



Bassett Creek Water Management Commission

A g e n d a

**Thursday, August 15, 2002
12:00 Noon**

**Golden Valley City Hall
7800 Golden Valley Road**

Call to Order

Public Hearing on Proposed 2003 Budget

Presentation of July Minutes

Presentation of Financial Statements

Presentation of Invoices for Payment Approval

Communications

Chairman

- **Citizen Input on Non-Agenda Items**

Counsel

Corps of Engineers

Commissioners

Engineer

New Business

- **5130 Minnaqua Drive: Golden Valley**

Old Business

- **2003 Budget**
- **Second Generation Plan Update**
 - **Capital Improvements Program comments**
 - **Advisory Groups Recommendations table comments**

September Meeting

- **Legal and Engineering Proposals Review and Recommendations**

Adjournment

Bassett Creek Water Management Commission

Minutes of the Meeting of July 18, 2002

Call to Order

The Bassett Creek Water Management Commission was called to order at 12:10 p.m., Thursday, July 18, 2002, at the City of Golden Valley City Hall by Chairman O'Toole.

Roll Call

<i>Crystal</i>	Commissioner Tom Mathisen, Vice Chairman	<i>Counsel:</i> Charlie LeFevere
<i>Golden Valley</i>	Commissioner David Hanson, Treasurer	<i>Engineer:</i> Len Kremer
<i>Medicine Lake</i>	Commissioner John O'Toole, Chairman	<i>Recorder:</i> Pat Schutrop
<i>Minneapolis</i>	Alternate Commissioner Ed McRoberts	
<i>Minnetonka</i>	Commissioner Bill Yaeger, Secretary	
<i>New Hope</i>	Commissioner Vincent Vander Top	
<i>Plymouth</i>	Commissioner Elizabeth Thornton	
<i>Robbinsdale</i>	Commissioner Karla Peterson	
<i>St. Louis Park</i>	Commissioner Paul (PJ) Andersen	

Also present:

- Mayor Joy Tierney, City of Plymouth
- Mayor Linda Loomis, City of Golden Valley
- Blair Tremere, City Council Member, City of Golden Valley
- Mary Gwin-Lenth, Alternate Commissioner, City of New Hope
- Karla Anderson, Alternate Commissioner, City of Plymouth
- Ron Quanbeck, BCWMC Technical Advisory Committee, City of Plymouth
- Lee Gustafson, Chair, BCWMC Steering Committee, City of Minnetonka
- Guy Johnson, BCWMC Technical Advisory Committee, City of New Hope
- Carlton Moore, BCWMC Technical Advisory Committee, St. Louis Park
- Jeannine Clancy, BCWMC Technical Advisory Committee, City of Golden Valley
- Dave Stack, Friends of Bassett Creek
- Paul Chellsen, City of Minneapolis
- Terrie Christian, Association of Medicine Lake Area Citizens

Approval and/or Correction of Minutes

The minutes of the June 20, 2002 meeting were presented. Mr. Vander Top moved and Mr. Andersen seconded approval of the minutes. Carried unanimously.

Financial Statements

Mr. Hanson presented the Treasurers Report as of July 18, 2002. The current balances are as follows:

Checking Account Balance	\$48,509.85
Investment Account Commercial Paper (due 7/18/02)	199,739.44
TOTAL GENERAL FUND BALANCE	\$248,249.29

Construction Account Balance	\$40,916.96
Commercial Paper (due 7/29/02)	400,343.08
Commercial Paper (due 8/13/02)	199,441.67
Commercial Paper (due 8/15/02)	1,059,867.19
TOTAL CONSTRUCTION ACCOUNT BALANCE	\$1,700,568.90

The Treasurers report was accepted as presented and ordered to be filed subject to audit.

The following order of business was taken out of sequence in order to honor the visitors attending today's meeting and to allow them ample time to address their concerns about the BCWMC proposed 2003 budget.

Old Business

1. **2003 Budget – Member City Comments.** Plymouth Mayor, Joy Tierney, and Golden Valley Mayor, Linda Loomis, as well as city council members, technical advisory committee members, and interested citizens attended today's meeting to voice concerns about the Commission's proposed 2003 budget.

Mr. Hanson distributed copies of the proposed 2003 budget and a construction account table that gives a historical accounting of monies owed to the administrative account from the construction account as a result of the Flood Control Project. Mr. O'Toole compares the two accounts to checking (administrative) and savings (construction) accounts.

The construction account table describes how the fund accumulated during the Flood Control Project. The table also shows the assessments to the member cities and that the Commission has routinely budgeted more than assessed since 1978, borrowing from the administrative account to balance the budget against the construction account in order to complete the Flood Control Project.

There are two specific items in question that are proposed in the 2003 budget. The first item is the Public Communications amount of \$50,000 proposed to fund time for a person to coordinate the public relations campaign foreseen as a result of the Second Generation Plan. The second item is the proposed capital projects of \$175,000, specifically, the \$100,000 for water quality capital improvements (not earmarked for a specific project).

To reduce spending, the Commission elected to decrease the lake monitoring frequencies and to meet budget requirements, to gradually increase the assessments to the member cities. Special circumstances have occurred beyond the control of the Commission, such as the Second Generation Plan mandated by the state where the Commission is required to update its water management plan. Now, looking to the future, the flood control structures are getting of age where maintenance will be necessary and erosion and sediment repairs need to be made to some areas along Bassett Creek. A capital budget was therefore proposed (\$175,000). Of that amount, \$100,000 is viewed as "seed" money to be used in developing the capital improvement plan and evaluating and planning for those capital improvements proposed in the Second Generation draft Capital Improvements Program (CIP).

Mr. Mathisen added that the budget is debated yearly and scrutinized as to what is necessary to include in the budget. The budget committees always came back to the decision that it would spend down the surplus in an effort to cover costs instead of imposing higher assessments on the cities.

Because water quality is a state priority and state mandate, Mayor Tierney asked how much the Commission was looking to the legislature for contributions. Mr. O'Toole said the Commission recently applied to the LCMR for grants for Wirth and Medicine lakes. Plymouth city council member, Ginny

Black, attended in support of the Medicine Lake proposal. The legislators on the LCMR communicated that there are less fortunate areas in the state and that the Commission would have to raise funds from other sources.

Mr. Mathisen said that when water management organizations based on Joint Powers Agreements were formed, it was determined at that time that WMOs would be responsible to raise their own funds. If a watershed district or some other form of watershed-governing body replaced the Commission, the member cities' active involvement in the management of the Bassett Creek watershed would likely diminish. Mr. Mathisen said the city of Crystal wants to continue the watershed management organization model so that the city can continue to be involved. There is a movement among legislators to eliminate joint powers water management organizations because some view these organizations as not doing enough projects when in reality, joint powers WMOs are managing water quality, maintaining erosion control, reviewing development plans, etc.

Mr. LeFevere described the framework of the Commission. Technically, watershed districts and Joint Powers organizations are both WMOs. The Metropolitan Surface Water Management Act says that all territory in the seven-county metropolitan area has to be covered by a watershed management organization. A watershed management organization can take two forms –a watershed district or a Joint Powers Agreement watershed management organization (JPA WMO).

The legal differences between JPA WMO and a watershed district is in terms of local control. A watershed district board is county-appointed with limited involvement by the cities. A JPA WMO board is cities-appointed and the cities are involved in the organization through a Joint Power Agreement between the member cities.

Currently, the Commission is dealing with two issues at the same time that may have confused the cities. Under the Metropolitan Surface Watershed Management Act, all WMOs have responsibilities that include planning (e.g., adopt comprehensive surface water management plans). In 1984, the Board of Water and Soil Resources changed their regulations so that the required plans now include components that address water quality issues and those plans are called Second Generation Plans. BWSR established a schedule for these plans to be complete. Part of this surface water management plan is the capital improvements plan. The two concurrent events involved with the Commission at this time are the proposed 2003 budget and the Second Generation Plan's draft capital improvements program. The joint powers agreement requires the Commission to annually determine the next year's budget, certify that budget to the cities, and allow the cities time to object to the budget. If approved, those expenses are required to be paid to the Commission by the cities for the administrative fund (based on a 50% net tax capacity and 50% surface or land area within the watershed). At the same time, the Second Generation planning process has gotten to the point of developing the draft CIP for distribution to the member cities for discussion purposes.

The general fund is levied and collected on a different formula than the capital project costs. The general fund can be used for planning purposes, routine maintenance and repair, but not for capital projects. Capital projects are reviewed on a project-by-project basis. The Commission prepares a feasibility report, designates the project to the city that will be doing the project, and the Commission determines how costs will be allocated. The city(ies) is given at least 90 days to determine how the funds will be raised (e.g., 429 procedures, etc.). The Commission cannot direct a city to advertise for bids until all the cities have reported back or the 90 days has lapsed. All contributing cities must then make payment directly to the city or the Commission.

One of the abilities that watershed districts have is that they can require a levy of taxes by the county on a watershed-wide basis to pay for water quality improvement projects. Both the Minnesota statutes and the JPA allow for this type of WMO to levy taxes and the JPA contemplates one way of funding

projects is through levying taxes. The legislature has unsuccessfully tried to pass a law that would allow JPA WMOs to levy taxes.

According to the JPA, the Commission can allocate charges to the cities for capital projects by: (1) negotiate between benefiting parties, (2) follow the 50/50 formula used to develop the general administrative fund, or (3) modify the 50/50 formula by a two-thirds vote by the Commission, if the Commission determines that the benefit of the project is disproportionately in favor of one municipality. If one or more cities disagree with the cost allocation formula, the JPA gives them the ability to appeal through an arbitration process.

Mr. LeFevere pointed out that the \$175,000 for the 2003 capital budget contains \$25,000 for long-term maintenance and \$50,000 for erosion/sediment, which are both general fund expenses. The \$100,000 shown for water quality capital improvements is appropriate to collect only if it is money that will be used for planning, feasibility reports, public communications related to a project, and not for actual construction costs

Because of how the JPA is written, the capital improvement projects will not come through the general fund. Projects may be shown on a Capital Improvements Program with dollar amounts assigned to them; however, the projects will be reviewed on a project-by-project basis with funding allocated according to the JPA process.

Mr. Vander Top said he was of the understanding the money for the CIP would come through the general assessment with the percentage portion coming from the benefited cities. With the above clarification, instead of the annual assessment approach, the dollar amount for projects would be set after the due process.

Mr. Vander Top then wondered in view of this clarification, if the current budget is acceptable? Mr. LeFevere suggested the Commission revisit the \$100,000 amount proposed in the budget for water quality capital improvements and determine its use and if the proposed amount is appropriate.

Representatives from the member cities' engineering staff have been in attendance at the various planning meetings throughout the Second Generation planning process allowing more avenues for communication. This draft CIP was first sent to the member cities for review and opportunity to comment. The draft CIP continues to be viewed as a "work-in-progress" document.

Mr. Blair Tremere, Golden Valley city council member, said that it is not the intent of the City of Golden Valley to second-guess the actions of the Commission, and affirms that it agrees with the fact that the Commission was formed for the public good as the better alternative to a watershed district. However, one thing that has occurred that still needs to be taken into account by the nine member cities is the Commission preceded the Metropolitan Land Planning Act and under that act, all member cities have been subject to requirements and mandates for planning as well. Some of which overlaps what the Commission does, including mandates for water quality. Mr. Tremere expressed concern about the costs associated with those mandates. One of the specific concerns the cities need to consider is the open-endedness of the draft CIP. Mr. Tremere is concerned that once the Commission agrees on a CIP, the cities are obligated to pay the associated costs because of the Joint Powers Agreement. Mr. Tremere suggested that the member cities evaluate the Commission and the Joint Powers Agreement philosophically, policy-wise as opposed to politically, and ask if it holds the same value today as it did when it was originally organized.

Ms. Clancy then asked for clarification concerning the CIP and costs listed and if approved as proposed, the cities would simply be paying someone else. Mr. LeFevere said yes, it would be an operating assumption that a host city would have a benefit of about 20%, some cases more and some less. By and large the numbers would be the same, just paid out possibly in a different manner.

Mr. Andersen verified that commissioners could look at the CIP in the Second Generation Plan to determine where funds are going to be used in the future to help outline for their city councils to review projects slated for that year. Mr. LeFevere added that the priorities in the CIP can change, and that the CIP will be reviewed annually when the yearly budget is determined.

Mayor Tierney expressed concern about Plymouth's large contribution proposed and the need to coordinate efforts with the cities. Plymouth has instituted a surface water management fund that is earmarked for surface water management projects, but it is not accumulating at the rate that Plymouth's contribution is expected to meet the Commission's projected CIP. Mayor Tierney encouraged the Commission to look at Plymouth's surface water management plan and dovetail with that plan to delete redundancy. Plymouth already distributes a monthly newsletter that includes a spreadsheet on water quality and they would not be in favor of contributing to the communications line item in the Commission's budget. In particular, Mayor Tierney suggests looking at cutting costs where there is redundancy and suggests using the cities' communications people to get the word out on the Commission's activities. Plymouth is hesitant to implement some of the capital projects (i.e., alum treatment). Parkers Lake is improving in water quality and the city would like it to not be included on the CIP.

Plymouth has a stormwater levy fee that amounts to \$3.50/household. Mayor Loomis added that Golden Valley also has a calculated storm utility fee and, based on the Commission's assessments and the CIP, Golden Valley would need to increase that fee 57% in order to meet the Commission's need.

Mr. Mathisen added that these are good comments and the Commission continues to wrestle with what is in the best public interest and to do the projects that are important.

Mr. Gustafson stressed the Second Generation planning process began more than two years ago and that public participation was a big part of the process. When the process began, three advisory groups were formed – Citizens, Policy, and Technical. Before moving ahead with further development of the plan, the Commission made a conscious effort to develop the draft CIP piece of the plan to present for preliminary review by the cities for their reaction. The Steering Committee met last week and purposely put off responding to member cities that submitted comments until all cities had opportunity to comment. Meetings are still necessary to see where the CIP will end up. For example, Parkers Lake is one project that can be removed from the CIP and put off as a project to continue to follow its improvement. The Steering Committee will be looking at some of the improvements that need more study and evaluation and put off some improvements until results are gained. Mr. Gustafson emphasized the fact that the Commission is listening to all the comments made and a revised draft CIP will be developed that will probably look entirely different than the current draft CIP.

Mayor Tierney asked if re-examining the CIP plan would affect the budget? Mr. LeFevere said decisions made concerning the CIP will not have an impact on the budget because they are a separate process, unless the Commission looks at the \$100,000 currently in the 2003 budget for water quality capital improvements and decides that is too much for the administrative part of the 2003 administrative planning and feasibility associated with capital projects.

Mr. Vander Top asked if it would be beneficial to see how many items are funded through the member cities' CIP. Mr. O'Toole said that the Commission's engineer will meet with the member cities' staff to fine tune the coordination of capital projects for redundancy with local CIPs.

Mr. David Stack, a former member of the Citizens Advisory Group, asked if the projects listed on the draft CIP would be voted separately. Mr. LeFevere said that public hearings will be held for all the capital projects and it is possible that a number of projects will be heard during one public hearing.

Ms. Terrie Christian, AMLAC, commented on feelings expressed at AMLAC meetings concerning the draft CIP and the Medicine Lake plan in place by the city of Plymouth. Ms. Christian said it appears that the citizen involvement process was not as successful in the Commission's planning process in comparison to the process Plymouth conducted when developing the Medicine Lake CIP. AMLAC felt the Commission did not consider the city of Plymouth's Medicine Lake plan prior to developing the draft CIP because the Commission's draft CIP included items that Plymouth did not include in its plan. Mr. Gustafson added that the 30-year CIP was based on studies the Commission did on all the water bodies within the watershed. The Commission thought it best to put all the recommended improvements in the draft CIP knowing there would be extensive discussion and local CIPs would be discussed at that time. Adjustments were made in the CIP to recognize the efforts of the city of Plymouth relating to Medicine Lake.

In an effort to accommodate the member cities' budget schedules, Mr. O'Toole recommended that a public hearing be held at the Commission's regular August meeting to consider amendments to the Commission's proposed 2003 budget. Objections will continue to be received until the end of July.

In summary, the Commission will:

- Reconsider the proposed 2003 budget at the August meeting through a Public Hearing.
- The Commission engineer will meet with the individual member cities and discuss the various city plans in comparison with the draft CIP.
- The Commission will work with the member cities as the process moves ahead.

Mr. Tremere suggested that the Commission consider an informal discussion to evaluate the structure of the Commission in general to educate new council members.

2. Second Generation Plan Update. No additional comments were made.

Presentation of Invoices to be Paid

The following invoices was presented for approval:

1. An invoice was received from Barr Engineering Company for professional services during the period of June 1, 2002 through July 5, 2002, in the amount of \$33,587.51

Mr. Hanson moved and Mr. Mathisen seconded approval for payment of claims as set forth on the invoice. Upon call of the roll, the vote was unanimously carried.

2. An invoice was received from the League Minnesota Cities Insurance Trust for insurance coverage through June 27, 2003, in the amount of \$3,843.

Mr. Hanson moved and Mr. Vander Top seconded approval for payment of claims as set forth on the invoice. Upon call of the roll, the vote was unanimously carried.

Communications

Chairman:

No communications.

Citizen Input on Non-Agenda Items:

1. David Stack, Friends of Bassett Creek, distributed a copy of an article called “Watered Down” that was published in the *City Pages* May 22, 2002 issue.

Counsel:

No communications.

Corps of Engineers:

1. In a recent discussion with the Corps of Engineers, Mr. Kremer was told that a check would be issued in the amount of \$133,285 to the city of Minneapolis. Minneapolis will then refund that amount to the Commission. A separate check for \$11,265 will come from the city.

Commissioners:

1. Karla Anderson reported that she participated with a group of citizens in a clean-up day of Medicine Lake. Ms. Anderson said the group gathered boatloads of debris removed from the lake.

Engineer:

No communications.

New Business

1. **Wirth Lake Bike Trail: Golden Valley/Minneapolis.** This project is for reconstruction of 3.7 miles of an existing trail through Wirth Park, located in the cities of Golden Valley and Minneapolis, between Interstate 394 and Lowry Avenue. The new trail will generally be reconstructed along the alignment and to the grades of the existing trail. Grading will occur on approximately 8.7 acres. Approximately 850 feet of the trail, in the vicinity of the Theodore Wirth Parkway crossing of Bassett Creek, is located in the floodplain. The Commission’s management envelope in this area is 825 feet MSL. The project will result in the placement of 40 cubic yards of fill in the floodplain and the creation of 55 cubic yards of compensating storage volume.

Mr. McRoberts moved and Ms. Thornton seconded a motion to approve the project. Carried unanimously.

August Meeting

1. Mr. O’Toole presented the following agenda items for the Commission’s August meeting:
 - Conduct a Public Hearing to consider amendments to the proposed 2003 Budget
 - Subcommittees will conduct reviews of legal and engineering proposals to present recommendations at the September meeting
 - Second Generation Plan CIP comments

Adjournment

It was moved by Mr. Vander Top and seconded by Mr. Andersen that the meeting adjourn. Chairman O’Toole adjourned the meeting at 2:00 p.m.

John O'Toole, Chairman

Pat Schutrop, Recorder

Bill Yaeger, Secretary

Date: _____

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