

Regular Meeting of the Middle St. Croix Watershed Management Organization
Bayport Public Library
Thursday, September 9th, 2021
6:00PM

Present: John Fellego, Baytown Township; Mike Runk, Oak Park Heights; Tom McCarthy, Lake St. Croix Beach; Beth Olfelt-Nelson, St. Mary's Point; John Dahl, Bayport; Dan Kylo, West Lakeland Township; Ryan Collins, Stillwater; Brian Zeller, Lakeland Shores; Administrator Matt Downing; Cameron Blake, WCD; Dawn Bulera, Lake St. Croix Beach alt.

Call to Order

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

Approval of Agenda

Manager McCarthy motioned to approve the agenda with this addition and Manager Collins seconded this. The motion carried.

Approval of Minutes

Manager Olfelt-Nelson motioned to approve the draft August 12th, 2021 board meeting minutes and Manager McCarthy seconded this motion. The motion carried.

Treasurer's Report

The treasurer's report and bills to be paid were presented by Manager Kylo. The remaining checking account balance on September 9th for the month of August 2021 was \$452,567.01. First State Bank CDs were valued at \$38,549.15. The ending balance in the RBC savings account for August 2021 was \$76,857.22.

Bills to be approved this month are: Emmons & Oliver: \$1,261.25 total; Washington Conservation District (Administration): \$4,414.50; Washington Conservation District (Technical Services): \$5,310.00; Washington Conservation District (Grant Hours): \$4,000.87, Total: \$14,986.62.

Administrator Downing displayed some of the detailed budget tracking information requested by the board. There was no discussion at this time.

Manager Runk motioned to approve the treasurer's report and pay the bills and Manager Olfelt-Nelson seconded this motion. The motion carried.

Public Comment

There was no public comment.

Old Business

There was no old business.

Baytown-Oak Park Heights Drainage Issue Summary

Administrator Downing received direction to summarize the process so far and make recommendations. He included this information in the board packet along with supporting

documentation. He asked for board direction to pursue any of the recommended actions. Manager Olfelt-Nelson asked about how the MSCWMO can discuss this issue now that there were legal parties involved. Manager Zeller said certain community members can't comment. Manager Olfelt-Nelson asked what process could be conducted in case there was any dispute to the prepared summary and Manager Zeller said he believed they should assume the information is accurate. The information consists of the email chain and documents received, and Administrator Downing summarized phone conversations as best as he could. Manager Zeller asked about the MSCWMO providing technical assistance for the drainage issues and Administrator Downing said this option was briefly raised during the site tour but could be raised again. The MSCWMO can partner with the city to address stormwater issues to the northern properties. As previously discussed, the MSCWMO did not exist when the developments and issue in question occurred so this is the role that the MSCWMO can take.

Manager Zeller noted that if all these developments went through a proper permitting process it could have helped, but that this predates the MSCWMO. Administrator Downing agreed and reiterated that all of this occurred before 2015 when the MSCWMO began the formal permitting review program. There has been no documentation from Baytown and the property owner said this issue took place in 2011-2013.

Manager Zeller asked to send this out to all involved parties indicating the MSCWMO is willing to participate in the two options described. Administrator Downing explained that OPH is willing to work on stormwater design within the northern community; and that it's consistent with our mission to improve those neighborhoods anyway. There is a lot of opportunity for stormwater treatment in those neighborhoods and the MSCWMO could do a targeted campaign of the kind that usually occurs for these kinds of projects.

Manager Olfelt-Nelson inquired as to the list of concerns Administrator Downing raised after reviewing the information provided. Administrator Downing explained that this sparked conversations with the engineer but that he has not heard from either community on some of the bigger concerns. Manager Zeller said to include this in a final letter. Manager Zeller noted it is up to them to respond independently, and suggested that from a cost standpoint the MSCWMO needs to handle this the way we would handle any other outreach and project development. This included being prepared to spend money on stormwater projects.

Manager Olfelt-Nelson wanted to clarify Manager Zeller's direction for:

- 1) Administrator Downing to begin outreach and technical assistance to OPH and Baytown for stormwater practices
- 2) Send a formal request for both communities to follow up with the items the MSCWMO asked for clarification on

Manager Zeller said he wasn't sure that was what he meant for the second point. Administrator Downing has gone as far as he can go until someone asks him for help or responds to him for help. Administrator Downing said he is not expecting any further response. Manager Zeller clarified that he is suggesting a final letter stating that based on the info that has been provided that this is where the process has ended and if additional help is wanted there needs to be a clear request. Administrator Downing suggested sending the memo he created.

Manager Olfelt-Nelson suggested adding a "softer" cover letter for the memo including language about how it is in every community's interest to do our best to manage stormwater

runoff, leading into a description of the issue, and indicating that the MSCWMO offers support for small stormwater projects that residents can engage in.

Manager Zeller explained he didn't envision a targeted approach to this neighborhood in particular. Administrator Downing explained that this was part of what the MSCWMO does and so it was of no additional cost to have EMWREP do some outreach to lead to site visits for the regular TA program. Manager Zeller said he thought ranking and prioritizing neighborhoods was what drove outreach efforts and that it felt too specific to him based on this issue.

Administrator Downing explained that the MSCWMO has spent very little of its \$15,000 cost share project budget and so this work wouldn't be directed at this one issue. The MSCWMO would do analysis to determine if there was value in doing stormwater work in this neighborhood but these sorts of projects are something the MSCWMO has generally identified as value. He explained that earlier development focused on conveying rather than treating stormwater runoff which is why the MSCWMO still focuses on retrofitting suburban areas. Manager Zeller asked that Administrator Downing use his best judgement in determining outreach efforts as he does not want to be so focus on any one neighborhood that we don't do outreach to address issues elsewhere. Administrator Downing said an easy option was a direct mailing that is part of the usual outreach process anyway, and that various levels of interest and response could occur. Manager Zeller noted that a raingarden is only as good as it's long term maintenance.

Manager Zeller motioned for Administrator Downing to follow up with the communities involved with a cover letter and outreach to the northern neighborhood and Manager Olfelt-Nelson seconded this. Manager Dahl said he would be abstaining from the vote due to being close acquaintances with the landowner. Manager Runk is also continuing to abstain. The motion passed with all in favor and two abstentions by Manager's Runk and Dahl.

Permit Review Compliance

Administrator Downing explained that the MSCWMO started reviewing stormwater practices in 2015, and has begun ESC inspections for communities who have requested help. He explained that during the ESC inspections they have noticed that some projects could be in compliance from an ESC perspective but may not be following their approved plans.

Regarding 1635 Rivercrest-Stordahl (Lakeland); additional impervious over what was submitted on the plans was observed. A concrete pad, patio and walkway were constructed on the back side of the house that added approximately 860 square feet of additional impervious from the submitted plans that were reviewed. The additional volume control requirement for this would be 78 cubic feet. The original plan required 1,080 cubic feet of volume control, the approved plans demonstrated 1,274 cubic feet. This is greater than the new required volume, however the additional work is located in close proximity to the bluff and cannot direct runoff to the facilities. The final area of concern is that the original plans called for a rain garden to the south west of the home. This has been replaced by an underground infiltration chamber, the size and function are unknown since it was not included on the plans for review.

Administrator Downing strongly advises against underground practices for private residences due to the relative difficulty in maintaining and inspecting them. The city did not have any on site inspector to catch this either.

Manager Zeller suggested sending a letter or the inspection memo to the city as it is up to the city as the permitting authority to enforce the approved plans. Administrator Downing said the communities asked the MSCWMO to help enforce. Manager Zeller disagreed as the communities have an engineer that they can pay to do this work. Manager Olfelt-Nelson recalled the similar situation in St. Mary's Point in which the city added a stipulation that underground practices be inspected by an external party. They asked if this could be attached to this property and Administrator Downing explained that the work has already been completed. Manager Olfelt-Nelson asked if they should bring this back to the homeowner as they are not in compliance and Administrator Downing explained that he has less concerns about this specific instance, but that this issue raises the question of consistency.

The second case he wants to discuss is of bigger concern to him. Regarding the MN Party Bus Company-2nd Street Commercial (Lakeland Shores); during the most recent erosion and sediment control inspection it was noted that the project was complete minus the construction of the proposed infiltration basins. However, the project was not constructed as shown on the submitted plans and was modified without notifying the City or WMO. The owner claimed that there is less impervious present on the east side of the structure than planned, which is why more was done on the west. The boulder retaining wall was built directly on the property line, the plans showed it meeting setback requirements. As such the project will not be able to manage their stormwater. Manager Zeller said this project has not been received well by the community and has fallen under high scrutiny. There have been mixed perceptions as to the developer's level of responsiveness. Administrator Downing indicated that they have had issues getting the developer to do what has been asked.

Manager Zeller said he could talk to Lakeland Shores and that he thinks the MSCWMO may want to do something to help with our more specialized expertise. The cost for such assistance would then be filed back to the city to be passed onto the developer. The MSCWMO does not have an enforcement role in this situation. Manager Zeller wondered if Administrator Downing could work with the community on a contract to ensure that the MSCWMO is reimbursed.

Administrator Downing asked for input on the permit review process including the question of whether the communities want us to do the final close out process, or inspections beyond ESC to ensure the project is being constructed according to plans. There could be value in this. Manager Zeller said this should be added to the fee schedule if so and asked Administrator Downing to bring a draft of what this could look like to the board. He asked him to communicate in writing to both cities that they have a project out of compliance and that we can provide assistance but there will be a fee involved. The board discussed how different communities may respond differently based on their experience of working with the MSCWMO and their capacity for these activities. Manager Zeller noted that the WMOs can be more solutions oriented than other regulatory agencies cities may be used to working with.

Manager Zeller motioned that Administrator Downing send each community letter indicating that the MSCWMO knows these projects were not built to their approved plan sets and the cost associated with additional review and recommendations from the MSCWMO will be charged back to city who can collect from applicant. Manager Dahl seconded this and the motion carried.

2022 MSCWMO-WCD Water Monitoring Estimate

Administrator Downing explained the 2022 water monitoring is the same as what was planned. This is a discussion item and no action is needed. Action can be taken when the contract is brought to a future meeting. The biggest departure is the Lily Lake Alum sampling which the MSCWMO will be able to count as match towards the grant while utilizing the existing budget.

Grant and Cost Share Applications

There are none. The board wondered if people are doing projects on their own despite high material costs. Administrator Downing explained that he didn't know why there were so few applications. There is upcoming outreach planned for Lake McKusick and he thinks this may bring some more in. Manager Zeller said the MSCWMO should remind communities why the organization exists as well as what activities trigger a WMO review as he has noticed work going on in the watershed. Administrator Downing agreed, explain that he had community meetings planned for this fall with COVID resurgence changing that plan. Manager Zeller asked if a PowerPoint could be emailed to communities that they could walk through themselves, along with some promotion for a recent MSCWMO project to demonstrate added value and our role.

200 Chestnut-INFORM

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. MSCWMO staff advised resubmittal following the MIDS alternative compliance sequencing and demonstrate volume control is infeasible onsite to pursue alternative stormwater options. The developer and applicant has since decided to revert the back to the original green roof design approved in 2020.

Ruprecht Retaining Wall-ACTION

The MSCWMO received project review submittal materials on August 10th, 2021 for the repair and replacement of retaining walls on the bluff at 737 Quentin Ave S in Lakeland. MSCWMO staff requested additional review materials and received revised materials from the applicant on September 1st. MSCWMO staff recommend approval with two conditions.

Manager Runk motioned to approve this project with the two conditions stated. Manger Kyлло seconded this motion and the motion carried.

Burton Retaining Wall and Patio- INFORM

The MSCWMO received project review submittal materials on August 27th, 2021 for the repair and replacement of failing retaining walls and the construction of a new patio at 313 Quixote Ave N in Lakeland Shores. The MSCWMO staff met with the project applicant on August 31st and advised the applicant the MSCWMO prohibits construction within 40 feet of the top of blufflines and requires BMPs to achieve volume control when 500 square feet or more of impervious surface is added. The applicant is attempting to revise the project scope so that less than 500 square feet of impervious surface is added and construction within the 40 foot bluffline

setback is limited to repair/replacement of existing retaining walls and minimal soil disturbance/grading.

Administrator Downing explained that this is no longer an action item as enough materials had not been submitted. At this point the MSCWMO would not be recommending approval anyway due to the activity being within 40 feet of the bluffline. Administrator Downing explained the plans further as including fill and impervious in the bluffline, and impervious driveway down to the river. As currently planned they will not be able to comply with the MSCWMO's performance standards. He explained they had not heard back from the DNR representative filling in for the recent replacement representative. The board discussed the DNR and BWSR's hiring freeze due to budgetary considerations.

Administrator Downing explained that the city issued the permit and the applicant is saying they just need approval from the WMO. Manager Zeller said the city should know the bluffline trigger. Administrator Downing said this has happened previously in which the city issues approval for the permit and informs the MSCWMO after receiving the MSCWMO's recommendation letter. Manager Zeller discussed which clerk is being filled in the auto forms and said he would follow up with Kim to see if the permit really has been issued. If it has been issued the MSCWMO recommends the project not be done this way and the permit should be issued on condition approval form the WMO.

Manager Zeller asked if a permit was issued for the adjoining property about a year ago and Administrator Downing said he would check on this.

Erosion and Sediment Control Inspection Reports

Administrator Downing ran through the ESC inspection reports. He explained the format looks different because they are now using the new approved database. The new database is saving time, workload, money and is all map based with an online permit application system.

Administrator Downing explained that Scanlan Residence looks good and they are adding some additional infiltration areas to address an unplanned large pickle ball court. The resident received some incorrect information when planning and has been very receptive towards addressing things. The project in St. Mary's Point had some issues earlier but is now in full compliance.

Staff Report

Administrator Downing presented the staff report. The construction of the Lily Lake project has started. There was old concrete found dumped which needed to be removed. The alum treatment is pushed back to next spring as the project will not be online this year. Administrator Downing is working to close out some of the WBF grants and receive final payments. Lake St. Croix Small Communities Phosphorus Reduction Grant – PHASE II identified some practices in Lakeland over the next few years. PFAS updates are being forwarded to board managers. Monitoring work is going as planned and he will demonstrate the new database update to the board.

1W1P Updates

Manager Fellego has not attended the recent meetings. Administrator Downing explained that implementation and project selection has begun. They are developing the processes for how to

allocate funding. The first shared staff member has been hired and is working. The second shared staff member, and agronomist, is being hired through the UMN extension service. Both these positions will be focusing on the upper LSCWD which has less capacity.

Other

Manager McCarthy asked if we were continuing to meet every month. Administrator Downing said he was hoping to be able to skip a meeting in the next couple months.

The board again discussed whether the MSCWMO can go back to Zoom meetings based on legal requirements for open meeting laws. Administrator Downing explained that the WCD invested in equipment that would meet those requirements but that it isn't portable. Someone still needs to be physically present conducting the meeting. The board discussed potential locations based on the current meeting schedule. Manager Zeller suggested the next meeting held at the Bayport Library again but to explore where the meeting could be conducted from there such as the WCD office. The board remarked that the flexibility for board members to attend in person or virtually is nice.

Adjourn

Manager Fellegly motioned to adjourn the meeting and Manager McCarthy seconded this. The meeting was adjourned at 7:00pm.