

Bassett Creek Watershed Management Commission

Minutes of the Meeting of November 17, 2005

1. Call to Order

The Bassett Creek Watershed Management Commission was called to order at 11:35 a.m., Thursday, November 17, 2005, at Golden Valley City Hall by Acting Chair Welch (Vice Chair). Ms. Herbert took roll call.

Roll Call

<i>Crystal</i>	Commissioner Pauline Langsdorf	<i>Counsel</i>	Charlie LeFevere
<i>Golden Valley</i>	Commissioner Linda Loomis, Treasurer	<i>Engineer</i>	Len Kremer
<i>Medicine Lake</i>	Not represented	<i>Recorder</i>	Amy Herbert
<i>Minneapolis</i>	Commissioner Michael Welch, Vice Chair (Acting Chair)		
<i>Minnetonka</i>	Commissioner Bill Yaeger, Secretary		
<i>New Hope</i>	Commissioner Mary Gwin-Lenth		
<i>Plymouth</i>	Commissioner Ginny Black		
<i>Robbinsdale</i>	Commissioner Karla Peterson		
<i>St. Louis Park</i>	Commissioner Richard Johnson		

Also present:

- Cliff Aichinger, Ramsey-Washington Metro Watershed District
- Laura Adler, BCWMC Technical Advisory Committee, city of St. Louis Park
- Nancy Azzam, Golden Valley League of Women Voters
- Bill Deblon, BCWMC Technical Advisory Committee, city of Robbinsdale
- David Hanson, Alternate Commissioner, city of Golden Valley
- Al Lundstrom, BCWMC Technical Advisory Committee, city of Golden Valley
- Rob Real, city of Minneapolis citizen and Lowry Hill board member
- Don Samuels, city council member, city of Minneapolis
- DeDe Scanlon, city council member-elect, city of Golden Valley
- Elizabeth Thornton, Alternate Commissioner, city of Plymouth

2. Approval of Agenda and Consent Agenda

Acting Chair Welch announced the consent agenda. Ms. Black moved to approve the consent agenda. Mayor Loomis seconded the motion. Upon call of roll, the motion carried unanimously. Acting Chair Welch announced the addition of an agenda item under Old Business. Acting Chair Welch announced that the additional agenda item would be the Wirth Lake Agreement and that it would be the first Old Business item addressed.

3. Administration

A. Presentation of the October 20, 2005 BCWMC Minutes.

B. Financial Statements.

The general and construction account balances reported in the October 2005 Financial Report are as follows:

<u>Checking Account Balance</u>	<u>272,486.71</u>
<i>TOTAL GENERAL FUND BALANCE</i>	<i>272,486.71</i>
Investment Balance	1,860,366.61
<u>Commercial Paper (due 12/15/05)</u>	<u>495,091.25</u>
<i>TOTAL CONSTRUCTION ACCOUNT BALANCE</i>	<i>3,342,736.99</i>

C. Presentation of Invoices for Payment Approval. The following invoices were approved for payment under the consent agenda:

- i. Kennedy & Graven (invoice I) – Legal Services
- ii. Kennedy & Graven (invoice II) – Legal Services
- iii. Barr Engineering Company – Engineering Services
- iv. City of Golden Valley – Financial Management Services
- v. Amy Herbert – Administrative Services

D. Motion to Transfer Money from the Administration Account to the Construction Account. Mr. LeFevere explained that the Commission’s Deputy Treasurer requested the Commission make transfers from the line items in the administrative account for TMDL studies, channel maintenance, and long-term flood control maintenance so that the amounts do not appear in the administrative fund as surplus in the account at year end. Mr. LeFevere said that those line items have been earmarked for construction activities.

Mr. LeFevere explained that the Deputy Treasurer is requesting a motion to be authorized to transfer the balance of funds from those line items from the administrative account to the construction account. Mr. Kremer said that the construction account has a project maintenance fund and a channel maintenance fund and Ms. Virnig will create a TMDL fund. Mr. Welch clarified that the reason for transferring the fund balances to the construction account is that the Commission cannot accumulate funding in the administrative account but can in the construction account and the nature of these three line items being discussed is that they are for long-term spending.

Mr. Yaeger moved to transfer the balance in the funds for the line items TMDL studies, channel maintenance, and long-term flood control maintenance from the administrative account to the construction account. Ms. Gwin-Lenth seconded the motion. The motion carried unanimously.

E. Presentation of Additional Invoices for Payment Approval. The following invoices were presented for payment:

- i. The city of Golden Valley for flood proofing at 5110 Minnaqua Drive
- ii. The city of Golden Valley for flood proofing at a home on Idaho Avenue

Mr. Kremer explained that the Commission has an agreement with the city of Golden Valley to flood proof 13 homes. The city of Golden Valley has completed six homes so far and the city is asking for reimbursement for the expenditures associated with two of those homes: 5110 Minnaqua Drive and 1205 home on Idaho Avenue. The city originally submitted the plans for review several months ago and now has submitted as-built plans the documentation of the costs.

Mr. Kremer reported that the city is requesting the maximum amounts they are eligible for under the contracts for both those projects. The city is requesting \$16,360.29 for 1205 Idaho Avenue and \$3,385.04 for 5110 Minnaqua. Mr. Kremer said he recommends approval of payment of both invoices.

Mr. Welch commented that these requests are executions of pre-existing agreements and pre-existing plans. Ms. Black made a motion for reimbursement. Mr. Yaeger seconded the motion. Upon call of roll the motion carried unanimously.

4. Communications

- A. **Chairman:** Mr. Welch said that the city of Minneapolis conducted street sweeping recently and the city called everyone in the area informing them the city would be sweeping the streets and reminding them not to park on the roads.
- B. **Citizen Input on Non-Agenda Items:** Mr. Rob Real serves on the Lowry Hill Board and has been working with the Lowry Hill schools on volunteer projects. For example students participate in volunteer work on 13 acres of Minneapolis Park Board land located almost underneath Highway 394. Mr. Real said the area is known as Spring Lake. Mr. Real said his long-term goal is to weave into the curriculum of the Blake school the long-term stewardship of this land.

Mr. Real said he is looking to find funding from sources who will help the volunteers work with the school and the Minneapolis Park Board to do things to protect, preserve and defend this natural habitat. Mr. Real handed out a copy of a proposal written by the students, juniors at the Blake school, asking the Mississippi Watershed Management Organization for a \$31,000 grant. Mr. Real said the Blake School is in the Mississippi Watershed but Spring Lake is in the Bassett Creek Watershed.

Mr. Real said the Mississippi Watershed Management Organization (MWMO) said it would grant the students up to half of the requested amount to fund their efforts to work on the curriculum, work on educational components, and work on the students' and faculty's ability to do the right thing now and long term. But, Mr. Real reported, as relates to new trees, tools, and labor on the Minneapolis Park Board land, the MWMO will provide funds only if the students secure matching from other sources since the land is not in the MWMO's district. Mr. Real stated that the MWMO gave the students a deadline for coming back with matching funds by next Tuesday (November 22). Mr. Real has come to the Bassett Creek Watershed Management Commission because Spring Lake lies in the Bassett Creek Watershed and Mr. Real wanted to bring the students' efforts to the Commission's attention.

Mr. Welch commented that this conversation presages the discussion on agenda item D under Old Business about grant requests for education and restoration. Mr. Welch remarked that Mr. Real's presentation highlights the fact that the Commission has not set in place procedures for processing grant requests for education/ restoration.

Ms. Black said she was contacted by Mr. Dan Kalmon of the MWMO about this student project. Ms. Black said the Commission doesn't have a process for evaluating such grant requests but she didn't feel like the Commission needed to hold up such a project until the development of a process. Ms. Black said that the issue is that there are two months left in this fiscal year and the Commission doesn't have anything listed in this budget or the next one that would cover these kinds of grant expenses.

Ms. Black said one thing that came to her mind was the \$20,000 earmarked to do monitoring in Medicine Lake where there may be some overlap with the city of Plymouth. Ms. Black explained

that she thought some savings in the monitoring could be used by the Commission for the kind of program Mr. Real introduced.

Ms. Black said she was unclear as to what role the Minneapolis Park Board is playing in the program, since Mr. Kalmon of the MWMO told her that the Park Board is also a partner. Ms. Black said that all of the parties would need to sit down and figure out what role each one is playing.

Mr. Welch said that the Commission has a demonstration project line item that Mr. Real's program would fit under and the budget of that line item for this year is \$1,000.

Mr. Kremer also mentioned the Citizen-Assisted Monitoring Program (CAMP) budget item may have money left over. Ms. Black pointed out that the Commission is close to \$10,000 over budget for clerical services and about \$3,000 over budget for financial management. Mr. Welch pointed out that his understanding is that the Commission is tracking about \$10,000 under budget in the administrative budget. Mr. Kremer confirmed that estimate.

Mr. Welch asked Mr. Real what the MWMO wanted by the Tuesday deadline. Mr. Real said that the Organization wanted a revised proposal in response to the information the Organization gave them regarding where it would grant monies.

Ms. Black reported that Mr. Dan Kalmon of the MWMO had two questions for the BCWMC:

- i. Is Basset Creek Watershed Management Commission interested in a project like this; and,
- ii. Where would BCWMC be willing to spend its funds?

Ms. Black asked if the BCWMC would be interested in spending its money on removal of buckthorn, replanting native species, restoration of lake shore – those kinds of hard costs. Ms. Black said she had told Mr. Kalmon she would get back to him about this discussion after the Commission meeting.

Mr. Welch said it would be helpful to have the criteria the Commission adopted this summer in front of the Commissioners.

Ms. Langsdorf commented that Mr. Real's project is the type of project she'd like to see the Commission fund but this is the first she has heard of the project.

Mr. Yaeger said that he appreciates the time constraint the MWMO put on the project funding. Mr. Yaeger wondered if the BCWMC could communicate to the MWMO through a letter and ask them to extend their timeline to give the BCWMC time to act on the grant request.

Mayor Loomis commented that it was bad policy to have things thrown at the Commission and to be asked to make a financial commitment to those things. Mayor Loomis stated that the Commission has responsibilities to the people the Commission collects money from to spend that money wisely. Mayor Loomis said there are many questions that need to be asked and answered before the Commission can spend money. Mayor Loomis said she would be in favor of sending a letter to the MWMO saying the BCWMC didn't have enough time to consider the request.

Mr. Welch said the Commission needs to come up with a protocol at a meeting before the next budget process.

Mr. Yaeger said he thought the Commission should use this grant request as kick-start to deciding what the Commission is going to require regarding this kind of request in the future. Mr. Yaeger

continued by saying he would like to see this topic brought up on the agenda in the next couple of months.

Mr. LeFevere said if the MWMO is willing to entertain the idea of allocating money to this project contingent on matching funds, it might be more willing to do that if MWMO has some expression of interest from this body or other organizations interested in participating in the project.

Mayor Loomis made a motion that the Commission draft a letter to present to the MWMO expressing interest in this project but saying that the Commission is unable to make a decision by the deadline.

Mr. Yaeger seconded the motion.

Mr. Welch asked Mr. LeFevere if he had sufficient information to draft such a letter from the Commission. Mr. LeFevere responded yes.

Ms. Thornton said the Commission needs to set up the application process and decide what kind of projects the Commission will fund and get some type of application form created.

Mr. Welch said he would be willing to work on a draft of an application form.

The motion made by Mayor Loomis to send a letter to the MWMO passed unanimously.

Mr. Welch directed Ms. Herbert to put on the December meeting agenda the topic of creating a procedure for evaluating grant requests for education/ restoration.

- C. Counsel: Mr. LeFevere reported he received a phone call yesterday about a number of watershed management organizations (WMOs) in the Ramsey-Washington County area that are in the process of seeking legislation to authorize tax levies by joint powers WMOs.

Mr. LeFevere said the BCWMC will be receiving a request from one of those WMO's asking whether this Commission would like to participate, encourage, and/ or lend support to that action. Mr. LeFevere stated that at the very least these WMOs plan to seek legislation giving specific authorization as individual WMOs to collect taxes. There is also the possibility that the WMOs would renew the effort to give that authority to all WMOs.

Mr. LeFevere said this issue will be coming to the BCWMC so the Commission may want to consider the issue. Mr. LeFevere explained that the Commission currently has a tax levy for capital projects and the levy requires county board approval. Mr. LeFevere said these WMOs are seeking legislation for tax levies that are direct and that are authorized by the Joint Powers Agreement as other sources of funding, which would take some of the burdens off of the cities.

E. Commissioners: No communications.

F. Engineer: No communications.

5. New Business

- A. Presentation by Mr. Cliff Aichinger, Administrator, Ramsey-Washington Metro Watershed District. Mr. Aichinger presented information to the Commission on impaired waters and TMDLs and he shared the experiences of the Ramsey-Washington Metro Watershed District with TMDL studies on several of the District's lakes.
- B. Scott Avenue Flood Proofing Plan. Mr. Kremer explained the city of Golden Valley presented a

plan to the Commission last year to flood proof eleven homes along Scott Avenue. When the city went to get the residents to sign the right-of-way agreement to build the plan, one resident refused to sign so the plan had to be abandoned by the city. Mr. Kremer reported that now the city is going to have to do the flood proofing through several projects. The three homes being discussed today are 2675, 2685, and 2785 Scott Avenue, which are three homes that agreed they wanted to be flood proofed with a dike. Mr. Kremer said he recommends approval of this plan. Mr. Kremer said the total cost of this plan is approximately the same as the cost included in the original plan and the flood proofing agreement.

Mr. Yaeger asked if these homes are basement walk outs and if the walk outs could be removed from these homes so the first floor elevation is above the 100-year flood level. Mr. Kremer said these homes are split-entry walk outs and the elevation changes make it more difficult to remove the walk outs.

Mayor Loomis asked what is going to happen to the three homes that are between the three homes undergoing the flood proofing and the creek. Mayor Loomis said one of the homeowners whose house is between the proposed dike and the creek is claiming to the city of Golden Valley that the dike is going to increase flooding to his home. Mr. Kremer said the dike will not increase flooding to those homes.

Mr. Kremer gave a status of the entire flood proofing project. Mr. Kremer reported that six homes out of the thirteen in the original flood proofing plan have been completed. The total cost to-date is approximately \$180,000 out of the \$700,000 the Commission approved. Mr. Kremer stated that three homes being considered as part of a future project – house addresses 2665, 2655, and 2605 – are being considered for elevating or removal.

Ms. Black mentioned that the Engineer's Memo did not state the cost of the Scott Avenue flood proofing project and that she would like to see that in the memo as well as what line item in the budget that the cost would be covered under.

Mr. Kremer said the contract has an estimated cost for each of the 13 houses. He said there is a cap on the expenditures for each project and that cap is 72.5% of the actual cost or 98% of the cost estimate that is in the contract, whichever is less. Mr. Kremer said that the cost for flood proofing the three homes on Scott Avenue being discussed today were originally estimated at \$31,000, \$22,000, and \$30,000. The engineer doing the design is giving cost estimates now a little higher than that and the city will be ultimately eligible for 72.5% of the actual cost of those three projects.

Mr. Kremer explained that if the cost for any project is under the estimated cost, the city can move some of those excess funds to other parts of the contract that have gone above the estimated cost, as long as the total cost does not go above \$700,000.

Mr. Yaeger moved to approve the Scott Avenue flood proofing plan. Mayor Loomis seconded the motion. The motion carried unanimously.

6. Old Business

- A. Wirth Lake Agreement. Mr. Kremer explained to the Commission that this project was a water quality improvement project. Mr. Kremer said that this fall the city started construction of project FR5 as part of the Wirth Lake plan west of the pedestrian trail along the lake. Mr. Kremer reported that the basin is 90% - 98% complete and was constructed through the Minneapolis Park Board working with the city of Minneapolis Public Works Department. Mr. Kremer said the agreement for the project work in the Wirth Lake watershed was actually written as two

contracts. One contract was written for two features including the ponding area by Highway 55 and the in-lake alum treatment. The other contract was written for the storage basin. The city of Minneapolis signed the contract to do the work for the FR-5 storage basin but did not sign the other contract because the city felt their staff was overloaded with work and would not be able to manage the other two projects.

Mr. Kremer explained that Barr Engineering has been following up with the Minneapolis Park Board to find out when it would be able to take on the work to complete the Highway 55 ponding area and the alum treatment. The Minneapolis Park Board recently told the Commission engineer that it would like to take the project on and get the plans and specs ready for implementation next spring. Mr. Kremer reported that the Minneapolis Park Board also said it would like to work with the staff of the city of Golden Valley to do the project. This action would require the Commission to take the second Wirth contract and change the designation from the city of Minneapolis doing the work to the city of Golden Valley.

Mr. LeFevere said the Commission would have to complete a new contract and have to make an amendment to the resolution initially adopted designating the city of Minneapolis to do the project. Mr. LeFevere said he could bring back a contract and a resolution to the Commission at the December meeting. Mr. Welch directed counsel to prepare those documents for the December meeting.

- B. **BCWMC Policy of TMDL Studies.** Mayor Loomis stated that the Commission should decide whether the Commission is going to be involved in the studies or leave them to the cities. Mr. Kremer said one of the reasons why several watershed districts have decided to implement their watershed studies is to get their water bodies delisted. Mr. Welch asked how the districts have gotten their water bodies delisted. Mr. Kremer said that data originally put the water bodies on the list of impaired waters and with implementation of water quality measures subsequent data has shown that the water quality has improved and so the water bodies were taken off the list. Mr. Kremer explained that Mr. Aichinger said the Minnesota Pollution Control Agency (MPCA) doesn't have a formal process for delisting but the organization has taken water bodies off the list.

Mr. Welch asked if the Commission wants to move forward and take an impaired water body in the district and go through the process of converting the data, make a small commitment of the funds set aside for TMDLs, get some sense of idea what the costs will be to make that conversion and then make an assessment of costs to put the data in study format.

Mr. Kremer also stated that the city of Golden Valley met with Mr. Tim Larson of MPCA regarding a TMDL for Sweeny Lake and Mr. Larson mentioned the figure of \$25,000 to convert its diagnostic study to a TMDL study.

Mayor Loomis suggested that the Commission refer this issue about TMDLs to the BCWMC TAC to discuss and make a recommendation to the Commission. Mayor Loomis moved to ask the TAC what they see as the Commission's role in the TMDL studies. Mr. Yaeger seconded the motion. Mr. Welch asked the Commission if it should have the MPCA come to talk to the Commission sooner rather than later.

Mr. LeFevere said the choice is whether this Commission does the TMDL studies or the individual cities do them. Mr. LeFevere said it may be helpful to get ideas from people who have been involved in TMDLs about what the advantages and disadvantages are with those two choices. Ms. Gwin-Lenth asked who is the best source of that information. Mr. LeFevere responded that the MPCA has seen some studies conducted by the watersheds and others conducted by the cities, so the MPCA may be able to list pros and cons of the different ways. Mr. LeFevere remarked that the end result is that individual cities will be given load allocations out of the TMDL studies so the

cities will want to be involved in the process.

Mr. Welch said that there is the other path of going ahead with the implementation plan and getting delisted, which the cities would need to be involved with. Mr. Welch said that whenever the Commission meets with the MPCA the Commission should strenuously invite city representation to that meeting.

Mr. Johnson suggested getting the BCWMC TACs input and then going to the MPCA to ask them to present at a Commission meeting. Mr. Welch asked if that is an amendment to Mayor Loomis' motion. Mayor Loomis amended the motion to ask the BCWMC TAC what the role of the Commission vs. the role of the cities is in TMDLs.

The motion carried unanimously.

Mr. Welch asked to add a timeframe for the TAC to come back to the Commission with a recommendation. Mr. Welch said the TAC should come back to the Commission with a recommendation at the January Commission meeting regarding the Commission's role vs. the role of the cities in TMDLs.

7. December Meeting

Mr. Welch directed Ms. Herbert to add Old Business items C (Protocol for Addressing New CIP Projects) and D (Grant Requests for Education/ Restoration) to the top of the Old Business agenda for December.

The following agenda items are currently scheduled for the Commission's December 15 meeting:

- A. Protocol for Addressing New CIP Projects — Review Second Generation Plan process; discuss whether to notify cities about potential CIP amendment
- B. Commission Procedure for Evaluating Grant Requests for Education/ Restoration
- C. Flood Proofing Project Status Report
- D. Wirth Lake Agreement
- E. City of Plymouth 2006 Yard and Garden Expo

8. Adjournment

Ms. Peterson moved to adjourn the meeting. Ms. Black seconded. Acting Chair Welch adjourned the meeting at 2:10 p.m.

John O'Toole, Chair

Amy Herbert, Recorder

William Yaeger, Secretary

Date: _____

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