



Beaufort County Stormwater Management Utility Board (SWMU Board) Meeting Minutes

April 16, at 2:00 p.m.

Beaufort Public Library, 311 Scott Street, Beaufort, SC

Board Members

Present

Marc Feinberg, Chair
Patrick Mitchell, Co-Chair
James Clark
Ron Buchanan
Dennis Ross
Ed Warner

Absent

Steven Andrews

Ex-Officio Members

Present

Absent

Jeff Netzinger
Nate Farrow
Bill Baugher
Van Willis

Beaufort County Staff

Bradley Harriott
Taylor Brewer
Tammy Doe
Sally McLeod
Pamela Cobb
Dylan Kidd
Valentina Palacio-Ruiz
Paula Brown, County Liaison

Visitors

Jim Lawon
Ben Frazer
Denise Hattaway
Laura Wilson
Sam Conner
Collins Doughtie
Barry Conner
Ellen Sturup Comeau, Clemson Extension
Dr. Ty Pettay, USCB

1. Meeting called to order – Mr. Feinberg called meeting to order at 2:00; the Board has a quorum.

A. Agenda – Motion and second by Ed Warner and Ray Buchanan - approved

B. Approval of Minutes – Motion and second by Dennis Ross and Ed Warner – approved

2. Introductions – Completed

3. Public Comment(s) - *Highlights*

- Jim Lawton, 52 Oyster Street. The community is looking forward to the beginning of the study. Requesting the adoption of best practices as it relates to pervious paving materials on sidewalks, bike paths and parking areas on, near or upstream of crucial waterways such as the May River. Requested that the Board make his position known to BC Engineering Department and members of council on this topic. Mr. Lawton made a plea to the Board to recognize the crucial value of the May River Watershed at 34 Ulmer Road, Bluffton. This non-tidal wetland is essential to SWUB mission.

He feels this property is at a heightened risk for development as a special use permit was presented to Zoning Board of Appeals in January for a 38-unit development. He asked that the land be placed in a conservation easement via Beaufort County Green Space Fund.

- Laura Wilson, Alljoy Community. Stated she was happy to get a call last summer with news that the County Administrator was in support of pervious surfaces being used for Alljoy but is concerned with the continual push for use of concrete. She questions this push when Beaufort County, Bluffton and SCDOT all promote pervious surfaces; has sent the Board pictures of pervious surfaces in and around Bluffton and a display of information on pervious surfaces used at Petco in Bluffton, and other pervious surfaces in the County. Residents are concerned as concrete would worsen stormwater draining and flooding issues. Piping under concrete paths will catch and dump unfiltered stormwater and pollutants directly in the May River. She is asking the Board to advise and recommend the Engineering Department to utilize a natural pervious surface for Alloy's proposed sidewalk. The best scenario would be to widen the road and construct in walking bike lane so polluted stormwater can naturally filter. Ms. Wilson expressed gratitude to the board and the chairman for caring and asked to consider the community when it comes to promoting to the engineering department pervious surfaces.
- Collins Doughtie, 55 B Oyster Street, Alljoy area. Pervious vs. impervious is one of his concerns. He lives on the edge where they have had issues, but the ditches are horrible; concerned about all the chemicals going into the May River; requests for clearing ditches have yielded a truck coming out and clearing small sections and then they are done. The community cares about their quality of life and keeping it up. It is past time to get things resolved. Stated he didn't know whose responsibility it is to get bamboo and other items out of drainage ditch, but it is impeding the flow out of drainage ditches.
- Sam Conner, 70 Calhoun Plantation Road. Providing public comments on Old Business of Calhoun Plantation Appeal; requests to speak to the board on the importance of acting on this appeal. At the last meeting Dylan Kidd insisted the Board cannot act on the appeal while a Zoning Board appeal is in Circuit Court because it would create concurrent proceedings – Mr. Conner's position is that is not the case. They appealed to the stormwater permit to the zoning board but only because staff told them that is what they had to do; the stormwater permit findings of fact were confined to community development code requirements for single family homes and not about stormwater ordinance requirements for other uses on site. An appeal was made to this Board because of the Zoning Board limited decision to the community development code; the stormwater permit issued says the project complies with stormwater design manual. Mr. Conner feels the Zoning Board decision is being used as an excuse keeping the stormwater board from deciding the appeal issues ignored by the Zoning Board. Mr. Conner stated he was not appealing the ruling of the Zoning Board to SWUB; the Zoning Board has jurisdiction over community development code and made their ruling based on that code; he contends the SWUB has jurisdiction over the stormwater ordinance and the appeal should be solely based on that code; he stated that they have a right to appeal the stormwater permit to a board with powers and duties over the stormwater ordinance and design manual administration that would issue a decision and findings of fact based on the code requirements relevant to the permit issues. Mr. Conner stated there was no overlap, the two cases were separate. He stated that the Developer has submitted a plan to the Zoning Department for review that still has the same water quality, illicit discharge and stormwater management issues the original plan had. He also stated that through FOIA he has received the coastal zone consistency review comments requiring 1.5 inches of impervious, 1.5 inches of runoff over impervious surface be controlled because this is within 1,000 feet of shellfish beds and the new plan did not comply with that requirement. He asked the Board to act so his family can move forward to resolution. He stated this is not a proposed project that could cause pollution but an approved project that will discharge polluted wastewater and runoff into the Colleton River.

4. Reports:

- Monitoring Update – Dr. Ty Pettay. The main topics to update the board on are as follows: USCB has started a collaboration with Port Royal Sound Foundation to do citizen's water quality monitoring which officially kicked off this month. Port Royal Sound manages all volunteers for this project and suggested that anyone interested needs to contact them. The lab has just gone through a DES audit and are awaiting their results in a few weeks; Bluffton has increased their weekly monitoring to try to determine pollutants and suspended solids in watershed (5 dry and 5 wet samplings).
- Ellen Comeau – Clemson Extension; completed annual report for State permitting; they have had over 2.5 million impacts in terms of education and well over 5,000 involvement impacts for getting people outside and into the watersheds. Each year this entity heads up the Lowcountry Stormwater Partners Consortium to pool data together to bring out this report; rack cards are available later if anyone wants printed information or you can see information on Facebook page at this time. Earth Month is gearing up and the Extension has participated in the Native Plant Sale for Sustainability workshop; they have also had the Soft-Shell Crab Fest, May River Cleanup, Parris Island Earth Day, Beaufort County's Earth Day Celebration and rain garden workshop. On April 22 there will be a webinar for protecting tidal creeks with vegetated buffers.
- Paula Brown, Liaison Report – Introduced herself to the Board. Stated she is looking forward to working with this Board. Stated, she is the co-liaison to this board along with Tom Reitz who was unavailable to be at this meeting today.

Stormwater Utility Report

- Stormwater Utility Fee restructuring is going on at this time; Woolpert is almost finished with the process and will provide options soon. At that time, we will meet with SWIC members to discuss what their stakeholder wishes are from the restructure. The goal of this restructure is to have an accurate way of calculating SW fees, the intent is not to raise fees but to comprehensively calculate what their fee should be. Accuracy and efficiency is the goal of the restructure.
- Memos have been held up this year because we discovered our CWI rates did not decrease in the way they were supposed to; it had been determined that the municipalities were not equating to their level of service, and suggested dropping CWI fees for five years to better balance the issue; since these rates did not drop at tax run, municipalities were charged the same as they were last year. The goal is to meet with each municipality individually to make sure we understand what their projects and priorities are. Bluffton has just had a comprehensive drainage study performed so that they have a list of assets that they would like to improve. We can help them with that project.
- The SOLOCO design manual Bluffton has created is out for public and engineer comment and they have already made a round of edits. The goal is to have a third party look over the manual and not only fix the draft edit but make sure all other formatting is correct and that it reads cohesively. Once corrected we will present that draft to Board for recommendation to be presented to Council. Mr. Feinberg asked if this manual was for Bluffton only or were other Municipalities involved as well; Ms. Brewer explained that we are actively trying to revive conversations with all the original stakeholders to have them all involved; it was originally intended to be a regional design manual. It would be beneficial if all stakeholders would officially adopt the manual and would like to have their involvement in the editing process. Mr. Feinberg asked if this was just for Beaufort County alone; Ms. Brewer stated that this initiative included Jasper County as well. Ms. Brewer stated that Jasper County had just been awarded a large grant to start a Stormwater Master Plan and that Beaufort County was going to help them as well and get their input on the SOLOCO manual for edits.

Project Report:

- Alljoy – Drainage study has been approved at PFC on March 17, 2025, and has gone to Council where it was approved on the consent agenda. The draft contract has been sent for approval and comment; once this is returned, we will officially award contract to

Seeman Whiteside. A resident has also requested to see the extent of the study and as soon as it is in the department's possession it will be passed along. The goal is at the end of the drainage study to have a menu of solutions from the consultant and will present these at a community meeting.

- Bay Pines - Work at Bay Pines has started with the clearing of the maintenance shelf which is about 1/3 completed. JH Heirs is the contractor for this project. Woolpert is working on a more comprehensive drainage analysis. Preliminary solutions have been received, and they were not what was found initially to be the problem for Bay Pines. There are two pipes crossing under the road that need upsizing. They go into the ditch in the back area that the models show will take care of most of the inundations in the area.
- Rivers End – It has been decided to completely take out the lower system. The condition is very poor and putting bioswales on top of pipe in poor condition would be contraindicated. These initiatives should take care of the sinkhole and collapsing driveway problem. It is going to be a very esthetic project that the citizens should be very happy with. It will also improve water quality on a TMDL, which works with our TMDL Implementation Program.
- Tuxedo Park – Slated to begin this Spring. The contractor on this project is completing another project before it starts and we look to start within one or two months. This is the pond dredge project.
- Hickory Hill has started. The surveys are completed, and work is underway.
- Okatie River Park Project – Survey data is needed to continue the design to have accurate elevations and invert levels for the headwall and associated pipes; data has not been located and is questionable if it can be found. To not hold up the project any longer, a surveyor has been released to get the shots they need to continue with that design.
- Jared Fralix provided an idea about a possible mitigation fund with the stormwater utility to buy out nuisance flooding property and turn them into BMPs. There are several different neighborhoods that may benefit from this program. The Board has been asked to consider this option and make sure that this is something we can do inside the Fund. The board's input is very much appreciated on this topic.
- Arthur Horn – With the Federal Climate it has been determined that we may not be getting this grant. In the interim, backyards are flooding out and citizen complaints are being received in the area as it is supposed to be a functioning stormwater control structure. The primary goal is to restore positive drainage. The issue is that the water is not making it to the outfall. The project will be completed in two phases. The maintenance phase will be completed by grubbing out what needs to be cleared to promote positive drainage. At that point we will have a more formal design drawn up for construction stamped plans to institute the rest of the project, which should hopefully have a boardwalk through the project. The purpose of this project is to implement water quality features that will enhance water quality. Mr. Feinberg asked what the original grant was supposed to be for and if this is going to be absorbed in the 2026 budget. Ms. Brewer stated that the grant was \$2.2 million for the entire project. We will be doing some maintenance in-house and contracting out some maintenance, which will be very minor. There is money in the budget for phase two, but it will be discussed with the board at the time of implementation.
- Mr. Ross had a question about Shell Point – What has been done to update residents in Shell Point? Ms. Brewer stated that Staff does have plans to hold a community meeting once the direction has been determined on that project which should be very soon. We appreciate the residents' patience, but we want to make sure we have an update before we call a meeting.

Professional Contracts:

- Woolpert is currently our only on-call firm for any stormwater services, and their contract expires in October. We endeavor to have three (3) firms on call for A&E services, specifically for stormwater.

Staff Update

- Public Works is in the process of hiring a Project Manager for Stormwater. This person will focus exclusively on these in-house projects determined from drainage studies. The main duty of this person will be to determine if designs are being properly implemented which is a large component of a functioning system. Interviews are being conducted, and we hopefully will have someone onboarded in the next 2 – 3 months.

5. Unfinished Business

Mr. Feinberg thanked his fellow Board members for electing him to be the Chair for another year on behalf of himself and Patrick Mitchell, CO-Chair.

Other unfinished business was Plantation Road parcel. It has been brought to our attention that it will be necessary for the Board to come up with a recommendation on the appeal. We have been instructed that a meeting will be held by Executive Committee and will be done via Teams meeting where everyone will discuss and prepare a formal written opinion and will be presented if the Court asks for it. He has asked if he is incorrect that Mr. Kidd should speak on the matter.

Dylan Kidd responded to a few points made by Mr. Feinberg as well as comments made in Public Comments by Mr. Conner. Mr. Kidd stated that he believes that this is a concurrent proceedings issue and presents a problem; that we don't want to be issuing a ruling on something that the Circuit Court is currently entertaining. He stated it would be appropriate to formulate an opinion, a written recommendation, within fifteen (15) days. It is to be at the Board's discretion whether they wish to release that or to wait upon any Circuit Court determination. It is entirely possible that the Board could choose to release that recommendation, however there are a couple of things that need mentioning. First, Mr. Kidd doesn't agree at all that the concurrent proceedings issue has been set aside because of the grounds of the ZBOA ruling. The idea that one can raise arguments and appeal some of them to the Circuit Court and some of them to another county Board is not how issue preclusion works in the law. Mr. Kidd stated the Board was without standing and the Board is without jurisdiction to hear this appeal mainly because they appealed a determination of the ZBOA to the SWU Board and that it is written in the appellate and the appellate materials that were submitted by the Conners. They wrote that they were appealing to the determination of the ZBOA. There is no provision in the Stormwater Code or anywhere else within the County Ordinances that permits or contemplates that type of appeal. He also stated that there is nothing within the Stormwater Ordinance that permits this board to hear appeals from the issuance of an individual landowner's stormwater permit. They are arguing about a change in the scheme of the Ordinance and to the extent that they wish to argue about that. He believes the County Staff would be happy to have them come in and present that to the County Council if that's a change they want to make. They are arguing for a review procedure that currently does not exist. They would have to have appealed it from the time of the issuance or the determination of stormwater that the project met the applicable guidelines within thirty (30) days. They did not do that. They would argue that they would not have received notice that it had happened and that is the point. The stormwater ordinance does not contemplate the ability for one to receive notice of the issues of one's neighbor's stormwater permit and be able to appeal that to a Board to contest it. This is a utility board to the extent that if the County would make that change County Council would need to make a policy change. Mr. Feinberg stated that we are not looking to change what our charter is. Mr. Feinberg is of the opinion that the Board could render an opinion on whether the approval of this parcel meets our best management practices for Stormwater. Mr. Feinberg stated that if he is correct, it would be appropriate for the board to meet and make a decision that would be sealed. Mr. Kidd stated he would not advise the board that it must be sealed. Mr. Kidd stated that it is within the Boards discretion to the extent you would issue a recommendation that would impede the decision-making process of the Circuit Court. Mr. Kidd stated he didn't believe the Board is required to keep that decision sealed until whatever happens at Circuit Court. Mr. Feinberg asked Mr. Kidd to go back to his office and get some definitive guidance as this needs to be handled within fifteen (15) days. Mr. Ross asked if they have an Executive Session, would Counsel be available for questions. Mr. Kidd explained that to have an Executive Session a published agenda would have to be published and a quorum

would have to be achieved. Findings would have to be presented that arose out of the Executive Session. We would have to follow all the regular parliamentary procedures that are done for county council meetings in terms of the Executive Session. Mr. Feinberg asked if this is mandatory that the Board do this. Mr. Kidd stated he didn't believe it was mandatory to have an executive session to make the decision. The quorum rules do apply so if a quorum of the board is achieved the rule will apply. Mr. Ross stated that this is just an advisement from the County Attorney's office that we should do this and be held in abeyance until it's needed. Mr. Kidd stated that he is not making that recommendation. He stated he believes that it is within the Board's discretion as to how you want to handle the matter. He stated that it is required but is totally in the Board's discretion. Mr. Feinberg reiterated, the Board would like some definitive legal guidance before the Board goes further. Mr. Kidd stated he would get the parameters for the Board.

- 6. New Business** – Marc Feinberg would like to go on record regarding Ex-Officio members. It is imperative that we speak to their management about their activity and cooperation/involvement in our SWUB proceedings; it has been pointed out that the Municipalities have had stormwater issues over a period of years that we were totally unaware of and we want to make sure that their management understands that this is the forum for them to bring to us issues they may be more complex than they can handle themselves – this is where they ask for assistance and without knowing about those areas there is little we can do. Mr. Feinberg implores the Board to reach out to mayors and administrators to get involved. Mr. Warner would like the Board to have a letter drafted and signed by all the Board members asking for the Municipalities to show more interest and participation in the SWU Board. Mr. Feinberg stated he would draft the letter for the Board to sign.

Mr. Feinberg stated that we are utilizing the public library which has very little parking lots available. He made a motion to have all further meetings at the PW Conference Room at Shanklin Road until the Chambers is renovated. Mr. Ross seconded the motion. Mr. Ross asked if all the other venues have been explored for larger areas to meet. Mr. Feinberg stated he would ask Sally to reach out to other venues as well. Other venues were discussed and Mr. Feinberg stated that we have time to find a new venue. Mr. Warner asked if some of the meetings could be moved to the Bluffton/Hilton Head area. Taylor Brewer reminded them that the December meeting was being planned for Bluffton Library.

Mr. Ross asked if Engineering would be available to answer questions regarding pervious v. impervious materials being used. Mr. Feinberg asked Mr. Harriot about the permitting from our department on this DOT project through County for Alljoy. Mr. Harriot explained that this question lies with Engineering and ultimately with Jared Fralix. Mr. Feinberg stated that we understand that this is a State and not county project, and he will reach out to Mr. Fralix. It would be good for the Board to come to an agreement and see how it dovetails in the SOLOCO manual as it pertains to using non-pervious materials as often as possible. Mr. Harriot stated that SCDOT does not have to follow the SOLOCO manual. Mr. Ross stated that what works in one part of the state does not work in another. Mr. Harriot stated that this question is above our department and that the question would need to go to Mr. Fralix and possibly above that. Mr. Feinberg would like to have a meeting to convene with Engineering and SCDOT to determine what can be used.

7. Public Comment:

Mr. Barry Conner stated he would like to respond to Mr. Kidd's remarks. The jurisdiction of this appeal is the Board's responsibility if you look at the guidelines. The reason the family went to ZBOA was for zoning issues and they ended up coming to SWUB with the appeal because the zoning department is not supposed to issue stormwater permits. It is not in their wheelhouse to review stormwater permits. Application was made here and as far as the deadline supposedly missed, the timing was such that the deadline was to come to SWUB within the timeframe after the ZBOA issued their formal opinion. As far as standing for the Conner family, they have standing. This property literally drains onto his property. He shares a tidal ditch with the property in question. According to SWUB guidelines any citizen would have standing if they find something as egregious as this mistake that was made by the zoning department and ultimately the County. It was mentioned that you need to decide whether the guidelines were met for this project and discuss it. They were not. Thee local guidelines were grossly ignored. Mr. Conner stated he was formerly a County

Council representative for Bluffton, and it used Executive Sessions. The deliberation on a project permit that was potentially issued in error is not an Executive Session item. This is not to create a dual track issue. From day one this abuse has been SWUB responsibility to look at and make a decision about.

Ms. Laura Wilson spoke about the sidewalk and the concrete with the SCDOT. She stated she had reached out to the Secretary of the Department of Transportation; they stated Beaufort County could put in the sidewalk, they will give the contract back, but the County doesn't want to maintain it. In addition to the materials used, it is the piping underneath that is at issue. She stated she has the plans available and will be happy to leave with the Board for review as well as forward emails from SCDOT to the Chairman. There is an issue of having a polluted river that they are trying to keep clean. She commended the Board with all the items that have been completed by the department.

- 8. Adjournment:** Next meeting will be held on June 18 with location to be determined. Meeting Adjourned at 3:14 PM.