, disincentivize communities that are willing to take on responsibility for improving water quality at the local level, or enact legislation that would undermine (or increase the already significant costs associated with) efforts by MS4 communities towards permit compliance.

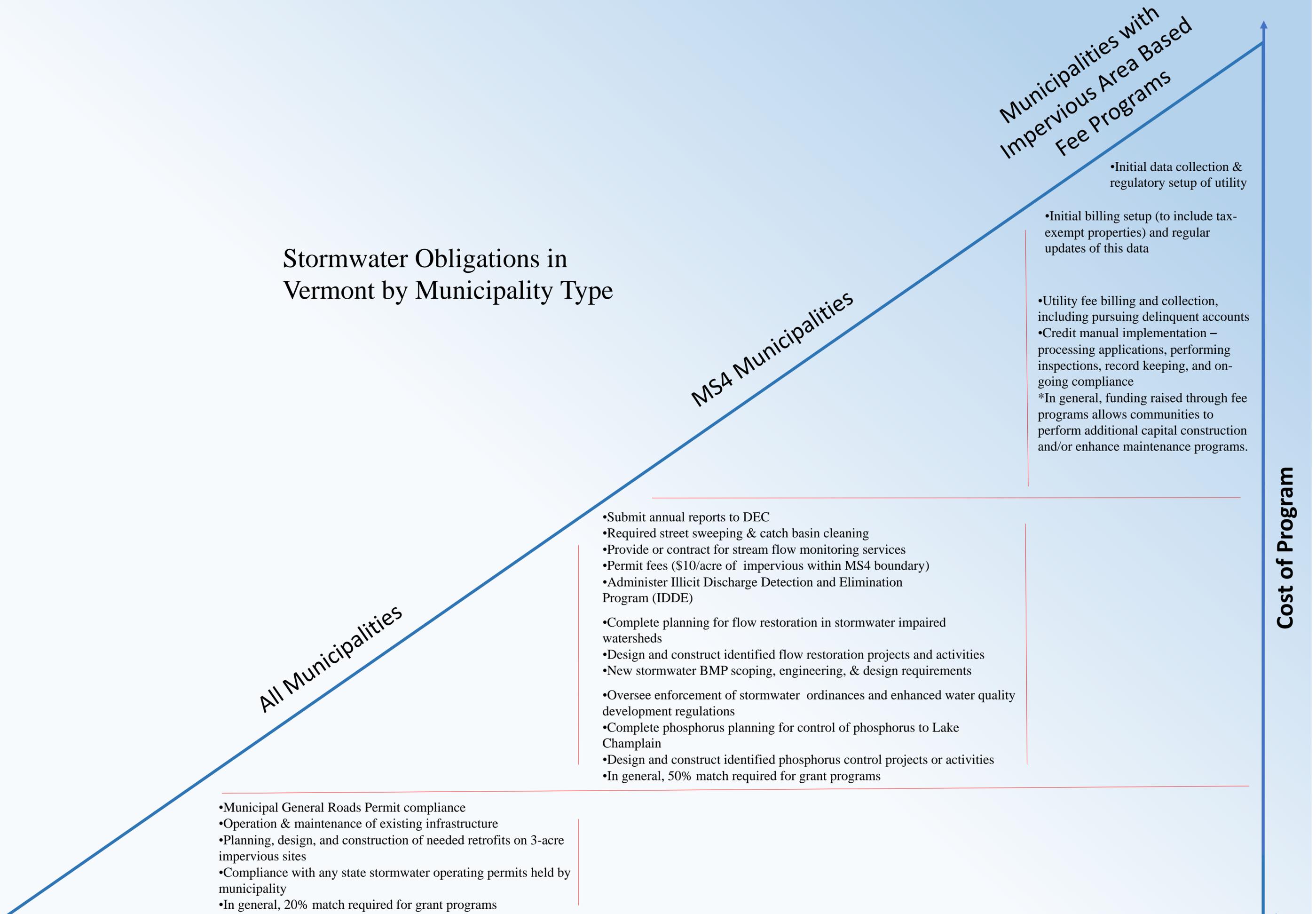
Thank you for your continued interest in protecting and improving Vermont's water quality. If you have any questions regarding this topic, please contact me at (802) 658-7961 x6108 or [tdipietro@sburl.com](mailto:tdipietro@sburl.com) .

Sincerely,

Thomas J. DiPietro Jr.  
Deputy Director of Public Works  
City of South Burlington

CC: Kevin Dorn, South Burlington City Manager  
Justin Rabidoux, South Burlington Director of Public Works

# Stormwater Obligations in Vermont by Municipality Type



All Municipalities

- Municipal General Roads Permit compliance
- Operation & maintenance of existing infrastructure
- Planning, design, and construction of needed retrofits on 3-acre impervious sites
- Compliance with any state stormwater operating permits held by municipality
- In general, 20% match required for grant programs

MS4 Municipalities

- Submit annual reports to DEC
- Required street sweeping & catch basin cleaning
- Provide or contract for stream flow monitoring services
- Permit fees (\$10/acre of impervious within MS4 boundary)
- Administer Illicit Discharge Detection and Elimination Program (IDDE)
- Complete planning for flow restoration in stormwater impaired watersheds
- Design and construct identified flow restoration projects and activities
- New stormwater BMP scoping, engineering, & design requirements
- Oversee enforcement of stormwater ordinances and enhanced water quality development regulations
- Complete phosphorus planning for control of phosphorus to Lake Champlain
- Design and construct identified phosphorus control projects or activities
- In general, 50% match required for grant programs

Municipalities with Impervious Area Based Fee Programs

- Initial data collection & regulatory setup of utility
  - Initial billing setup (to include tax-exempt properties) and regular updates of this data
  - Utility fee billing and collection, including pursuing delinquent accounts
  - Credit manual implementation – processing applications, performing inspections, record keeping, and on-going compliance
- \*In general, funding raised through fee programs allows communities to perform additional capital construction and/or enhance maintenance programs.

Cost of Program

Water Quality Benefits

Comments on Draft Clean Water Funding Report, due November 1, 2017

Municipal Stormwater Staff from Colchester, South Burlington, Essex, Essex Junction, and Williston worked together to compile the comments below on the Draft Clean Water Funding Report prepared by the Act 73 Working Group.

- Ongoing operation/maintenance responsibilities are not mentioned other than a statement that these costs would be the facility owner's responsibility. Ongoing O&M costs are present for any facility, can be significant, are necessary to realize the water quality benefits of any physical improvements, and should be considered and planned for as part of the overall water quality funding needs landscape. Stormwater utilities report that operation, maintenance, and administrative activities can account for over 50% of their annual budget. DEC should revise the Act 73 report to include an estimate of the ongoing operation and maintenance costs associated with the capital upgrade costs included in the report. In recognition of the on-going O&M costs borne by municipalities, capital costs should be distributed appropriately between the different sectors and "sources of clean water investment" that will bear the financial responsibility for maintaining the initial investments going forward.
- There is very limited discussion or emphasis on the need for funding the scoping/planning/preliminary design portions of water quality projects, which are the necessary first steps to constructing water quality improvements. Without additional resources provided for these activities, it will continue to take significant lengths of time for municipalities to get projects from a conceptual stage to completion. Additional discussion of and financial support for scoping/planning/preliminary design activities is recommended if the Legislature wants to see construction projects move forward.
- The group's charge by the Legislature was to "recommend draft legislation to the General Assembly to establish equitable and effective long term funding methods to support clean water." This report does not recommend legislation or establish long-term funding methods, and we believe it does not seek an equitable balance amongst responsible parties. The report suggests asking municipalities and private citizens to pick up larger and larger pieces of the tab as time goes on.
- The shortening of the "long-term" funding horizon from 20 years to 5 years further indicates how inadequately this report achieves the Legislature's objectives. The 2017 Treasurer's Report on this subject suggests the need to be spending \$115 million annually in order to address water quality issues in Vermont. The new 5-year horizon indicates only \$84 million needs to be spent each year for the first five years, in order to build capacity over this time to adequately manage higher levels of funding. This is an annual reduction of \$31 million over previous estimates, which adds up to \$155 million over 5 years. As

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a result of this short-term spending reduction, the remaining 15 years will have an additional \$155 million of needs to address. This comes out to an additional \$10 million a year in need with no identified source of revenue. This report does not present any plan for how to equitably address this long-term funding cliff.

- Of the estimated \$79 million in clean water revenues expected per year during FY20-24, municipalities are expected to pick up 33% (\$25 million) of the tab, with private landowners picking up 14% (\$11 million) – these are annual figures. While it is understood these may be preliminary figures, the assumption that this money will materialize from these sources is concerning. The report accurately clarifies what is likely to be raised at the state level or received from the Feds, but it assigns municipalities and private property owners to come up with the rest, except for the \$5 million gap attributed solely to the Ag sector. Financial gaps are not limited to the Ag Sector and there is no discussion of the municipal and private sectors' abilities to meet this funding need. The assumption that municipal voters will support any bond on the ballot is speculative and risky and the ability of municipalities to comply with a variety of permitting requirements essentially hangs in the balance. Unless an ability-to-pay analysis is completed, there are funding gaps of unknown amount and significance for both the municipal and private sectors every year into the future.
- The use of the term “municipal ratepayer” is misleading. Most of the 255 municipalities in Vermont fund water quality activities through their property tax base and not through a dedicated utility with ratepayers.