



Long Creek Watershed Management District Board of Directors

Minutes from October 30, 2019 Meeting

Location: Portland Sheraton at Sable Oaks, 200 Sable Oaks Drive, South Portland, Maine

1. **Call to Order:** Mr. Dillon called the meeting to order at 9:06a.m.
2. **Roll Call:**
 - a. Attendance: Angela Blanchette, Curtis Bohlen, Fred Dillon, Sean Donohue, Brian Goldberg, Craig Gorris, Will Haskell, Susan Henderson, Doug Roncarati
 - b. Absent: Arthur Colvin, Eric Dudley, Taylor LaBrecque, Ed Palmer, Michael Vail
 - c. Staff/Guests: Peter Carney (Long Creek Watershed Management District), Jim Katsiaficas, Esq. (Perkins Thompson), Chris Brewer (Cumberland County Soil & Water Conservation District)
3. **Review of Board Meeting Minutes:**
 - a. The Board reviewed the minutes from the September 26, 2019 meeting.
 - b. **Mr. Haskell made a motion to accept the minutes from the September 26, 2019 meeting. Mr. Roncarati seconded the motion. The motion carried unanimously.**
4. **Treasurer's Report:**
 - a. Mr. Bohlen reviewed the September Financial Report.
 - b. Mr. Bohlen said there was nothing unexpected in the report.
 - c. Mr. Brewer noted that we received the first main stem invoice, which is not reflected in the report due to the timing of the invoice.
 - d. Mr. Brewer reported that he and Mr. Carney met with Alison Moody of Maine DEP to discuss past due assessments, non-current NOIs, and missing Participating Landowner Agreements.
 - e. In addition, Mr. Brewer noted that he received the draft financial audit report and that the final should be received soon.
5. **Rules and Regulations, Draft, RE: Participating Landowner Assessment Credits for BMPs Requiring Maintenance, Repair, or Replacement:**
 - a. Mr. Katsiaficas provided a summary of existing credit methods which include "treatment" credits for private BMPs and "in lieu" credits for the provision of BMPs identified in the Watershed Management Plan in lieu of payment of assessments.
 - b. Mr. Katsiaficas noted that LCWMD has no regulatory authority to require landowners to submit private BMP inspection reports, so it is difficult to track the status of private BMPs.
 - c. Mr. Goldberg asked, "why are we giving credits if we have no information on the BMPs?"
 - d. Mr. Katsiaficas advised that the proposed changes to the rules will require landowners to provide annual inspection reports in order to continue to receive treatment credits for private BMPs.
 - e. Mr. Carney noted that the arrangement arrived at with Maine DEP is that LCWMD's obligations are to ask landowners for copies of the BMP inspection reports as part of the parcel inspection program. Currently, a low percentage of reports are received for private BMPs.

- f. Mr. Goldberg asked whether reports being shared between LCWMD, Maine DEP, the municipalities, and private contractors?
- g. Mr. Carney said reports are being shared, but it is inconsistent.
- h. Mr. Roncarati said the City of Portland is willing to share the reports received by the City, however, most reports are for BMPs outside of the Long Creek Watershed. If LCWMD provides a list of BMPs within Portland city limits, Mr. Roncarati will provide those reports.
- i. Mr. Donohue asked whether Participating Landowner Agreements address how to calculate values for credits?
- j. Mr. Brewer replied that there is a percentage method for calculating credits in the Participating Landowner agreements with Maine DEP's current Chapter 500 standard being the 100% standard.
- k. Mr. Dillon noted that BMP inspection reports are pass/fail and asked, "how do we determine functionality?"
- l. Ms. Blanchette suggested that LCWMD needs to be consistent in determining functionality.
- m. Mr. Katsiaficas advised that under the proposed changes to the rules determining the level of function will be at discretion of the Executive Director with the ability to appeal that decision to the Board.
- n. Mr. Katsiaficas advised that the proposed changes to the rules also address what happens with "in-lieu" credits. The proposed changes were in response the Board's questions on how to handle requests for "in-lieu" credits for the repair or replacement of BMPS for which credits were previously provided for their initial construction.
- o. Mr. Katsiaficas advised that the proposed changes would provide in-lieu credits for repair or replacement of BMPs for which in-lieu credits were previously provided if the BMP has a life expectancy of ten years or greater. This provision is to establish a distinction between "capital costs" and "maintenance."
- p. Mr. Bohlen asked why the Maine DOT Maine Mall Road project history is specifically address in the proposed rules changes, noting that the rules are a general policy.
- q. Mr. Katsiaficas advised that there is a specific paragraph in the Participating Landowner Agreements addressing the Maine Mall Road project, so it was also directly addressed in the proposed changes to the rules.
- r. **Ms. Blanchette made a motion to approve revisions to the Rule and Regulations as reflected in the draft included in today's Board packet. Mr. Haskell seconded the motion. The motion carried unanimously.**

6. South Branch Stormwater BMP Retrofits: Status Update

- a. Mr. Carney advised that Board that he and Chris Baldwin from the Cumberland County Soil & Water Conservation District met with Maine DEP permitting staff based on Mr. Donohue's suggestion at the last Board meeting to do so before issuing the design services request for proposals.
- b. Mr. Carney advised that the RFP will be for a gravel wetland or underdrained soil filter and includes a feasibility analysis for other BMPs with the larger catchment, which can be used for a cost-benefit analysis to determine whether construction of additional BMPs should be considered as part of the project.

- c. Mr. Carney noted that the Watershed Management Plan was amended to provide for an expansion of the T.J. Maxx. An alternative plan to replace the originally-identified BMP was prepared as part of the amendment process.
- d. Mr. Carney noted that the revised BMP location appears to be in a portion of the original stream channel of the South Branch of Long Creek.
- e. The identified portion of the stream channel is between a stormwater outfall coming from under Philbrook Avenue and a downstream outlet control structure that appears to have been designed for flood control.
- f. To replace or install the new BMP we will need to work in the stream corridor which will require an alternatives analysis as part of the permitting process.
- g. Maine DEP staff did indicate that the BMP location is probably the existing stream bed, but because of the current conditions LCWMD would likely be able to obtain a permit to construct a BMP.
- h. Mr. Carney noted that the alternatives analysis will be part of the scope of work for the engineering design in the soon-to-be issued request for proposals.
- i. Mr. Donohue said it would not be particularly onerous to do an alternatives analysis and that it might be helpful if the BMP design included stream restoration elements or enhancements.
- j. Mr. Bohlen noted that the area has a weird hydrology because there is very little vertical gradient, therefore, stream restoration may be difficult.
- k. Mr. Dillon noted that this section of stream is also highly impaired by chlorides. A recent analysis and other monitoring are showing that chlorides level are above acute and chronic thresholds. An informal biomonitoring event indicated only pollution tolerant bugs are there.
- l. Mr. Roncarati said he likes the idea of a gravel wetland because it would provide flood control, provide improved water quality through underdrained treatment, and would allow chlorides to move through system rather than be infiltrated.
- m. Mr. Carney said the estimated timeline for issuing the request for proposals will be a few days after hearing back from the Army Corps. Hopefully, LCWMD would issue a contract in January with construction starting in the spring.
- n. In addition, Mr. Carney will speak with landowner to see if there is the possibility of returning to the project footprint since the expansion of the T.J. Maxx store has not occurred and there has been no indication that it is still planned.

7. Main Stem Update

- a. Mr. Carney advised that work on the Main Stem restoration project is almost complete and the heavy equipment will be removed by the end of the week.
- b. Mr. Carney noted that installation of the in-stream structures is complete, the detention basin behind Cornerbrook will be fully removed by the end of the week, and the Cornerbrook floodplain will be planted soon.
- c. Mr. Carney said he walked the site after recent heavy rains and most of the floodplain structures were in the water and the in-stream and floodplain structures were working according to plan.
- d. The final element of the work is removal of the sheet-pile detention basin behind the Guitar Center which will require a crane to lift the panels and they will need to be cut with a plasma torch.

- e. South Portland Community TV is currently working on a video of the restoration effort. Mr. Dillion, Mr. Carney, and Ms. Henderson have been interviewed for the video.

8. Permit update

- a. Mr. Roncarati asked for an update on the status of renewing the Long Creek General Permit.
- b. Mr. Carney advised that the current Long Creek General Permit is set to expire in June 2020.
- c. Construction of the South Branch Stormwater BMP should be mostly complete by then.
- d. Mr. Carney advised that GZA is behind in the work to complete the data analysis due to staff changeover, however, he and Mr. Bohlen should be meeting with GZA to review technical memoranda in the next couple of weeks.
- e. At the recent meeting with Alison Moody of Maine DEP we talked about the possibility of an administrative extension to continue with the day to day activities as we prepare the update to the Watershed Management Plan.
- f. The update to the plan will be driven by the information we obtain from the monitoring data report to determine what the next steps are for the restoration effort.

9. Opportunity for Partnership Pilot Project: Heated Sidewalks at Maine Mall

- a. Mr. Carney reminded the Board that LCWMD has been looking for an opportunity to partner on a heated sidewalk and an opportunity to do so has arisen at the Maine Mall.
- b. As part of preparing the former Bon Ton location for a new tenant, 3,300 square feet of sidewalk adjacent to the building will be replaced.
- c. Mr. Carney noted that the total cost of heated sidewalks for this area is \$172,000 whereas the cost for a conventional sidewalk is \$70,000. The differential cost of \$102,000 is broken down as \$55,000 for heat mesh, \$12,000 for underground electric site work), and \$35,000 to expand the Mall's electric supply.
- d. Mr. Carney asked whether the Board would be interested in making a financial contribution to the project in exchange for cost information for construction and ongoing operation which would be used to develop a fact sheet to encourage other landowners to implement heated sidewalks.
- e. Mr. Dillon asked whether heated sidewalks are likely to succeed, and if they break who pays to fix it?
- f. Mr. Bohlen asked, "what are the payoffs? Do we have something to compare it to? Are we developing a market for some new technology?"
- g. Mr. Roncarati questioned whether heated sidewalks are effective? Do they have problems?
- h. Ms. Blanchette said she does not know how new this is, Scarborough is doing it at its public safety building. However, this could be looked at differently as a retrofit.
- i. Ms. Henderson suggested that public safety and the costs of injuries may be a stronger argument for heated sidewalks than environmental issues.
- j. Mr. Gorris said the Mall will do project with or without a direct financial contribution from LCWMD, the mall is only looking for credits against its assessment.
- k. Mr. Donohue said financial support should be tied to a public education component.
- l. Ms. Blanchette said she prefers credits over a direct financial contribution and that she likes the idea of an outreach element.
- m. Mr. Goldberg pointed out that we do not have to make a decision today and suggested that we talk about earmarking money for projects like this as part of the budgeting process.
- n. Mr. Bohlen said that this is exactly the type of project we were looking for but wondered what we should do about other people coming to us with similar projects.

- o. Mr. Brewer suggested a grant program.
- p. Mr. Bohlen thought that a grant program would be a good idea although there are some questions as how to organize this grant program would take some of the open-endedness out of allocating funds to these types of projects.
- q. Mr. Bohlen suggested we should set up rules on how to do this, for fairness we need a framework.
- r. Mr. Katsiaficas reminded the Board that LCWMD contributed financially to BMPs at Port Resources noting that if the project is providing water quality improvements, it is within the Board's authority to allocate funds.
- s. Mr. Katsiaficas noted we have not seen heated sidewalks elsewhere in watershed and this pilot project could encourage other landowners to use them.
- t. Mr. Roncarati said he could conduct research on what has been done in other places to determine the effectiveness of heated sidewalks.
- u. Mr. Carney said he would work with Mr. Brewer to see what a treatment credit might look like for a project of this size. In addition, Mr. Carney said he would work on an outline for a grant program for the next Board meeting.

Ms. Blanchette left the meeting at 10:47a.m. for another obligation.

10. Public Comments: None.

11. Next Meeting: The next meeting will be held on December 10, 2019 at 9:00a.m. with the location to be determined.

12. Adjourn: The meeting adjourned at 10:50a.m.