

Regular Meeting of the Middle St. Croix Watershed Management Organization
Stillwater Country Club, Stillwater, MN
Thursday, November 14, 2019
6:00PM

Present: Brian Zeller, Lakeland Shores; Mike Runk, Oak Park Heights; Tom McCarthy, Lake St. Croix Beach; John Fellegly, Baytown Township; Beth Olfelt-Nelson, St. Mary's Point; Dan Kylo, West Lakeland Township; Anne Perkins, Afton; John Dahl, Bayport; Cameron Blake, WCD; Administrator Matt Downing.

The MSCWMO Board toured a recently completed stormwater project at the Stillwater Country Club at 5:00pm. The tour was led by Bryan Pynn from the Washington Conservation District.

1W1P Discussion

Manager Fellegly and Administrator Downing informed the board of the latest activity in the 1W1P Policy Committee. The committee asked Policy members to discuss which organizational arrangement their respective board would prefer, and to return with that decision to the next Policy committee meeting on November 25th, 2019. The two options that have been presented and discussed at the 1W1P meetings are a Joint Powers Collaborative (JPC) and a Joint Powers Entity (JPE). Manager Zeller noted that at the last meeting he attended it seemed that the Policy committee was leaning toward a JPC. Administrator Downing said he saw pros and cons to both organizational arrangements, with more protection from liability with the JPE option. Manager Zeller said he wasn't concerned about liability risks with this organization. Manager Fellegly said another concern about the JPC raised at the Policy Committee meetings was the potential lack of efficiency. Manager Runk agreed with this concern, feeling that the JPC arrangement would be unhelpful and more expensive given the amount of time decisions would take. Administrator Downing reminded the group that the MSCWMO Board is an example of a JPE, with managers able to make decisions on behalf of their member communities, rather than bringing back decisions every time.

Manager Zeller said he was concerned about the creation of another layer of government. He said he viewed this as a simply a shift from BWSR making funding decisions to a new 1W1P entity making those decisions. Manager Perkins asked for a reminder of why the 1W1P process is happening. Manager Zeller and Administrator Downing explained that the main benefit of the 1W1P was to ensure funding for the rural/northern part of the basin to "catch them up" with the metro organizations involved in watershed management. BWSR is trying to shift their their funding mechanisms away from competitive grants to collaborative distribution of funds for projects. Manager Perkins asked if there was going to be identified priorities to help make those funding decisions. Administrator Downing explained that the prioritization process was still being worked on at a staff level. He agreed with Manager Runk that a JPE organizational arrangement could offer more efficiency and neutrality. Manager Runk reiterated his belief that a JPC would be inefficient and ineffective. Manager Zeller noted that it is easier to move from a JPC to a JPE if needed.

Administrator Downing shared the Sunrise WMO Board's conclusion (where he serves as a member) as feeling as though they did not have enough information to make an informed decision. They will be requesting more information and clarification from BWSR. He reminded the board that the MSCWMO receives funding from Washington County in system that seems to

work well. Manager Zeller said the 1W1P should follow something like the county's funding mechanism and that the MSCWMO should also delay their decision until BWSR addresses these concerns. Manager Fellegly also discussed the initially proposed voting system in which the MSCWMO would have ½ a vote due to being less than 5% of the LSCWD land area.

Administrator Downing reminded the board that if organizations do not participate in the 1W1P plan then they are not eligible for the 1W1P funding. He said BWSR has decided against using already completed local plans and reference documents for project implementation, and instead wanted another plan and set of priorities. Manager Fellegly expressed concern that because BWSR is already heading in a different direction that it may be too late to change direction in the planning process. Administrator Downing said that MSCWMO will still receive county, watershed, and metro funding and that he thinks there is too much uncertainty from BWSR. Manager Olfelt-Nelson questioned what BWSR's motivation was in creating this process. Administrator Downing said he believed that BWSR didn't want to give up the control of the funding they had with the competitive grant process. He said that funding for projects that comes from the county is much easier to use based on local implementation plans with less stringent reporting requirements.

The board summarized their main points of concern for Manager Fellegly to bring back to the 1W1P Policy Committee.

The intention of 1W1P was to simplify the funding process, and the board's perception is that this is more complex and will result in an unwanted additional layer of government. If there was a simple model proposed such as the county funding distribution model, the MSCWMO board would be supportive of that. The board is also not supportive of the proposed weighted voting system as it stands.

Call to Order

Manager Zeller called the meeting to order at 6:00PM.

Approval of Agenda

Manager Olfelt-Nelson motioned to add the 1W1P discussion to the agenda. Manager Fellegly seconded this motion and the motion carried.

Approval of Minutes

A motion to approve the September 10th, 2019 minutes was made by Manager Runk and seconded by Manager Fellegly. Motion carried.

Treasurer's Report

The treasurer's report was presented by Manager Kylo. The remaining checking account balance is \$37,940.07. First State Bank CDs are valued at \$38,549.15. The ending balance in the RBC savings account for September 2019 was \$64,315.94. . The ending balance in the RBC savings account for October 2019 was \$64,369.67.

Bills to be approved this month are: Emmons & Oliver: \$861.75; Carmen Simonet Design: \$63.75; Washington Conservation District (Water Monitoring): \$5,258.86; Washington Conservation District (Administration- Sept): \$2,131.50; Washington Conservation District (Technical Services- Sept): \$7,779.50; Washington Conservation District (Technical Services-

Oct): \$9,812.25; Washington Conservation District (Administration- Oct): \$1,207.00; Washington Conservation District (EMWREP): \$1,575.00; Total: \$28,689.61.

Manager Dahl asked Administrator Downing about the maturity on the CDs, and he said he would look into that. Administrator Downing informed the board that he caught some missing 2nd half 2019 payments from the communities including Stillwater and St. Mary's Point. He said St. Mary's Point may have confused their 2nd half 2018 and 1st half 2019 payments as completing their 2019 payments. Manager Olfelt-Nelson asked if Administrator Downing could resend that invoice, noting that they have a new treasurer. Manager Perkins asked why the checking account balance was so low. Administrator Downing said he had close to \$80,000 of checks to deposit from some grant closeouts, the PCA's reimbursement, and the missing community payments and that this will help. He also found some minor accounting issues with the total vs actual budget and that this will also help. Manager Zeller noted the slow reimbursement from the county which is an item on the agenda later in the meeting.

Administrator Downing presented the budget tracker which was completed through October. The overall organizational budget is looking ok but the administrative budget is close to being spent for the year with two more months to go. Manager Zeller asked how much Administrator Downing to estimate how much would be needed to cover the end of 2019 and he replied that \$4,000 would be more than enough. Manager Zeller asked why this was and Administrator Downing said it was likely a combination of attendance of the 1W1P meetings and the administrative transition that occurred this summer. Administrator Downing explained that this administrative adjustment would not result in overspending the total MSCWMO 2019 budget; rather that it would just require some shifting of line items. Manager Zeller asked for a sheet for the board to review, noting that a budget line item reallocation process has occurred almost every year.

Administrator Downing identified the permit program as one such cost overrun. The budget is for \$4,500 and the MSCWMO has spent \$17,000 this year. Manager Zeller said they MSCWMO needed to recoup some of that cost overrun. Manager Downing said part of the loss is due to municipal reviews, but that most of it is from single family residence projects so he wanted to check in with the board on how to proceed. Manager Zeller said to request the cost overrun from the applicants. Administrator Downing noted that the procedure was to charge the community with the community charging the applicants. He also noted that Mike Isensee did not identify a specific overrun value as a trigger for recouping costs. Manager Zeller said the board was normally ok with absorbing about \$500 of the cost overrun per permit but then would like to request additional payment. He asked which permits were over. Administrator Downing identified the Finnegan Home addition. The board discussed the details of this project. The project triggered the 500ft² trigger by adding 670ft² of impervious surface. The builder chose to do work that was beyond what the MSCWMO required. Ultimately this amount of back and forth communication drove the cost up. The board identified misunderstanding on the side of the out-of-state builder regarding the MSCWMO's development standards, followed by communication issues as part of the problem with this permit. Administrator Downing also identified the Beske project as another permit with a large cost overrun. Manager Zeller asked about the Dewall project, and said there was an additional Lakeland project Administrator Downing should be aware of. He asked how much of the MSCWMO's review was redundant with city engineers/consultants. Administrator Downing explained that the MSCWMO's review

caught things that weren't making sense especially in reviews that are more sophisticated than single family designs. He said the Zvago project has not yet paid their review fee, but he received assurances that they will pay the \$1,350. He wanted to keep them on the agenda to avoid delays.

Manager Zeller motioned to approve the report of savings account, assets and payment of bills for November 14th, 2019. Manager Fellego seconded this and the motion carried.

Manager Zeller asked Administrator Downing to provide a permit program review to identify cost status. He also asked for the budget tracker sheet to be provided to the board for review for the administrative budget line item reallocation. Manager Fellego made this motion, Manager McCarthy seconded it, and the motion carried.

Public Comment

There was no public comment.

3M PFAS July Reimbursement Request

Our consultant at EOR has been reviewing documents and providing technical input on the development of the water supply groundwater model as part of the 3M PFAS settlement. Staff is requesting reimbursement from MPCA totaling \$861.75 (EOR July).

Manager Kylo motioned to approve Submittal of 3M PFAS Reimbursement Request Totaling \$861.75. Manager McCarthy seconded this and the motion carried.

2020 MSCWMO-WCD Technical Services Agreement

Manager Zeller motioned to approve the 2020 MSCWMO-WCD Technical Services Agreement. Manager McCarthy seconded this and the motion carried. Manager Fellego asked if there was any change in the contract. Administrator Downing explained the main change was an increase in billing rates, but that it was in line with the approved 2020 budget. There will be better tracking of specific budget items that are occurring.

Lily Lake Raingarden Retrofits- Final Payment

In 2019, the MSCWMO Board approved up to \$28,465.00 from Watershed Based Funding for the retrofit of two curb-cut raingardens in the Lily Lake direct-drainage watershed. One of the raingardens (611 Lake Drive) ended up not being a good fit for the site after excavation revealed unmarked utilities, and was therefore removed from the project altogether. The contractor (All Weather Services) will still be compensated for the excavation undertaken up to that point, as well as the site restoration to bring the yard back to existing conditions. The final invoice reflects these changes that were approved by WCD staff and the Interim Administrator. The second garden at 905 Pine Tree Trail was installed and was inspected and approved by WCD staff in early October. Manager Runk motioned to approve the final payment of \$15,398.50 to All Weather Services for the installation of the Lily Lake Raingardens. Manager Zeller seconded this and the motion carried.

Fix Cost Share Reimbursement Request

In June of 2018, the MSCWMO board encumbered \$500.00 for a Native Plant grant in BMP cost share funds

for installing a 200 sq ft raingarden. An extension was approved by the previous MSCWMO administrator in November of 2018. Throughout the design process, technical staff determined that a raingarden in the proposed location was not appropriate because of the placement of utilities. A new design was proposed for a 650 sq ft native planting that would filter the stormwater runoff from the house and yard, in addition to creating beneficial pollinator habitat. Manager Fellegly motioned to approve final payment of \$500.00 for the installation of the Fix native planting. Manager Runk seconded and the motion carried.

Manager Zeller questioned the Buberl black dirt invoice from the resident and asked whether the company was historically involved with a huge county remediation site in the past. He said it was an especially negative situation that cost the county hundreds of thousands of dollars to clean up.

Lake St. Croix Direct Discharge Stormwater Retrofit Phase II and III Close-Out

Administrator Downing asked for board authorization for board action on financial reports. Manager Zeller motioned to approve the financial reports and to authorize Administrator Downing to sign them. Manager Dahl seconded this and the motion carried.

Plan Reviews/Submittals

Manager Zeller reminded the board that in the past they gave administrative authority on permit reviews with retroactive board approval. He agrees with this for Administrator Downing as well in order to prevent delays for developments. Administrator Downing said he will move ahead with sending letters in instances of recommended approval or minor conditions, but that he will bring projects with moderate or higher conditional findings to the board.

Finnegan

Manager Zeller motioned to approve this project and Manager Perkins seconded. The motion carried.

Zvago

Administrator Downing reiterated that although he had not received the permit fee yet, he had received assurances that the it was coming. Manager Zeller said to wait to receive the permit fee before approving the project. Manager Fellegly motioned to approve the project upon reception of the permit fee. Manager Dahl seconded this and the motion carried.

Moeller

No board discussion.

Andersen

Manager Zeller asked Administrator Downing to draft a letter to Andersen on behalf of the MSCWMO board commending them on going above and beyond the stormwater requirements. Manager Zeller will review and sign the letter. The board agreed.

Stillwater Trail

Administrator Downing explained that staff recommended further revision and resubmittal form the City of Stillwater. Manager Fellegly motioned to proceed with staff's recommendation. Manager Runk seconded this and the motion passed. Manager Zeller noted he wants the MSCWMO to be reasonable to work with given some of the recent activity around

developmental standards involving neighboring watershed districts and shared communities. He suggested bringing Manager Collins with to speak with Stillwater staff. Administrator Downing explained that the MSCWMO has been participating in discussions between Oak Park Heights, Stillwater, the Brown's Creek Watershed District, and the Carnelian-Marine St. Croix Watershed District. These discussions have centered around creating more consistency between stormwater standards. He believes some clarifying discussions are needed with Stillwater staff as a result.

Beske

Staff recommends approval with one condition. Manager Zeller noted that there is a new city planning consultant and asked Administrator Downing to work with them. Manager Zeller motioned to approve the project with one condition. Manager Fellegly seconded this and the motion carried.

Palmer

Manager Runk asked about this project because the City of Oak Park Heights have had communication with the applicant. Administrator Downing explained that the applicant has not completed their submission to be reviewed by the MSCWMO yet. This project dates back to 2018 with two different models built.

MCES

No board discussion.

Erosion and Sediment Control Inspection Reports

Manager Zeller confirmed that these reports are shared with the respective municipality. Manager Olfelt-Nelson asked for more background information on the inspections, explaining that St. Mary's Point doesn't really have a handle on them yet. Administrator Downing explained that the communities were reached out to and interested communities are provided with this support. The MSCWMO added some required information to the applications such as start time and contact information but cannot require anything as the MSCWMO is not the permitting authority and does not want to be. Due to limited staff capacity in small communities and organizations, this is one of the benefits of partnering with an organization like the WCD who has staff members qualified in ESC inspections.

Washington County Cash In-Lieu of Treatment

Manager Zeller said he had reached out to county staff. Administrator Downing said he was meeting with county staff on November 19th at 3pm at the WCD office. He has provided them with all the documentation. The latest communications with the county did not leave him with solid assurance that the county was going to make this payment in the near future. The board reiterated that this payment agreement was not the MSCWMO's idea and that they considered the agreement an exception.

Other

Manager Fellegly asked about the Perro Creek E. coli testing findings and plan. The board discussed Bayport's infrastructure. Manager Zeller wondered if dye tests could be used to assist in identifying an infrastructure issue. He asked Administrator Downing to continue to work with public works director Matt Kline in order to take advantage of his historic knowledge of Bayport.

LSC Small Communities Phosphorus Grant

Administrator Downing informed the board about the project that staff recommends for the Lake St. Croix Small Communities Phosphorus Reduction Grant. This was a \$200,000 grant for stormwater quality improvement south of Bayport (2019-2021). The plan would be to work in partnership with the City of Lake St. Croix Beach to stabilize the bluff on the north side of town. The City of Lake St. Croix beach has saved \$50,000 for the match requirement for this grant. Administrator Downing is asking for board direction in order to begin planning this project. Manager Zeller asked if there were other projects in consideration, and what the match requirements were. Administrator Downing explained that BWSR grants require a 25% match and that he doesn't believe there are any projects of as much significance as this one. Manager Zeller asked if the board could approve this in phases. He asked if initial design and planning could be completed first in order to receive bids to confirm that this project will fit in the scope of the \$200,000 grant. Manager Zeller motioned to release \$40,000 initially from the grant, and \$10,000 from Lake St. Croix beach to complete project design and release for bids. Manager Fellegly seconded this and the motion carried.

1W1P Directive

The board reiterated their directive for the 1W1P Policy Committee.

The intention of 1W1P was to simplify the funding process, and the board's perception is that this is more complex and will result in an unwanted additional layer of government. If there was a simple model proposed such as the county funding distribution model, the MSCWMO board would be supportive of that. The board is also not supportive of the proposed weighted voting system as it stands.

Manager Zeller motioned to approve this agreement of the MSCWMO Board. Manager Perkins seconded this and the motion carried.

Adjourn

Manager Zeller motioned to adjourn the meeting at 7:05pm. Manager Perkins seconded this and the motion carried. Meeting adjourned.