



TOWN OF WAITSFIELD

Memorandum

TO: The members of the Waitsfield Selectboard

CC: The members of the Vitality subcommittee of the Mad River Valley Planning District

FROM: Trevor M. Lashua, Town Administrator

DATE: January 14, 2019

RE: Draft framework for developing an interlocal agreement governing use of local option tax revenue.

This memo includes a draft version of a process for developing an interlocal agreement.

To quickly summarize, the assignment from the Waitsfield Selectboard was not to create an interlocal agreement but rather a conceptual “roadmap” for one to be developed. An interlocal agreement would, functionally, be a contractual arrangement between Waitsfield, Fayston, and Warren governing how local option tax revenue from all three towns would be used for specific projects or purposes of mutual interest and benefit.

State statute¹ allows the legislative body of a municipality to create and enter into interlocal agreements with one or more other municipalities to, “perform any governmental service, activity, or undertaking which each municipality entering into the contract is authorized by law to perform, provided that the legislative body of each municipality approves the contract, and expenses for such governmental service, activity, or undertaking are included in a municipal budget approved under 17 V.S.A. § 2664 or comparable charter provision.”

Interlocal agreements have been used by other municipalities for purchase, management, and maintenance of property and equipment, provision of shared or contractual services, and a variety of other purposes (for example, solid waste disposal arrangements).

The list of what can be part of an interlocal agreement is fairly broad and derived from statute². Like most contracts, it establishes the purpose(s) for it, along with the rights and responsibilities of each party. The agreement may also define how a service or activity is carried out, the process and parameters for the acquisition and maintenance of property and/or services, the use of property (equipment or facilities) and personnel for an activity that benefits all participating entities, and the deposit and expenditure of funds.

The form of interlocal agreement proposed is a memorandum of understanding (MOU) between the three towns. An MOU is more easily implemented and amended than a charter (it does not require legislative action, for example) and relies upon the duly-elected legislative bodies to guide the use of public funds.

¹ 24 V.S.A. § 4901 (a).

² 24 V.S.A. § 4902 (a) and (b).

Because towns are an entity which, under existing State law, can levy local option taxes on sales, rooms, meals, and alcohol following the approval of voters³, no new or amended charter would be required. The municipalities levying local option taxes in Vermont now are a mixture of those with and without charters.

Funds would be collected by the State and reported at the local level in each municipality, included in annual municipal budgets, and the use and accounting of them reviewed during each town's annual audit. The MOU, in turn, guides how local option tax revenues would be shared and expended in whole or in part.

The MOU would not separately authorize any long-term debt or alter the process for voter approval of debt. Long-term debt (exceeding five years) would still be subject to the process established in statute; local votes would be required in each municipality. What the MOU could do is assign each party's responsibility for the debt service to be paid by local option tax revenue, if a project requiring long-term indebtedness were also approved.

Draft MOU development process.

The following is a *draft* version of an MOU development process. A more-detailed timeline could be created for development and implementation – the draft uses a timeline that works backwards from a vote on local option taxes in the three communities at Town Meeting 2020.

The process, expanding on the brief outline provided on 12/17/18, could be:

- 1) Each town hosts at least one community session to develop a list of priorities for possible inclusion in the MOU⁴. Each session would be open to all, and designed to ensure consistency in presentation of materials and collection of feedback and data.⁵ An option allowing remote participation (online submittal of questions and comments, for example) should also be developed.
- 2) The three Selectboards meet to review and discuss the public sessions and feedback received. The purpose of the three town meeting is the distillation of areas of cooperation around which an MOU can be developed. The initial term for the MOU should be established at this time.
- 3) Each Selectboard appoints one of its members to serve on an MOU development committee. The development committee could be staffed by a combination of municipal and Planning District staff to ensure access to the broadest possible support system for the committee. All meetings would be held in accordance with the open meeting law.
- 4) At its first meeting, the MOU development committee would set a public meeting schedule, which would then be posted online. The subcommittee would issue reports to the three Selectboards no less than once per month; copies of the monthly reports will be posted online and submitted to *The Valley Reporter*.

³ Voter approval would occur at a duly warned meeting; voting would be by Australian ballot.

⁴ This could take the form of distinct projects or categories of possible projects. If categories are created and assigned, the process for review and approval would guide expenditures and need to be included in the MOU.

⁵ Assigning the design of the sessions to a small group, and possibly having them facilitated, is recommended prior to holding the sessions.

- 5) No more than four months after its initial meeting, the MOU development committee presents a draft MOU at a meeting of all three Selectboards for consideration, discussion, and feedback. The draft MOU will be publicly posted before the meeting; the same mechanism (at a minimum) used for remote feedback collection during step one will be available for the submittal of public comments and questions on the draft MOU.
- 6) The MOU development committee presents a funding/project review and decision-making process within its draft MOU.
- 7) The MOU development committee returns with its final proposed draft no more than two months after the three town draft-review session. The results, comments, and concerns of the draft review session in step five could be incorporated into the final proposed draft.
- 8) Once the MOU development committee submits its final draft of an interlocal agreement, the Selectboards have at least three policy choices: continue with the cooperative effort as it is; seek additional modification to the MOU draft and or process of development; or decide not to proceed at this time.
- 9) If the three Selectboards make a decision to proceed, each Board will schedule its own time to discuss and act upon (approve) the MOU.
- 10) No less than three months prior to Town Meeting, discussion shifts to the fundamental question of whether or not a local option tax is necessary or desired.
- 11) Voters are presented, at Town Meeting in March 2020, with the question about whether or not to levy local option taxes on sales, rooms, meals, and alcohol.

The MOU would be constructed in a way that makes it applicable and/or effective only following a vote to approve local option taxes in *all three* communities. The likeliest effective date would be July 1, 2020 (the beginning of fiscal year 2021).

Following the close of the MOU development committee's work, that group may be altered or otherwise repurposed by the three Selectboards to assume functions included in the MOU – reviewing and recommending uses for the funds, for example. At that time, membership of the committee may also be expanded to include other interested individuals or parties.

The steps above also anticipate that each Selectboard will likely want to discuss this initiative on its own and more often than what is outlined.

Other alternatives.

The Town of Waitsfield has at least two other options to consider, along with an interlocal agreement and the Mad River Valley Planning District's Vitality subcommittee proposal.

The first option is not to levy the local option taxes at all, regardless of proposed uses or structures. This option has been raised throughout the initial discussion. When considering it, discussions should include a forecast of what municipal revenue is available and anticipated, what future operational and capital needs (and associated costs) may be, and what the gap may be between needs and projected funding (especially with regards to Waitsfield's capital needs).

The second option is one in which Waitsfield levies and collects the local option taxes for its own municipal uses. With more than \$400,000 in estimated tax revenue generated in Waitsfield by the local option taxes – the equivalent of nearly 11 cents per \$100 of assessed value on the

property tax rate, or nearly 27% of Waitsfield's FY19 property tax rate – local options taxes are a substantial source of potential revenue to meet the Town's capital and operational needs.

Both alternative options carry similar baseline questions, such as:

- What would the more than \$400,000 estimated to be collected in Waitsfield be used for?
- What impact would it have on the property tax rate?
- How would the taxes impact residents in all income categories?