



## **Bassett Creek Water Management Commission**

# **A g e n d a**

## **NOTE CHANGE IN MEETING DATE**

**Tuesday, November 19, 2002  
12:00 Noon**

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

### **Call to Order**

### **Presentation of October 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**

- **Stone Creek Village Apartments: Plymouth**
- **Plymouth Creek Professional Building and Future Development: Plymouth**

### **Old Business**

- **Feasibility Report – Floodproofing Homes in Golden Valley**
- **Second Generation Plan Update**  
*⚡⚡* **Capital Improvements Program**

### **December Meeting**

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### **Adjournment**

# **Bassett Creek Water Management Commission**

## **Minutes of the Meeting of October 17, 2002**

### ***Call to Order***

The Bassett Creek Water Management Commission was called to order at 12:05 p.m., Thursday, October 17, 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>	Commissioner Michael Welch	
<i>Minnetonka</i>	Not represented, 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:** Ginny Black, City Council Member, City of Plymouth  
Mary Gwin-Lenth, Alternate Commissioner, City of New Hope  
Karla Anderson, Alternate Commissioner, City of Plymouth  
Jan LeSuer, Alternate Commissioner, City of Golden Valley  
Ron Quanbeck, BCWMC Technical Advisory Committee, City of Plymouth  
Lee Gustafson, Chair, BCWMC Steering Committee, City of Minnetonka  
Mike Rardin, Steering Committee, City of St. Louis Park  
Carlton Moore, BCWMC Technical Advisory Committee, St. Louis Park  
Jeannine Clancy, BCWMC Technical Advisory Committee, City of Golden Valley  
Jack Frost, Metropolitan Council  
Dave Stack, Friends of Bassett Creek  
Kelly MacIntyre, TAC, City of Minneapolis  
Terrie Christian, Association of Medicine Lake Area Citizens  
Nancy Azzam, Golden Valley League of Women Voters  
Alison Fong, TAC Alternate, City of Minneapolis  
Fred Moore, BCWMC Steering Committee

### ***Approval and/or Correction of Minutes***

The minutes of the August 15, 2002 meeting were presented. Ms. Thornton made one correction on page 5, under Commissioners' Communications, #1: Karla Peterson should read Karla Anderson. With the correction noted, Mr. Mathisen moved and Ms. Thornton seconded approval of the minutes. Carried unanimously.

### ***Financial Statements***

Mr. Hanson presented the Treasurers Report as of October 17, 2002. The current balances are as follows:

Checking Account Balance	172,241.00
Investment Account	0.00
<b>TOTAL GENERAL FUND BALANCE</b>	<b>\$172,241.00</b>

Construction Account Balance	841,008.58
Commercial Paper (due 3/03/03)	99,000.00
Commercial Paper (due 3/03/03)	99,000.00
Commercial Paper (due 3/04/03)	98,000.00
Commercial Paper (due 3/05/03)	99,000.00
Commercial Paper (due 3/11/03)	99,000.00
Commercial Paper (due 8/29/03)	97,991.18
Commercial Paper (due 8/29/03)	97,991.18
Commercial Paper (due 8/29/03)	97,991.18
Commercial Paper (due 8/29/03)	97,991.18
Commercial Paper (due 8/29/03)	97,991.18
<b>TOTAL CONSTRUCTION ACCOUNT BALANCE</b>	<b>1,824,964.48</b>

Mr. Hansen pointed out that the final closeout funds for the Flood Control Project have been deposited and invested in commercial papers. A cake was presented in celebration of the occasion.

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

### **Presentation of Invoices to be Paid**

The following invoice was presented for approval:

1. An invoice was received from Barr Engineering Company for professional services during the period of August 3, 2002 through October 4, 2002, in the amount of \$50,687.96.

Mr. Hanson moved and Mr. Andersen 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. Mr. David Stack announced that Bassett Creek was chosen one of ten examples in the metropolitan area that deserve restoration and preservation. The MnKnight Foundation is spear-heading the “Embrace Open Space” program.
2. Ms. Terrie Christian announced that the Hennepin Conservation District is in danger of being dismantled and a referendum will be included on the November ballot. Ms. Christian is requesting support by voting “no” to keep the HCD in operation.

*Counsel:*

No communications.

*Corps of Engineers:*

No communications.

*Commissioners:*

1. Ms. Thornton presented the “The Parkers Lake Connection” published by the city of Plymouth that communicates activities around the Parkers Lake watershed. This is an example of getting information out to the local community. Ms. Ginny Black, council member for the city of Plymouth, added that “The Connection” is a local award winner.
2. Mr. Welch emphasized earlier comments by Mr. Stack concerning the recognition of Bassett Creek by the Embrace Open Space program earlier in the meeting and encouraged the Commission to view the website: [EmbraceOpenSpace.org](http://EmbraceOpenSpace.org). The program identifies open spaces that need to be preserved in the metropolitan area. Mr. Welch added that it is an honor to be named and gives the watershed recognition of the kind of resource Bassett Creek is.

*Engineer:*

1. Mr. Kremer said the meeting packet includes several upcoming meeting notices for the Commission’s information.

## ***New Business***

1. Ms. Alison Fong, Environmental Management Department, City of Minneapolis, asked the Commission for a \$100 contribution to help defray reprinting costs of their lawn fertilizer brochure. The city of Minneapolis is experiencing budget cuts that would affect reprinting the brochure. The Minneapolis Park and Recreation Board is partnering with the Environmental Management Department and they are looking to the watershed districts and WMOs to also help with the costs.

Mr. Welch said this is an opportunity in line with the Commission’s communication and education goals to partner with local municipalities at a minimal cost. Ms. Terrie Christian suggested approaching local theaters that may be willing to offer free advertising. She said a local theater in Plymouth advertises an environmental message about phosphorus.

Mr. Welch moved and Mr. Hanson seconded the motion to contribute \$100 from the 2002 budget to the Minneapolis Environmental Services Department to help defray publishing costs for the lawn fertilizer brochure. Carried unanimously.

2. **1810 Major Drive: Golden Valley.** A request was received for review of a lakeshore erosion protection project in Golden Valley. The project is located at the referenced property at the northeast corner of Sweeney Lake. The management envelope is 831.5 feet MSL. The project includes placement of riprap and filter to protect the shoreline. Riprap will be installed along 125 feet of shoreline in accordance to DNR recommendations. Filter fabric will be placed beneath the riprap. Mr. Kremer recommends approval contingent on recommendations made in the memorandum to the Commission.

Mr. Hanson moved and Mr. Vander Top seconded the motion to approve the project contingent on the recommendations made in the engineer's memorandum to the Commission. Carried unanimously.

3. **Brookview Golf Course Modifications: Golden Valley.** The City of Golden Valley proposes to raise portions of the 14th fairway of Brookview Golf Course to prevent frequent damage caused by flooding. The Wisconsin Avenue control structure causes stormwater to be temporarily stored on the golf course and when downstream flows have receded, floodwater is released from Brookview. The length of inundation on the 14th fairway limits its use and causes excess damage. The city proposes to provide compensating storage elsewhere on the course. The amount proposed to be removed is 1,300 cubic yards of fill in order to raise the fairway to Elevation 884. The Commission's management envelope is 888.0 MSL. The city is proposing to excavate and remove the 1,300 cubic yards of material adjacent to a water body along the 14<sup>th</sup> fairway, increasing the size of that water body. The proposed golf course modification meets the Commission's water quality criteria and Mr. Kremer recommends approval.

Mr. Hanson moved and Mr. Mathisen seconded the motion to approve the project. Carried unanimously.

4. **Order a Feasibility Study and Set Public Hearing for Flood Proofing Homes.** The Steering Committee discussed setting a public hearing to address the city of Golden Valley's request for funds to begin flood proofing some of the homes that were originally proposed for flood proofing during the Flood Control Project. Not all of the homes were included in the original public hearing in May 1973. The Steering Committee therefore is recommending that a feasibility study be prepared and a public hearing be held. The flood proofing would be a capital improvement as part of the flood control efforts of the Commission. There are 12 homes proposed for flood proofing at this time. All of the properties have been previously evaluated making the work involved minimal in preparing the feasibility study. Ms. Jeannine Clancy, Director of Public Works for the city of Golden Valley, added that the city received a grant from the Department of Natural Resources to study these homes in the flood plain. The basic information prepared in 1973 by the Commission was updated after additional engineering review. The city will work with the Commission's engineer to consolidate the information to meet the requirements of a feasibility report to avoid duplication of effort. A public hearing notice needs to be published 45 days prior to the hearing.

Discussion followed. Mr. O'Toole asked if the timing is such that Golden Valley is ready to proceed with the flood proofing now. Ms. Clancy said that a work session is scheduled with their city council and that a public hearing held in January would allow them sufficient time to discuss the flood proofing issue with their city council.

The Commission discussed the flood-proofing project over the last year and recommended the Commission's funding portion to be 65%, not including engineering and design costs. Mr. Welch asked if the funds set aside for the proposed flood proofing would be used up at that rate. Mr. Kremer said the funds would be expended.

Originally, 22 homes were included in the Flood Control Project downstream of Highway 100. Some of the homeowners flood proofed their homes on their own, some no longer needed flood proofing because of additional storage provided upstream of Highway 100, and 11 remain to be flood proofed. One additional home is located downstream of the Golden Valley Golf Club not originally included in the Flood Control Project, but the Commission decided that homes below the 100-year flood level or on the Main Stem should be offered the same benefit.

In order to give cities and the Commission ample time to consider the public hearing, the Commission agreed that the Commission's January meeting would be the best time to conduct the hearing.

Mr. Stack asked if there would be equivalent restoration mitigation for the floodplain that will be removed as a result of the project. Mr. Kremer said mitigation would be done if necessary. There are two homes that flood proofed their own properties and compensated for lost storage with a dike. Mr. Stack also asked if there will be a cost for mitigation and where the mitigation will take place? Mr. Kremer said each home has a unique flood proofing technique and not all of them involve filling in of the floodplain. If mitigation is necessary, the property would be looked at first as a possible site. If that is not possible, mitigation will be looked at within the reach of the creek where the home is located.

Mr. Gustafson asked that the public hearing notice going to the member cities include where the funds for flood proofing of the homes was coming from and that the cities would not be assessed any additional costs.

Ms. Peterson moved and Mr. Vander Top seconded the motion to order a feasibility study of the proposed homes to be flood proofed and to set the public hearing for the Commission's January 16, 2003 meeting. Carried unanimously.

## **Old Business**

1. **Bassett Creek Improvements at Theodore Wirth Park.** Mr. Welch asked the Commission engineer to report back to the Commission about the status of the investigation of the area in Theodore Wirth Park where there is a widening of the channel and significant decrease of velocity in the stream and where a large deposit of sediment has occurred. Several citizens have inquired about this issue in the past. In discussions with Mr. Stack, Mr. Welch wanted to review and discuss the issue to see if it is something the Commission should be concerned about. Mr. Stack added that this was a wetland area and he would like to see the area restored to its natural state of a wetland. The question is should this be something the Commission is concerned about and should the large deposit of sediment be removed? Mr. Kremer said that ultimately, flooding would begin upstream into the park because of the capacity lost in the channel.

Removing the sediment deposit would be cost prohibitive (approximately \$500,000 to \$600,000). Because the Minneapolis Park Board has not shown a concern and because of the large cost associated with removing the sediment, the Commission engineer recommends the Commission watch the area and take action in the future if significant problems occur. Mr. Welch asked if it would be more expensive to address this issue at a later date? Mr. Kremer said sediment will continue to accumulate in this area and it is costly because of removal and disposal sites. He doesn't see the costs changing greatly unless it starts causing upstream damage. Mr. O'Toole added that if a channel is done in this reach, it may look better but the future sediments will have to go somewhere, either downstream or in the Mississippi River. He is not in favor of cleaning out the pond. Mr. Mathisen also said that some of the ponds in the watershed were created for a specific purpose and the Commission needs to review their original function and the reason they were built. Mr. Stack added that he is in favor of aggressive off-stream sediment control, but questions the wisdom of dredging in the streambed itself.

Ms. Thornton asked if there is a change in the sediment rate as a result of other water quality measures taken? Mr. Kremer said there is no indication of a change. There are some areas upstream where the channel is eroding and where erosion in those areas may need to be controlled in the near future.

The consensus of the Commission is to not do anything at this time. Relative to this issue, Mr. Kremer said there might be some erosion control proposed in the future in those areas upstream where some of the sediment is originating.

2. **Citizen-Assisted Monitoring Program (CAMP) Results.** The Metropolitan Council recently published their annual lake monitoring report. The lakes monitored in the Bassett Creek watershed were Northwood, South Rice, Sweeney, and Westwood. Northwood and Sweeney lakes remained the same water quality grade as last year. South Rice Lake decreased in grade and Westwood Lake showed a one-grade increase. The cost contributed by the Commission to monitor each lake is about \$450.
3. **Taxing Authority.** Mr. LeFevere updated the Commission on his discussions with Jim Haertel of the Minnesota Board of Water and Soil Resources. BWSR is currently planning to include taxing authority for WMOs similar to what the city of Minneapolis obtained by special law in their legislation package. Mr. LeFevere has been pursuing the question of what the limitations of the authority given to joint powers WMOs are at the current time. Mr. Haertel is of the opinion that the rulings of the Commissioner of Revenue to the effect that the granting of taxing authority, as stated in the statutes for joint powers WMOs, applies to some sections of state statute Chapter 103 and not others and that the joint powers WMOs do not have authority to levy taxes for planning or general budget. However, if a joint powers WMO has capital projects in its watershed management plan and that capital project is to be paid for by a commission-wide levy, Mr. Haertel believes that authority still exists although as far as he knows no joint powers WMO has tried to use it. The BCWMC joint powers agreement (JPA) does refer to that authority and the cities originally forming BCWMC contemplated that would occur. There is a slight difference to the taxpayer in that under the JPA the allocation among cities may vary from city to city because of the formula stated in the JPA is based on land area and assessed valuation. Mr. LeFevere will continue to pursue a definitive answer from the Department of Revenue. Mr. LeFevere said if the Commission wants to pursue this, the Second Generation Plan would need to state that a capital project paid for by a tax levied within the watershed by the county. He also noted that the county could veto a project when the public hearing is conducted.

Discussion followed. Ms. Thornton asked if this process would circumvent the cities' input. Mr. LeFevere said the cities will have numerous opportunities to offer feedback and the process would be the same. The capital project would still be a Commission project, constructed by a city, but paid for by the county. Mr. Gustafson suggested the Commission not come to any conclusions at this time. It will be addressed again during the Second Generation Plan funding discussion. Mr. LeSuer asked where the accountability for the taxing authority rests – county or the city? Mr. LeFevere said that watershed districts and JPA WMOs are appointed representatives therefore the appointing authority would be accountable. In the case of the Commission, it would be its member cities' city councils. Mr. Welch said there would be a line item for Bassett Creek on the taxpayers' statement. Mr. Jack Frost, Metropolitan Council, recommended the Commission consider working with the county auditor's office as well as the state when pursuing taxing authority.

#### 4. **Legal and Engineering Proposals Review and Recommendations.**

**Legal Proposals** – Mr. Vander Top reported the receipt of one proposal from Kennedy & Graven. The legal subcommittee (Commissioners Vander Top (chair), Yaeger, and Thornton) reviewed the proposal and recommends the Commission reappoint Kennedy & Graven. The only item for discussion was the increase in hourly rate from \$145 to \$150. In the past, the legal budget has routinely been under spent.

Mr. Hanson moved and Mr. Vander Top seconded the motion to appoint Kennedy & Graven as legal counsel to the Commission and the billing increase from \$145 to \$150/hour for 2003. Carried unanimously.

**Engineering Proposals** – Interest proposals were received from Barr Engineering, Construction Technology Laboratories, Respec, and Schoell & Madson. The engineering subcommittee (Commissioners Welch (chair), Peterson, and Hanson) reviewed the proposals and recommends reappointment of Barr Engineering Company for engineering services to the Commission. Mr. Welch

noted that at the completion of the Second Generation Plan, the Commission would operate under new initiatives that should be considered when the request for engineering proposals is advertised again in two years.

Mr. Welch moved and Mr. Hanson seconded the motion to reappoint Barr Engineering Company as engineering advisor to the Commission for 2003 and 2004. Carried unanimously.

5. **Second Generation Plan Update.** Mr. Gustafson, Steering Committee chair, made the following report:

- **Capital Improvements Program.** The meeting packet included a memorandum from the Steering Company with a revised draft CIP. This is an attempt to take into account all comments received from the member cities and put them into a meaningful and understandable compilation of documents. Mr. Gustafson stressed that these documents are still “draft” and are presented to the Commission for consensus before going to the member cities for review. The Steering Committee is looking to the Commission for feedback and future direction. The current draft is reduced from a 30-year all-inclusive CIP to a 10-year CIP with Future Projects presented on a separate table.

Tables 1A, 1B, and 1C are identical tables except for the funding options (100%, 0%, and 20% Commission funding). Under the 0% funding scenario, it was assumed that the city in which the proposed project is located would bear all of the project costs. Taxing authority could become another funding option should the Commission chose to pursue legislation. Some cities have expressed that taxing authority would ease the burden on their local taxing levy.

Table 2 describes the non-structural water quality best management practices originally identified in the 30-year CIP, but not capital or structural improvements. Placing these types of BMPs on a table is one way of keeping track of the information. Mr. Gustafson noted a correction to be made on Table 2 concerning the level of Commission funding which should show 0% instead of 100%.

Table 3 is a list of potential future projects taken from the original 30-year CIP. Again, the table is designed for record-keeping purposes and future consideration by the Commission. All proposed alum projects are included in this table except for the alum treatment proposed for Wirth Lake that will be partially funded by LCMR.

Table i includes annual water quality and flood control programs that are included in the Commission’s budget.

Table ii includes the proposed improvements from the member cities’ local plans pertaining to Bassett Creek, but not included in the Commission’s water quality plans. These are items the Commission may want to consider for future funding. Currently, the table includes information from Plymouth relating to Medicine and Parkers lakes. The remaining member cities will need to add items they want included on this table.

Table iii summarizes proposed expenditures using the remaining funds from the BCWMC Flood Control Project construction account.

Discussion followed. The Commission was pleased with the draft CIP packet presented today and agrees that it is in a more understandable format to present to their cities. Mr. Andersen asked if there would be a formal presentation by the Commission to the member cities or what is suggested as the best way to present this information to the cities, especially for commissioners who did not serve on the Steering Committee. At this point, the commissioners can informally work with their cities and, if necessary, request assistance from members of the Steering Committee. In the future, the Commission may want to consider making a formal presentation to the member cities.

Mr. LeFevere addressed the formal review process of the draft plan. The draft plan will be submitted to counties, Met Council, state agencies, Board of Water and Soil Resources, Soil and Water Conservation Districts, Hennepin Conservation District, and member cities for a 60-day review and comment. After that initial 60-day review, the Commission must respond within 30 days. The Commission will then hold a public hearing within 30 to 45 days after that 60-day review period. The next step is to submit the draft plan, amendments, written comments received, a record of the public hearing, and a summary of the changes incorporated as a result of that review process to the State review agencies (BWSR, DNR, Met Council, etc.) for final review. The state agencies have to comment within 45 days after receipt, although they can request a 30-day extension from BWSR. The plan is then submitted to BWSR for a 90-day review process that includes review of compliance with state statute. Finally, the plan comes back to the Commission for adoption and implementation.

Mr. Gustafson suggested revising the draft CIP tables and creating a Table 1 that includes all the capital improvements and a new Table 1A that will include the three funding tables now shown on the bottom of tables 1A, 1B, and 1C. The memorandum can be revised to describe the new tables and also address information on taxing authority. The Commission agreed to the revisions recommended and that all the information will be included with materials sent to the member cities.

Ms. Clancy asked that background information relating to the funding scenarios be included in the memo or on the new Table 1A describing where the ratios came from and that these are not new formulas and how they relate to the requirements under the Joint Powers Agreement and the operation of the Commission

Mr. Mathisen views the 20/80 funding scenario as a feasible funding option and fits the common good philosophy of the Commission. He asked about other funding scenarios (30/70; 40/60, etc.). Mr. Gustafson said requests for different funding scenarios are comments that can be submitted after review by the cities.

Mr. Welch encouraged the Commission to keep moving through the process and to request assistance from the Steering Committee members to help them present it to the member cities for understanding.

Mr. Fred Moore, Steering Committee member and former commissioner, reminded the Commission that adding capital projects not included on the CIP would require a formal amendment which would require the formal review process discussed earlier; however, if a project is listed in any of the other tables, it would most likely require a minor amendment which is less time consuming. The CIP will routinely be updated.

The revised tables and memorandum will be sent to the commissioners for review and comment. If necessary, the tables and memorandum will be revised to include commissioners' comments and then resubmitted to the commissioners for presentation to their member cities. The memorandum and draft CIP will be ready for member cities review sometime in November.

- Adding Members to the Steering Committee. The invitation was extended to the Commission to those wanting to be a part of the Steering Committee. Mr. O'Toole also noted that the meetings are open meetings.

## ***November Meeting***

1. Mr. O'Toole presented the following agenda items for the Commission's November meeting:

- The Commission's November meeting is moved to Tuesday, November 19, 2002, to accommodate many attendees with a conflict on the Thursday meeting date of November 21. Time and location remain the same.
- Second Generation Plan revised draft CIP and accompanying memorandum.
- Feasibility study concerning homes requiring flood proofing.

## ***Adjournment***

It was moved by Mr. Welch and seconded by Ms. Thornton that the meeting adjourn. Chairman O'Toole adjourned the meeting at 2:10 p.m.

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John O'Toole, Chairman

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Pat Schutrop, Recorder

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Bill Yaeger, Secretary

Date: \_\_\_\_\_

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