



MAD RIVER VALLEY VERMONT

TO: Kari Dolan

CC: Waitsfield Selectboard; Lisa Loomis

DATE: December 6th, 2018

RE: First Step at "Due Diligence:" An Evaluation of the Local Option Tax (LOT) Concept, referred to as "For Local Opportunities" (FLO) and presented by the Mad River Valley Planning District's (MRVPD) Economic Vitality Committee (EVC)

FROM: Darryl Forrest, for the MRV Vitality sub-committee of the MRVPD

Dear Kari:

Thank you for the detailed set of 30 questions laid out in your letter of November 26th to the Waitsfield Select Board.

The MRV Vitality sub-committee of the Mad River Valley Planning District has provided responses to all 30 of these questions below.

You will gather from the responses that in almost all cases we have considered these points in the work of the sub-committee over the last 8 months in reaching the recommendations we have made. As we have emphasized, our current proposal is a draft, which we look forward to refining through continued public feedback. However, we strongly believe that the overall approach remains the best way to ensure the sustainable vitality of the Mad River Valley Community for the future.

Our responses:

1. Advantages and disadvantages of various alternatives: The FLO proposal requires a change in the towns' charters to develop and grant a three-town commission taxing authority to implement a local option tax (LOT) in a district that incorporates the three towns. I contacted the Vermont League of Cities and Towns to seek their perspective. The league urged caution, noting that the town would be giving up the only other fund-generating option it has, besides the property tax, to support this proposal. It would be very helpful if you could compare this proposal to other approaches mentioned below.
Reply: According to counsel, the MRVPD has the ability (as a municipal union district) to ask voters to approve this proposed charter and authorize the District to collect the tax. If approved, the towns would not need to develop a new entity for this purpose. Yes, the towns would be giving up their ability to collect a LOT. However, each town will be able to use the FLO to fund projects that demonstrate MRV community benefit. Our legal advice indicates that no town charters are needed, or changed where they do exist.

2. Memorandum of Understanding (MOU) approach: Could an MOU model achieve similar outcomes? This approach (used in Essex and Essex Junction or Village, I believe, to purchase the Christmas Tree Farm and other projects) has the following elements:
 - a. Each town developed their own LOT
 - b. There is an MOU between the towns to work together to achieve agreed upon outcomes
 - c. Project are identified and prioritized, perhaps via a strategic plan
 - d. A sunset provision is included
 - e. No need for change in charter

Reply: We considered the MOU and town by town approaches. A MOU approach could lead to, and has led to in other towns, year by year decisions by one or more towns to divert the proceeds of the LOT in a manner different from that agreed to by the voters. The overall approach proposed by the FLO of embedding the process in a Charter managed at the Valley level largely removes this risk. At the same time the Charter provides the ability for a town to decide to opt out of the LOT and indeed to opt out of the MRVPD in the future if they so decide.

3. The “Do nothing” approach: This approach has the town continue to support projects of mutual interest as they arise. Towns could work together to develop a strategic plan and support those projects using their own tax base. Towns could take advantage of the existing MRV Recreation District and the MRVPD as coordinating bodies. Waitsfield anticipates retiring some long-term debt in a couple of years, and will be in a stronger position to pursue economic and community development opportunities in the near future. *Reply: All recent history demonstrates that addressing needs of mutual interest as they arise simply does not work easily. An example of the challenge was the difficulty of raising even \$8,500 per town last year for the trail head kiosks. Also this approach is inherently reactive, and does not address the proactive investment in the community that all the planning work of the last four years has clearly demonstrated is needed. The towns already each have a strategic plan – the “Town Plan” – but these have not led to the kind of proactive investment that the FLO proposes. The FLO would actually increase the possibilities for Town Plans to become a reality by providing a source of sustainable year over year funding.*
4. Conditions by which a regional tax is warranted. Understanding where the revenues come from (who pays) is important. The material shows that breakdown among “resident” and “nonresident,” and in which town. Can you define “part-time residents?” It appears that 60% of the revenues come from Waitsfield. Does it make sense for Waitsfield to participate in a multi-town endeavor, when most of the revenues are generated in Waitsfield? *Reply: Part-time residents are those whose permanent residence is elsewhere and who pay non-resident levels of property tax. Waitsfield is the commercial center of the Valley, and thus the center of most economic activity. While approximately 60% of the revenue would come from Waitsfield, the economy is clearly Valley-wide, as are the identified needs, so the sub-committee strongly believes a Valley-wide approach is essential. Interestingly it is likely that most of the investment from the FLO will occur in Waitsfield because it is the commercial center, and thus a Valley-wide LOT will likely create strong leverage for Waitsfield relative to a go-it-alone approach.*
5. Governance. The proposed governance structure seems complicated. It also appears to create greater separation between voters and spending decisions, where some

- members are appointed. Have you considered other models to tie together voter decisions and spending? *Reply: The current proposed approach for the Commission is to have half the members directly elected by the voters in each town, and half appointed by the Select Boards (who are in turn elected by the voters). The rationale for having an appointed member from each town is to give the Select Boards the opportunity to directly choose a representative, while retaining DIRECT public input from having an elected member as well from each town. The MRV Vitality sub-committee is very open to recommendations on this topic – we have already received feedback from the Fayston Select Board who recommended that all members should be appointed.*
6. Each component of the LOT: The proposal envisions applying the LOT to the entire set of eligible tax mechanisms (sales, rooms, meals, beverages). It would be helpful to evaluate the merits of applying a LOT to a smaller subset of the eligible tax mechanisms. *Reply: Various scenarios have been considered. The key fact is that if we are going to make a difference through the FLO initiative we need to plan for a significant amount of funding. In the Valley the Retail Sales tax would contribute over 50% of the total, with up to 40% of that coming from the ski resorts' sales. In the view of the sub-committee, if we are going to go ahead, let's make it effective. This recommendation is further reinforced by the analysis that only 12% of the additional tax would be paid by residents, making a LOT the most highly leveraged way to raise investment for the Valley.*
 7. Merit in merging the MRVPD and the Mad River Recreation District: I understand that the MRVPD is already involved in recreation planning. Rather than seeking an LOT to help pay for staff, have you considered merging the MRVPD and MR Recreation District? This approach could achieve administrative and operational cost savings, provide for other efficiencies, and generate multi- town project collaboration we seek. *Reply: There is in fact no financial leverage here, as the Rec District has no paid staff. The two organizations already work very closely together, and in fact the absence of paid staff in the Rec District has resulted in a significant amount of their work currently being done by Planning District staff, diverting focus from their other responsibilities. The FLO proposes a paid Rec District Director, which is a much-needed role.*
 8. Merit in merging or creating an MOU between the MRVPD, MR Recreation District, and the Mad River Chamber. Bringing together these organizations could provide greater synergy among the three entities and find efficiencies in achieving our desired outcomes. *Reply: Once again there is no financial leverage here, and they already work closely together, as noted above, and as demonstrated by the collaboration on the sub-subcommittee. Also, the Chamber is already represented on the Planning District Steering Committee, which ensures a close working relationship. The concept of merging the Chamber and the Planning District has been brought up before, but it was quickly realized that it is an impractical approach. The Planning District is a municipal public body and managed accordingly, while the Chamber is a 501c6 organization operated under the direction of its members.*

9. The Voluntary LOT approach: I understand from the presentation that the Chamber has initiated a voluntary LOT of sorts. Is there an option to revisit and build on a voluntary initiative? *Reply: This is an interesting question, but not realistic. The prior approach, called the CSP, was abandoned 8 years ago in part because of concern that it was largely the small number of lodging members of the Chamber that were involved in this effort. Efforts to broaden it were unsuccessful, then and would be now. The funds raised in this way were naturally used for marketing efforts directed by the Chamber, a key part of the proposed FLO, but only one of four key investment categories proposed by the FLO.*
10. The Tax Increment Financing (TIF) approach. I do not know much about TIFs, but I am aware that some municipalities use this approach. Now that Waitsfield has decentralized wastewater in Irasville, is this an option for us to consider? *Reply: Simply put there isn't enough critical mass within Waitsfield to support a TIF. The TIF creates debt. The debt is an obligation of the town but the properties that are developed pay the debt off. So, for say Irasville you'd be asking the homeowners to pay off the debt incurred. The TIF probably would not create enough funds to do a village or downtown development in Waitsfield. A more detailed answer is under Point 20.*
11. "SPLOT" - Special Purpose Local Options Tax. I do not know much about this approach, but I believe that its scope is narrower than a LOT. Could we use the SPLOT to fund specific projects/programs over a defined period? *Reply: The FLO is intended to address on a sustainable basis investment in critical needs for the Valley as identified in the planning work over the last 4 years or so, not one-time specific projects that a SPLOT is intended for. A more detailed answer is under Point 20.*
12. Use of an Advisory Committee rather than a commission: We could conceivably formalize the EVC into a three-town Advisory Council. While the council would not have taxing authority, it could perform select board-sanctioned tasks such as: develop a three-town strategic investment plan, project prioritization methodology, a "by-pass" option if projects are not mature enough for multi-town funding support, and community engagement activities. We could also choose to expand the MRVPD's mission to serve as this advisory Board. *Reply: See the answer to Point 3. Also, the key to making progress is to have available a sustainable source of investment funding – without that funding the sub-committee does not see how progress will be made. Regarding governance of the management of the FLO funds, the sub-committee is very open to recommendations on this topic as noted in the response to Point 5.*
13. A User Fee approach: Similar to the Kingdom Trails at Burke, establish a user fee system to pass the costs on to customers. Funds are collected and reinvested, such as in the trail network. Could we consider this funding approach to address our mutual interests in supporting the outdoor recreation-based economy? *Reply: For recreation in particular, a user pay system could be conceived. However, it seems totally impractical given the diverse array of trails in the Valley created and managed by multiple organizations with multiple points of access. In any event trail fees would come nowhere close to addressing the larger picture envisaged by the FLO investments.*

14. Formal partnership to provide marketing assistance: It appeared from my limited research that Killington Mountain Resort pulled out of the town of Killington's LOT, in exchange for covering (and I think managing) 80% of the cost of 4-season marketing of Chamber and resort events. Could there be a way to collaborate with Sugarbush and Mad River Glen in this manner as an alternative? *Reply: Obviously Sugarbush and Mad River Glen have very effective marketing for the ski areas and collaborate effectively with the Chamber. The Recreation and Destination Marketing foci proposed by the FLO are to help build off peak and mid-week business that are not being effectively addressed today, with the resulting significant seasonality in the Valley's businesses. Killington has now moved to a different approach to achieve their own goals, a decision largely driven by the fact that Ski Resort there is by far the dominant part of that town. What the FLO recognizes is that the Mad River Valley is a year-round community as well as a winter ski resort and investment is needed beyond marketing the ski resorts.*
15. Outreach: I discovered in my limited research that some towns developed useful materials, such as factsheets, held numerous public meetings and targeted outreach to businesses to get their input. Will this be part of your outreach efforts? Other towns that pursued LOTs used questionnaires to engage residents and businesses and seek their input. I see extensive outreach as critically important in developing viable LOT strategies and gaining buy-in and support for the LOT. What are your plans for outreach? *Reply: Yes. The first public meeting will be on December 13th. A webpage has been created where people can access relevant information, and a phone hot-line is being set up. We plan on radio and TV interviews and discussions with various groups around the Valley.*
16. Replacement of the existing taxes with a municipal or regional tax. Some towns (Burlington, St. Albans, Rutland) have full taxing authority for rooms, meals, entertainment and beverages). Is there an option for the three towns to make the case to the state to replace the existing taxes with a local tax? *Reply: We investigated the approach used in these the larger towns. Self-administering tax collection, while permitted by the State, requires significant overhead and staffing, appropriate for these towns, but totally inefficient and impractical for the Valley.*
17. "Lessons Learned": It may be helpful to pull together a "lessons learned" document to avoid mistakes and learn more about where and how the approach worked well. *Reply: The recommendations for the FLO are based on research from what other communities around the state, and elsewhere, have done. A FAQ is planned for the web page and we will incorporate your suggestion of including some of the relevant "lessons learned".*
18. Equity: Does the LOT apply to short-term rentals, such as Airbnb? We would want to make sure the tax is applied to businesses equitably. *Reply: At the moment, this is a State tax issue that we would like your help with at the Legislature. The State collects an aggregate Rooms tax from Airbnb based on all of its Vermont properties. When the State signed its agreement two years ago, the Dept of Taxes allowed Airbnb to keep the properties anonymous. As a result, Airbnb may not be collecting any Rooms LOT. Since the Dept of Taxes does not know which properties are involved they have no process to require LOT collection or to reimburse the proceeds to relevant towns. The bigger picture issue here is that there is no requirement in Vermont for all short-term rental properties to be registered. It is possible that a considerable amount of Rooms tax (and LOT) are not being paid, as Airbnb is only one of many booking channels.*

19. Community eligibility: I noticed in a Vermont League of Cities and Towns publication that only Warren and Fayston are “eligible” for a LOT. Is that still the case? Are all towns eligible to adopt a LOT? *Reply: Yes, all Valley Towns are eligible to adopt a LOT.*
20. Definitions of various approaches: What is the difference between a LOT, TIF and SPLOT? How are they managed differently? It may be helpful to present the difference options using a set of criteria to evaluate the merits of the various options. *Reply: A LOT increments existing sales taxes, using the processes already in place to collect these taxes. A SPLOT (Special Purpose LOT) is simply a LOT focused on a specific short-term need defined when the LOT is adopted. A TIF is a much more complex instrument, normally viable only in larger towns for pre-defined development projects. The sub-committee understands that Waitsfield considered such an approach about 20 years ago but found it not practical to proceed.*

More details on TIF: The Vermont Economic Progress Council is authorized to approve new tax increment financing (TIF) districts, subject to some numerical constraints. Municipalities are permitted to retain up to 70% of the state education tax increment received for up to 20 years. Municipalities must use 85% of the municipal tax increment to repay TIF debt and related costs. Municipalities are authorized to create municipal TIF districts and to incur debt to fund improvements and related costs.

The key here is the town has to pay back in 20 years the amount basically via property taxes. The TIF approach can make sense in a scenario where you know the development will generate significant increases in the grand list, property value, thus new tax dollars. Irasville development probably would not pencil out to generate enough new value so that the repayment could be sustained solely on the development. If it didn't, the unfunded repayments would be the responsibility of the tax payers of the town. In summary proposing a TIF district imposes long term obligations with very specific constraints on the town budgets during the repayment period, and the risk of higher taxes. At the same time this approach does not providing the flexibility or scope of investments as proposed by the FLO.

21. Timeframe: It is important to determine a reasonable timeframe for this proposal. How will you roll out the proposal to make sure that you have dedicated enough time to evaluate options, develop the proposal, conduct outreach to residents and businesses, prepare a response document on the questions raised (such as a “Frequently Asked Questions” (FAQ) document), and incorporate modifications if necessary? *Reply: There has been significant investigation spent on this subject. Certainly, as explained above an outreach program is planned and it is desired to speak to as many people as possible and gather their input to help improve the proposal.*
22. Transparency: From my limited research in the towns that have adopted a LOT, I discovered that some towns started small, with a known project that everyone could get excited about, and then build on that success. Some of the needs described in the presentation are pretty broad, and some of which could result in little notable outcomes. How will you try to maximize transparency and ensure that the LOT is directly benefiting the communities? *Reply: Transparency has been top-of-mind to this group since the beginning. The Commission structure is set up so that there is an annual audit, all meetings are subject to open meeting law and by the nature of well-established By-Laws the spending and moving of money is tightly controlled.*

23. Sunset provision: Have you considered integrating a sunset provision into the proposal? This is a commonly used provision to build in a “check in” system. It helps communities revisit the merit of the approach. *Reply: Sunsets are used mainly when there are very specific projects being funded by a LOT such as roads and bridges. That is not the case here. This is an ongoing investment strategy for the entire MRV. If the time were to come when there is no request for Grants to the Commission then it should be expected that the MRVPD would decide to propose winding down the FLO. The transparency of MRV FLO reporting should meet the needs of a “check in” concept. Also, as noted under Point 2, the Charter provides the ability for a town to decide to opt out of the LOT in the future if they so decide.*
24. Case Studies: It would be helpful to have more in-depth research into other municipalities, their decision to adopt a LOT and outcomes of those public meetings, votes and projects completed. *Reply: The sub-committee has spoken with a couple and learned a great deal. More benchmarking work is in progress. To our knowledge, which is not totally comprehensive, no town has done the type of extensive pre-vote work the sub-committee has done.*
25. Multi-town examples: Are there other multi-town LOTs we can learn from? Why or why not? If there are other multi-town LOTs, what is their governance structure? *Reply: There are no current multi-town LOTs in Vermont, and there is no other organization like the MRVPD in Vermont. There are numerous examples in other parts of the country where counties have a LOT and distribute money to towns but that is an entirely different governance system as compared to Vermont. Having said that, the MRVPD has a well-established structure and governance process in place that has served the towns of Waitsfield, Warren and Fayston well over several decades and allows us to take a different and more effective approach than is possible in other parts of Vermont.*
26. Relevance of the General Payment in Lieu of Taxes (PILOT): The state uses the 30% of the revenues generated to support the PILOT (which reimburses towns with state-owned properties). Waitsfield receives very little PILOT. Fayston and Warren do not receive any PILOT, as I understand. Larger communities with state-owned properties receive substantially more PILOT payments. Is this an issue or relevant for consideration? Since little if any of the PILOT funds would come back to the three towns, does that make other approaches like a TIF more attractive? *Reply: This answer also addresses in part your Points 29 & 30. The basics are pretty straight forward. If the MRV community is going to invest in its future where would the funds come from? There are several choices, property taxes, LOT or TIF. Two of these choices (raising property taxes and, as discussed above, a TIF) are not the best approach for the MRV community. LOT is the fairest, as well as the most highly leveraged, way to raise money for investment. This proposal has been developed to address today’s challenges that have been identified from the past several years of planning work as being critical for the sustainable future of the Valley. The concept is not to lower taxes or look at the Pilot program to see if that is part of the decision. It is all about generating a fund that can be used to invest in the MRV Community.*

27. Merits of a three-town strategic plan: Would developing a strategic plan make sense in order to identify, prioritize, plan for, and budget projects? Would having separate LOTs for each town better support priorities identified by each community? *Reply: A three town plan would be super, but it is not a realistic approach. However, we already have three very similar town plans with very similar goals and objectives. The issue is that nobody looks at enacting them because there is no money to take the steps to enact. The MRV FLO creates the opportunity to begin making town plans a reality. Collaboration will be the outcome of this concept, and collaboration is one key element of addressing the identified needs for the future sustainably of our Mad River Valley Community.*
28. Option to offset part of the municipalities' General Fund: Some communities (Manchester, Brattleboro, Bennington, Brandon, I think) use a portion of the LOT for offsetting the General Fund, helping to keep property taxes down. Is this a good use of funds? Where has this occurred? *Reply: The FLO proposal is to provide additional funds to address the identified needs for the future sustainably of our Mad River Valley community that are not being addressed through other funding mechanisms (like property taxes) today. Replacing some part of the existing property taxes simply dilutes the benefit to the FLO and is not being proposed or recommended as an overall priority. Once again it is important to note that each town in Vermont that has adopted a LOT has their own specific priorities. While we can learn from their experience, we need to keep the Valley's identified needs clearly in focus. However, in the one area of overlap, specifically the \$15,000 that each town currently funds to the Recreation District, the proposal is to replace that \$45,000 with funds from the FLO.*
29. Motivation of communities to adopt a LOT: It may be helpful to evaluate and compare those communities with LOT (population, degree to which they receive PILOT, effective date, what motivated the town to implement a LOT (such as funding needs for flood resilience and TS Irene recovery, degree of debt service the town is holding), property tax rate, the type of LOT (applying to sales, rooms, meals, beverages, entertainment), and type of uses of the LOT revenues to better understand what is motivating them to implement a LOT. *Reply: See answer to Point 26.*
30. Avoidance of regressive taxing. Have you considered any additional exemptions or other means to minimize or avoid impacts on residents, especially those with fixed incomes? *Reply: See answer to point 26. In addition, as we have documented the impact on residents is estimated to be about \$2 per person per month, hardly a large amount. Also, an analysis has shown that a family living at the State of Vermont defined poverty level would pay less than \$5 per year more as a result of this tax.*

The MRVPD has set up a web page at mrvpd.org/FLO, which contains the main documents that have been presented, and also additional background reference and analytical material. As noted, a FAQ will be added there in the near future.

We will be happy to sit down and answer any other questions you or the Selectboard may have, and we look forward to meeting with the Selectboard again on December 17th.

Respectfully,
Darryl Forest
Selectboard Member, Waitsfield
On behalf of the MRV Vitality sub-committee of the MRVPD