

Regular Meeting of the Middle St. Croix Watershed Management Organization
Bayport Public Library
Thursday, August 12th, 2021
6:00PM

Present: John Fellegly, Baytown Township; Mike Runk, Oak Park Heights; Tom McCarthy, Lake St. Croix Beach; Beth Olfelt-Nelson, St. Mary's Point; Susan St. Ores, Bayport; Annie Perkins, Afton; Administrator Matt Downing; Cameron Blake, WCD; Stu Grubb, EOR; Dawn Bulera, Lake St. Croix Beach alt.; Luke Anderson, public.

Call to Order

Manager McCarthy called the meeting to order at 6:05PM.

Approval of Agenda

Administrator Downing asked to add an additional item to the agenda: 7d) Lake St. Croix Direct Phase II – Encumbrance Request. Manager Fellegly motioned to approve the agenda with this addition and Manager Perkins seconded this. The motion passed on a roll call vote.

Approval of Minutes

Manager Runk motioned to approve the draft June 10th, 2021 board meeting minutes and Manager Fellegly seconded this motion. The motion passed on a roll call vote.

Treasurer's Report

The treasurer's report was presented by Administrator Downing. The remaining checking account balance on August 12th for the months of June/July 2021 was \$520,308.40. First State Bank CDs were valued at \$38,549.15. The ending balance in the RBC savings account for July 2021 was \$76,857.20.

Manager Fellegly asked why the ending balance is so high and Administrator Downing explained the MSCWMO has 4 state grants right now with grant funds coming in for the upcoming projects. This balance will be spent down as project expenditures come in. They will also be closing 2 grants after this meeting. The MSCWMO is also holding the cash-in-lieu funding from the county which is dedicated to the Stillwater Country Club maintenance for the next 20 years. Manager Perkins asked if the SCC maintenance funding should be kept separate. Administrator Downing explained there is about \$60-70,000 left of the initial \$119,000 for the SCC maintenance. Some was spent on construction and some for initial installation and maintenance activities. We track those funds separately. We track every expenditure on that.

Administrator Downing advised against taking that money out of the checking account as that can hinder the flow of money that occurs with the procedure for state grants in which funding can be distributed after the spending, or reimbursed. This style is a burden on smaller organizations who have to carry the upfront cost and burden of the match funds until the grant money comes in. Manager Olfelt-Nelson asked if the board can receive more information and detail on current grant expenditures but explained she didn't want to make more work for him. Administrator Downing said he is already doing this tracking so he could summarize this for

the board. Manager Perkins said she feels better after hearing Administrator Downing talk about the process.

Manager Zeller motioned to approve the June 2021 Treasurer's Report and Manager Fellegly seconded the motion. The motion passed on a roll call vote. Manager Runk motioned to pay the June 10th bills and Manager McCarthy seconded this motion. The motion passed on a roll call vote.

Bills to be approved this month are: Emmons & Oliver (4): \$2,273.38 total; Peterson Company: \$3,000.00; Washington Conservation District (Administration-June/July): \$4,058.00; Washington Conservation District (Technical Services-June/July): \$11,000.00; Washington Conservation District (EMWREP): \$1,575, Washington Conservation District (Grant Hours): \$4,000.87, Washington Conservation District (Water Monitoring): \$4,767.48, Total: \$30,674.73. Manager Fellegly asked about the EOR invoices, and Administrator Downing explained that this was the MSCWMO's engineering firm they had selected at the start of the year who do technical services for the MSCWMO (2 year agreement). Manager Fellegly asked about the WCD invoices and what is involved in the administrative invoice. Administrator Downing explained that it covers his time and some other line items that he can provide if the board wishes (budgeting, meetings, grant tracking, accounting services, website maintenance and management). Manager St. Ores asked if the MSCWMO receives those invoices at every meeting. Administrator Downing explained that they were 53% spent through July on the budget.

Public Comment

Administrator Downing began the discussion by introducing the OPH/Baytown Township/Andersen property drainage question which the board has been discussing during meetings this year. Administrator Downing received direction from the board to do some initial investigation. He met with the landowner at his property and told him he could come address the board. Administrator Downing said he needs clarification on exactly what the request is as he feels he is receiving different answers from each community.

Manager Fellegly discussed the background of the issue and explained that Baytown Township is looking for more information on the drainage issue, historic requirements, any agreements that could have been in place, information on the stormwater treatment in the area and maintenance needs. They want to know if things were done to adequately address the flow of water from OPH.

Manager Perkins said in her experience this is not something the MSCWMO handles and asked if the board would like to address it. She asked to revisit the scope/mission of the WMO and cautioned about setting a precedent for similar issues that could arise in the future. She explained that she is not opposed but just wanted the board to make a clear decision.

Administrator Downing confirmed that part of legislature is that WMOs mediate disputes across political boundaries and asked what the board wanted to do. From his perspective they have met Baytown's original request for information. The MSCWMO did not exist when this issue occurred (1994) so we have no information on permit reviews or drainage easements. He has reached out to OPH 3 times for information since June 10th and not received a response. He explained OPH provided a model from their engineer (Santec) and he asked OPH about the assumptions made for the runoff coefficient. There was an assumption made for two distinct

subwatersheds that they had a similar runoff rate despite different amounts of impervious surface. It is a high level model so the assumptions made could make sense. He also requested the as-built information for the stormwater facility upstream to see if it is functioning as intended, if it requires maintenance, and if it has been being maintained.

The board recalls this issue being discussed at previous meetings, and acknowledged that some progress has been made. The answers to the questions Administrator Downing asked should inform the next steps. The board asked Manager Runk to check on if the city feels that they have answered the questions asked or if they are working on gathering more information.

The board discussed other drainage in the area and which direction it flowed (the Boutwell and Lowes parking lot drain to BCWD).

Manager Fellegy asked again about maintenance of stormwater features and Administrator Downing explained that it was more complicated than that. He asked if Baytown had their own records for when this property was platted and when roads and houses were constructed because he had not seen this from the property owner.

Manager Runk explained that all he knows is OPH made an offer to the property owner and he is abstaining from any votes on the topic.

Manager Perkins suggested the MSCWMO write a summary report of what the MSCWMO has done so far which should help the resident understand where the gaps are and where they may need to hire an expert to find the rest of the information they may need. Administrator Downing suggested the board hear from Luke Andersen who is attending as the public.

Luke Andersen explained the history of the property in his family. He explained that a drainage pipe appeared on the property in 1994 without consent from the landowners at the time, his parents. When they tried addressing the situation then they were told it was an emergency drain pipe. There is no easement. After growing up on the property and taking ownership in 2010, he does not recall seeing water from that pipe until the last 2 or 3 years. They have done work on their property to try and address the issues from the drainage water. They have invested large amounts of money and are seeing erosion issues and even water inside his basement. He said he approached the city to ask for help and felt underwhelmed by the study the city conducted. He felt the city engineer was not helpful and the city offered \$5000 to accept an easement with information that was unclear to him. He informed the board he has hired a lawyer and sent an data information request to the city which has not received a response in 3-4 weeks. There is also a wetland being impacted by the sediment and a pond farther along the system is seeing impacts along neighboring properties. Manager Fellegy noted he is seeing sedimentation in this pond as well.

Manager Perkins asked if Baytown Township had been contacted and Manager Fellegy explained that the city can't stop the water coming onto the property. Mr. Anderson said he went to the township and they sent him to the MSCWMO. He said the solution has to come from where the water is coming from and that the sediment is a big issue.

Manager Perkins clarified that the action Baytown Township has taken is to request information from the MSCWMO. Manager Perkins asked what legal powers the MSCWMO has.

Manager Runk said the MSCWMO does not have legal power, that they are an advisory committee under a Joint Powers Agreement with all the participating communities.

Manager Perkins suggested again to write a summary of what we have done and what is missing. Administrator Downing explained that the MSCWMO does have legislative authority it has chosen not to apply and probably wouldn't apply to this situation as it would be retroactive. He said if he were to make a recommendation it would be for the MSCWMO to continue with assist in gathering information and could also offer technical design assistance. The MSCWMO could do things in the upstream property if the owners would be willing to install stormwater projects that could help with the issue. He reiterated that the MSCWMO does not have any additional information as the MSCWMO did not exist at the time this development was occurring. Hopefully someone has a record of this but he doesn't know if it exists from this time. His hope out of this discussion is to provide assistance if the board wants this.

Manager Olfelt-Nelson moved that the MSCWMO compile a summary of action and an offer for technical guidance moving forward. Manager Perkins seconded this motion. The motion passed with manager Runk abstaining from the vote.

Stu Grubb said another thing the MSCWMO could do is serve as a grantee for state/county funds if any program is found that could address this problem, but that this would need to be in their plan and they would need to find places that could fund this. Manager St. Ores asked for the summary of action to include a record that include the timeline of when communications occurred and the status of each step. There should be date stamps on each of these actions.

Administrator Downing said the original email request he made to OPH for information was May 24th and a response was received on June 8th. There was an additional response a few days later and no response since then.

Old Business

There was no old business.

3M PFAS Reimbursement Request

Administrator Downing explained he invited Stu Grubb to attend the meeting tonight because he has been receiving questions about PFAS from board managers. Some of the questions from board managers included what are we doing with the MSCWMO portion of the 3M settlement, what should we be doing, and should we give it to another party who could better spend it. Mr. Grubb had been attending meetings on behalf of the MSCWMO which is summarized in the board packet. Mr. Grubb explained his background as a groundwater hydrologist and has been modeling groundwater in Washington County for 20 years.

Mr. Grubb explained where the process was at. At this point the co-trustees of the settlement money would be making a recommendation soon for what should be done to address the water issues in each community; in the MSCWMO this is primarily West Lakeland Township. The debate in West Lakeland Township is whether to use these funds for the initial cost of a municipal water supply. The community is torn on this topic with debates about whether the private well water can still be used for irrigation and others not wanting to drink municipal water. At the moment, affected homes in West Lakeland have point of entry systems of granulated carbon filters. This treatment could continue for 100 years under the 3M settlement. At this point West Lakeland is waiting for the decision from the co-trustees.

Administrator Downing asked Mr. Grubb if there was anything else the MSCWMO should do in and he explained that a WMO's role is to protect water resources; surface water but also groundwater to the extent that we can control. He explained that potential threats are the high capacity well installations which have the potential to take water away from/redirect groundwater flow from one area to another. The board discussed some of the options being discussed for Woodbury.

Manager St. Ores asked about the potential for seepage of the PFAS contamination to other communities. There is an 800 million settlement from 3M which is not the limit of the funds available from 3M but is the number they are working with right now. Manager St. Ores asked Administrator Downing to send an email connecting her, Matt Kline, and Stu Grubb. Manager Fellegly asked about access of water on the south side of Baytown Township and Mr. Grubb confirmed that the water should be available to the general area. The board asked another question about the point of treatment filters on wells and whether community wells have been addressed yet.

Administrator Downing explained that he thinks the MSCWMO is spending their allotment of the money well by having Mr. Grubb attend these meetings on their behalf. The board agreed that he should continue to attend these meetings and representing the MSCWMO. He will also be available for questions from the board managers and Mr. Grubb stated his cell phone number. The board agreed that time he spends answering questions from the managers can be billed back to this funding.

Mr. Grubb explained that the meetings lately have been focused on specific communities and strategies for them. The co-trustee's report should be coming in the next couple weeks and they will have recommendations. This report will also be public information. Manager Olfelt-Nelson explained it has been hard for smaller cities to figure out where to get relevant information (or what meetings to join) for them, She said they don't have a great understanding of what to do if/when the seepage causes a ripple effect and feels this is an important thing to show up for and understand what to do if the seepage reaches them and there's no money left. Community water systems are expensive and would use up the funding quickly. The MSCWMO Board thanked Mr. Grubb for the information.

Manager Perkins motioned to approve submittal of 3M PFAS reimbursement request totaling \$608.25 and Manager Fellegly seconded the motion. The motion passed.

2022-2024 EMWREP Agreement

Administrator Downing explained that this agenda item is a renewal of MSCWMO's participation in the EMWREP program for next 2 years. This program is a way for the MSCWMO to meet requirements as well being a great value for the MSCWMO. Manager St. Ores motioned to approve the 2022-2024 EMWREP agreement and Manager Olfelt-Nelson seconded the motion. The motion passed.

2022 Final Budget

Administrator Downing received no edits and the proposed budget is unchanged from the last board meeting. There was no additional discussion. Manager Runk motioned to approve the 2022 MSCWMO budget and Manager Fellegly seconded the motion. The motion passed.

Lily Lake Basin/Lily Lake Terrace Agreement

After project scoping they found out they needed a partnership with the apartment complex. The apartment management agreed to work with the MSCWMO and will pay for the drainage improvements on their property. They agreed to maintain the practices on their property. Manager Olfelt-Nelson asked if this was a legal agreement that would be recorded with the property in the case that it changes hands and Administrator Downing confirmed this. Manager Fellegly motioned to approve the agreement and Manager Runk seconded the motion. The motion passed.

2021 Second Half Contribution Requests

Administrator Downing received board direction to send out the 2nd half contribution requests. A number of communities have still not sent their 1st half community contribution (Afton, Lakeland, and Lakeland Shores) so Administrator Downing will ask for 1st and 2nd payments from them. The board agreed.

Collier Native Habitat Planting Pay Request

In June 2021, the MSCWMO board encumbered \$250.00 for a Landscaping for Habitat Grant in BMP cost share funds for installing a 1,600 sq. ft. native planting on their property. The project was completed in July, and the homeowner is now requesting reimbursement. WCD Staff approved the installation.

Motion by Manager Runk, seconded by Manager St. Ores, to approve final payment of \$250.00 for the installation of the Collier native planting.

Lake St. Croix Beach Pay Request

The main grant is closed out and the project is now complete. The city paid the final payment and is asking MSCWMO for the Watershed Based Funds that were allocated to this project. Manager Perkins motioned to approve the final payment of \$65,800.35 for the Lake St. Croix Beach Bluff Stabilization Project and Manager McCarthy seconded the motion. The motion passed.

WCD Perro Creek Grant Application

This is an informative agenda item. Administrator Downing explained that the WCD is working on a grant application for retrofits in the Perro Creek Subwatershed. Possible projects included underground facilities such as sediment chambers. This area struggles with flooding and sediment issues with not a lot of room available for surficial infiltration practices. Administrator Downing asked if the MSCWMO would be willing to provide assistance in the form of existing TA funds in the area being used as match for the grant. This would fit in the existing budget. Administrator Downing noted that Bayport and the MSCWMO are good partners and this could help the city offset costs. The board sounded supportive. Manager St. Ores and Administrator Downing discussed potential locations and maintenance that would be added. The city already pays for a vac service and so it's not very expensive to add additional locations to that service.

Lake St. Croix Direct Phase II – Encumbrance Request

In February 2021, the Board of Managers approved acceptance of the Clean Water Fund Grant award (C21-1745). The grant is for implementation of best management practices throughout the Lower Middle St Croix SWA boundary (Bayport to St Mary's Point). The total grant is for \$158,000.00, of which \$125,000.00 is for implementation.

In the process of scoping for projects this week in Lake St Croix Beach, a homeowner living at a previously unidentified site approached WCD staff requesting a raingarden (@ 16822 Upper 17th, Lake St Croix Beach). This site happens to be in an area where road reconstruction is occurring in the coming weeks (using FEMA funds). This site is an ideal location for a curb-cut raingarden and pollutant load reduction would rival or exceed some of the other practices proposed in the SWA (making it a great candidate). WCD staff have already met with the homeowner to cover design and maintenance requirements and they are excited to work with us. Being that road reconstruction is happening in the coming weeks (before the next board meeting), and raingarden installation could occur simultaneously to achieve some cost savings, staff would like to pre-emptively encumber funds to proceed with the project, even though there is no quote yet. Once the maintenance and cost share contracts for the landowner and city are signed, staff will create construction drawings to be added to the existing road reconstruction drawings. A quote will be developed by the contractor based mostly on the approved contract unit-pricing for the road project. The city engineer and WCD staff will review the quote for fair pricing for outlier items. WCD staff anticipate the install being somewhere near \$12,000, but current pricing trends may force the cost higher. Staff is requesting encumbrance of up to \$20,000.00 to cover cost of installation of this raingarden, knowing that the cost should be substantially lower in the final quote. Administrator Downing explained some additional circumstances such as the difficulty in trying to build projects on land that MNDOT has planned for future use within Bayport. The total goal of phosphorus reduction with this grant was 7 pounds/annually and this project is expected to meet a pound of this so it ranks well.

Manager Fellegly moved to approve encumbrance of up to \$20,000 from Clean Water Fund grant C21-1745 to install a raingarden at 16822 Upper 17th St S. Manager McCarthy seconded this and the motion carried.

Lookout Trail

Submittal items were received on April 22nd for the proposed reconstruction of Lookout Trail in Oak Park Heights with additional requested materials received May 10th. The project has proposed to utilize offsite MnDOT stormwater basins to provide the volume control required to meet MSCWMO standards. MSCWMO staff recommend approval with two conditions at the June board meeting. The two conditions of approval were satisfied with submittal items received June 8th.

TH36 Frontage

Submittal items for the TH36 Frontage/Osgood Avenue project were received on June 17th with revised materials received June 28th. The project removes 20,320 square feet of impervious

surface with the removal of 60th Street between Oren Avenue and Osgood Avenue. This area is converted to pervious surface which was used to satisfy the volume control requirement based on volume credit for impervious to pervious surface conversion as described in the Minnesota Stormwater Manual. MSCWMO staff recommends approval
Manager McCarthy motioned to approve the project and Manager Perkins seconded this. The motion passed.

LSCB Streets

Submittal items were received on June 23rd for the LSCB 2021 Street Improvement Project. Additional materials to complete the review were requested on June 24th and were received on July 9th. MSCWMO staff recommend approval.
Manager Perkins motioned to approve the project and Manager McCarthy seconded this. The motion passed.

343 Lake

Submittal items were received on June 29th for the proposed grading that will occur at 343 Lake Street in Bayport in conjunction with the reconfiguration of site plans for the proposed home reconstruction at 333 Lake Street. The required volume control for the originally project at 333 Lake Street is maintained and erosion and sediment control standards are satisfied. MSCWMO staff recommends approval. Manager Perkins motioned to approve the project and Manager Fellegly seconded this. The motion passed.
Manager St. Ores asks if project will begin after approval or if its possible the work has already started, Administrator Downing explained that if the project is simple enough and meets the rules the board decided on retroactive board approval (after administrative approval) so as to not slow down the process. So it is possible the work has already begun in this instance.

Toland

Submittal items were received on July 9th for a proposed home addition at 801 Quentin Ave S in Lakeland with additional requested materials received July 13th. The project has proposed to utilize replacement of existing impervious with pervious pavers and regrading away from the bluff to provide the volume control required to meet MSCWMO standards. MSCWMO staff recommend approval.
Manager Perkins motioned to approve the project and Manager McCarthy seconded this. The motion passed with all in favor.

200 Chestnut

The MSCWMO originally recommended approval of the project in December 2020 which utilized a green roof to meet volume control standards. The developers have since requested the engineer redesign the project exploring other stormwater management alternatives and a resubmittal was received on July 22nd. The project proposed to utilize a proprietary modular wetland system which will provide treatment through filtration but does not provide volume control. The applicant has been asked by MSCWMO staff to resubmit the project following the

MIDS alternative compliance sequencing and demonstrate volume control is infeasible onsite before pursuing alternative stormwater flexible treatment options.

The board discussed this project, recalling that they were excited about the original design. Administrator Downing explained that the applicant also asked about cash-in-lieu of treatment but that this would not be applicable for them as economic conditions alone are not enough of a reason to use this, and they have already demonstrated that they can meet the rules with the original design. He believes the city is also looking for them to meet the volume requirement as the downtown area already had flooding concerns and the buildings downtown are not designed to accommodate additional volume. Manager Runk said they were supposed to have a report from the applicant but they have not seen it yet. The group agreed that they hope the developer goes back to the original green roof design which meets the rules.

Erosion and Sediment Control Inspection Reports

Administrator Downing explained the ESC inspections are another thing the MSCWMO is doing for cities without staff capacity and have expressed interest. Administrator Downing went through the erosion and sediment control inspection forms in the board packet, noting that most of them looked great or were fixed up quickly after being notified of issues. Aaron DuRusha, the inspector, spoke with the Fox hillside landowner who raised concerns and asked if the MSCWMO could educate his neighbors on information regarding bluffs. Manager Olfelt-Nelson agreed thinks it would be a good idea as she noticed that many people seem to have forgotten the role they play as stewards of the riverway. Administrator Downing suggested a direct mailing with some educational information. Manager Olfelt-Nelson asked to make it clear that landowners should not be doing activities that change the bluff without calling and getting approval.

Manager St. Ores asks if the MSCWMO does ESC inspections for everyone and Administrator Downing reiterated that it was just for small communities with limited staff capacity who have indicated their interest.

Staff Report

Administrator Downing went through the staff report in the board packet. He explained that he is beginning to do some of the project review to be better informed. He updated the board on the Perro Creek water analysis which has been unpredictable this field season. He reminded the board about the shift to a new software system to improve the reporting system with the end goal being more efficient and cost effective. He has attended a number of meetings as well.

1W1P Updates

Manager Fellegly missed last month's meeting which was in person. Administrator Downing explained that the partnership is moving forward and implementation funding is coming out for time sensitive projects that have been identified. There are a number of subcommittees formed by staff which will implement the policies and procedures used to implement funding going forward.

Other

The board discussed the future format of board meetings. Administrator Downign explained he has heard conflicting information from attorneys on remote vs. hybrid vs. in-person meetings and how open meeting laws apply. Manager Perkins recalled a webinar from the Afton attorney and can ask for that information. Manager Runk explained the type of technology another group he is using to have everyone on camera in order to meet open meeting laws while being able to have some participants remotely attending.

The board discussed what they wanted to do for the next meeting and the pros and cons of in person vs remote. Administrator Downing noted that it can be more difficult to do remote meetings when the number of attendees is higher. He will compile info and options to discuss.

Adjourn

Manager Fellegly motioned to adjourn the meeting and Manager Perkins seconded this. The meeting was adjourned at 7:44pm.