

# Bassett Creek Watershed Management Commission

## Minutes of the Meeting of May 21, 2009

### 1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:30 a.m., Thursday, May 21, 2009, at Golden Valley City Hall by Chair Welch. Ms. Herbert conducted 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>	Commissioner Cheri Templeman	<i>Recorder</i>	Amy Herbert
<i>Minneapolis</i>	Commissioner Michael Welch, Chair		
<i>Minnetonka</i>	<i>Not represented</i>		
<i>New Hope</i>	Commissioner Daniel Stauner		
<i>Plymouth</i>	Commissioner Ginny Black, Vice Chair		
<i>Robbinsdale</i>	<i>Not represented</i>		
<i>St. Louis Park</i>	<i>Not represented</i>		

*Note: Alternate Commissioner Wayne Sicora arrived after roll call*

Also present: Derek Asche, BCWMC Technical Advisory Committee, City of Plymouth  
Jack Frost, Metropolitan Council  
Ron Leaf, SEH, Inc.  
Randy Lehr, Three Rivers Park District  
Tom Mathisen, BCWMC Technical Advisory Committee, City of Crystal  
Richard McCoy, BCWMC Technical Advisory Committee, City of Robbinsdale  
Jeff Oliver, BCWMC Technical Advisory Committee, City of Golden Valley  
Jim Renneberg, City of Plymouth  
Stu Stockhaus, Alternate Commissioner, City of Crystal  
Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka  
Mike Trojan, Minnesota Pollution Control Agency  
Chris Zadak, Minnesota Pollution Control Agency

### 2. Approval of Agenda and Consent Agenda

Chair Welch reordered the Old Business agenda items so that TMDL study discussion items 6E, 6F, and 6G followed item 6A and so that item 6D regarding BCWMC Missions and Goals would be addressed last. Chair Welch also added invoice xi to the Lorenz Bus Service for the watershed tour bus costs. Ms. Black moved to approve the agenda as amended. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Minnetonka, St. Louis Park, and Robbinsdale absent from the vote]. Ms. Black moved approval of the Consent Agenda. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Minnetonka, St. Louis Park, and Robbinsdale absent from the vote].

### 3. Citizen Input on Non-Agenda Items

No citizen input on non-agenda items.

### 3. Administration

- A. Presentation of the April 16, 2009, BCWMC meeting minutes. The minutes were approved as part of the Consent Agenda.
- B. Presentation of the Financial Statement. The May financial report was received and approved as part of the Consent Agenda.

The general and construction account balances reported in the May 2009 Financial Report are as follows:

<u>Checking Account Balance</u>	<u>653,244.19</u>
<i>TOTAL GENERAL FUND BALANCE</i>	<i>653,244.19</i>
<u>Construction Account Balance</u>	<u>2,802,713.19</u>
<i>TOTAL CONSTRUCTION ACCOUNT BALANCE</i>	<i>2,802,713.19</i>
<u>-Less: Reserved for CIP projects</u>	<u>3,530,770.14</u>
<i>Construction cash/ investments available for projects</i>	<i>(728,056.95)</i>

- C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services through March 31, 2009 - invoice for the amount of \$1,362.82.
- ii. Barr Engineering Company – April Engineering Services - invoice for the amount of \$63,913.99.
- iii. Barr Engineering Company – February Sweeney Lake TMDL Phase II Services - invoice for the amount of \$4,258.00.
- iv. Amy Herbert – March Recording Administrator Services - invoice for the amount of \$4,660.59.
- v. MMKR – Audit Services – invoice for the amount of \$5,300.
- vi. SEH, Inc. – Sweeney Lake TMDL Work through March 31, 2009 – invoice for the amount of \$2,730.80.
- vii. Rice Creek Watershed District – 2009 Blue Thumb Membership – invoice for the amount of \$1,500.00.
- viii. Michael Welch – April 22, 2009, Work Session Catering – invoice for the amount of \$42.48.
- ix. Stuart Stockhaus – Education and Outreach Committee printing expenses – invoice for the amount of \$17.10.
- x. Liz Thornton - Education and Outreach Committee printing expenses – invoice for the amount of \$7.70.

- xi. **Lorenz Bus Service – 2009 Watershed Tour – invoice for the amount of \$387.00.**

By call of roll, the motion carried unanimously [Cities of Minnetonka, St. Louis Park, and Robbinsdale absent from the vote].

- D. **Action to Not Waive Liability Limits of League of Minnesota Cities Insurance Trust Coverage.** Ms. Black moved that the BCWMC should not waive the liability limits of the insurance trust coverage. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Minnetonka, St. Louis Park, and Robbinsdale absent from the vote].
- E. **Action to Receive and File the BCWMC's 2008 Audit.** Ms. Black moved to receive and file the BCWMC's 2008 audit. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Minnetonka, St. Louis Park, and Robbinsdale absent from the vote].

#### 4. New Business

- A. **26<sup>th</sup> Avenue North Culvert: City of Plymouth.** Mr. Kremer explained that a request was received from the City of Plymouth for review of a culvert replacement plan along Plymouth Creek at 26<sup>th</sup> Avenue. He said the project consists of reconstruction of 0.2 acres and mill and overlay of 1.3 acres and is in front of the Commission because there would be new culvert located below the 100-year floodplain. Mr. Kremer said the Commission Engineer recommends the project be approved on the condition that the contractor submits a diversion and dewatering plan to be reviewed and approved by the Commission Engineer prior to installation of the proposed culvert. Chair Welch asked why the Commission Engineer wants to see that plan. Mr. Kremer responded that the project will involve extensive diversion and the Commission Engineer wants to make sure the diversion is done in a way to prevent significant erosion.

Ms. Black moved to approve the project with the Commission Engineer's recommendation as explained by Mr. Kremer and stated in the May 14, 2009, memo from Barr Engineering on the project. Mr. Stauner seconded the motion. The motion carried unanimously [Cities of Minnetonka, St. Louis Park, and Robbinsdale absent from the vote].

[Alternate Commissioners Ted Hoshal and Wayne Sicora arrive].

#### 6. Old Business

- A. **9209 40 1/2 Avenue, New Hope – Update on agreement between property owners and City.** Mr. Stauner reported that the agreement between the property owners and the City of New Hope is that the property owners will remove three cubic feet of fill from the floodplain area in their lakeside yard. He said that the City, in conjunction with sediment removal from Northwood Pond and construction of an access point to it, will remove the balance of the 21 cubic yards of mitigation and the homeowners will cover the cost. Mr. Stauner stated that the New Hope City Council has approved the agreement. Chair Welch asked Mr. Kremer if he agrees with the solution reached by the parties. Mr. Kremer responded yes.
- B. **Wirth Lake TMDL Study Update.** Mr. Kremer said that in the evaluation of the water quality of Wirth Lake it was determined that one of the principal problems with the lake's water quality is back flow from Bassett Creek. He said the phosphorus content of the creek is a couple of hundred parts per million and the back flow during floods is causing water quality problems in Wirth

Lake. He said one of the potential BMPs (Best Management Practices) is to try to prevent the back flow from Bassett Creek into Wirth Lake. He said the MPCA authorized Barr Engineering to determine whether it is possible to prevent that backflow from entering Wirth Lake from a flood level perspective. Mr. Kremer said the May 11, 2009, memo regarding the Wirth Lake BMP in the Commission's meeting packet explains the model used and the results of the floodplain analysis.

Mr. Kremer said the model results indicate there would be no significant change in flood levels, there would be a 1/10 foot increase in stage at Bassett Creek where Wirth Lake enters it and a 1/10 foot increase at Fruen Mill. He said there is no damageable property that would be affected by those two stage increases. Mr. Kremer said there would be a very significant increase in stage on Wirth Lake but there is no damageable property along Wirth Lake. He said if there was a project identified that could block off the backflows from Bassett Creek into Wirth Lake, it would be theoretically possible without any significant impact on flooding. Mr. Kremer said there will be Wirth Lake stakeholder meeting in June to talk about BMPs.

Chair Welch introduced Chris Zadak, Minnesota Pollution Control Agency's interim project manager for the Wirth Lake TMDL study, and Mike Trojan, Minnesota Pollution Control Agency's grant writer.

Mr. Mathisen said the Commission has established guidelines for floodplain damage and said that he is concerned about the Commission going down the road of shutting down a lake from backflows from a stream. He commented also that the long-term maintenance of backflow preventers is a nightmare for public works departments.

Mr. Kremer stated that the change in stage on the creek wouldn't be an issue for FEMA because of the amount of the change. He remarked that the BCWMC has historically approved changes to flood levels – both increases and decreases – where damage would not occur. Mr. Sicora asked about FEMA regulations on increase in stage. Mr. Kremer said FEMA rules say you're allowed a one-foot increase in stage for a 100-year event. He said state regulations allow for a one-half of a foot increase in stage and that the BCWMC's rules are that there would be no change in stage unless there is compensating mitigation.

Chair Welch asked what structures are being considered for the prevention of backflows. Mr. Kremer said the May 11, 2009, memo provides examples but that there are a number of possibilities.

- C. **Medicine Lake TMDL Study Update.** Chair Welch reported that there was a Medicine Lake stakeholder meeting last week. He said the load reduction called for is 3,040 pounds of phosphorus, which represents a 35% load reduction in the watershed. Chair Welch said the Committee discussed two issues: 1. How to establish the waste load allocation, and, 2. What BMPs could be implemented and where.

Mr. Chris Zadak, MPCA, explained that there are three basic ways to approach waste load allocation:

1. Each separate MS4 gets its own individual waste load allocation;
2. Categorical allocation, where all MS4 waste load allocations are lumped together; and
3. A hybrid of the first two options, where the MS4s and Hennepin County are categorical and Mn/DOT gets its own individual allocation.

Chair Welch noted that Mn/DOT was represented at the stakeholder meeting and indicated a

preference for getting an individual allocation. Mr. Zadak said the stakeholder group indicated a preference for the hybrid approach. Chair Welch said the decision that comes back to the Commission with regard to the waste load allocation is does the Commission want to take on the categorical waste load allocation and be the convener of the MS4s' efforts. He said another issue for the BCWMC's consideration is whether Mn/DOT would be part of the group in the categorical allocation or not. Chair Welch said he has some concerns about not including Mn/DOT in the group and reminded the Commission of the issues with Mn/DOT on the Wirth Lake project. Chair Welch also said the Commission needs to consider how the BMPs implemented to reach the load reduction goal are funded. Chair Welch said the stakeholder group is looking for feedback from the Commission about the approach to the waste load allocation and the Commission needs to identify what it needs in order to make a decision.

Mr. Asche said he would have a concern with the hybrid approach if it somehow lessened the load allocated to Mn/DOT and leading to additional burden falling on the cities.

Ms. Black commented that as each of the BCWMC's TMDL studies is completed, the BCWMC will need to examine its CIP.

Mr. LeFevere remarked that the BCWMC has no enforcement authority over Mn/DOT, which might not be a bad reason for leaving it out of the group allocation. Mr. LeFevere commented that the individual waste load allocation doesn't mean that there wouldn't be collaborative efforts. He commented that making a decision on the approach may be a bigger philosophical question than just looking at the Medicine Lake TMDL study. Mr. LeFevere said before the Commission can make it decision it needs to know what it looks like at the far end as in what BMPs will be built, how will they get built and funded.

Chair Welch said that Mr. LeFevere made a good point in that the individual waste load allocation doesn't preclude collaboration.

Mr. Sicora stated that he currently supports the hybrid approach. Ms. Loomis suggested that commissioners check in with their cities for their opinions. Chair Welch asked what commissioners want in terms of more information. Mr. Sicora asked about the timeframe for a decision. Chair Welch remarked that other work can continue on the TMDL even if the Commission isn't ready to make a decision regarding the allocation approach.

Ms. Black mentioned that one of her concerns with the categorical approach is who would do the maintenance of the BMPs. She said currently the maintenance of Commission projects is handled by the cities, which would mean that cities would have ongoing maintenance costs. Ms. Black said the Commission should consider whether there should be a policy change about maintenance and whether the maintenance costs should be shared. Chair Welch said commissioners should let Mr. Kremer and Ms. Herbert know if there is anything they would like more information on about the load allocation approaches. Chair Welch said he would communicate with Mr. Kremer about what materials may be helpful for Commission review for the June or July meeting and the Commission's representatives will attend the next Medicine Lake Steering Committee meeting.

Mr. Kremer asked Mr. Zadak about the schedule for the Commission receiving the draft implementation plan. Mr. Zadak replied that he thinks they are on the verge of getting it out.

## 7. Communications

### A. Chair:

- i. Chair Welch announced that Hennepin County has \$500,000 out of the Clean Water Legacy bill. Chair Welch directed the Commission Engineer to follow up with Hennepin County.

## 6. Old Business (continued)

- D. **Sweeney Lake TMDL Study Update.** Mr. Leaf reported that there was a Sweeney Lake TMDL study technical team meeting held on April 23<sup>rd</sup> and mentioned that the meeting summary and notes were included in the Commission's meeting packet. He stated that SEH also met with some members of the City of Golden Valley and some lake residents to discuss the project to date and possible implementation strategies. Mr. Leaf reported that 60% of precipitation becomes runoff into the lake, which is a high number and means that the area is fully developed and indicates tight soils. He said that the external load is more dependent on the amount of precipitation than on whether or not the aerators are operating. He said it is hard to tell if the aerators' effects are good or bad but they do affect the development of the thermocline, which affects where the phosphorus is located in the lake but doesn't affect the amount of phosphorus in the lake.

Mr. Leaf discussed preliminary load reduction targets and stated that results show that an external load reduction of 70% would be necessary to meet the in-lake phosphorus concentration target. He stated that an exclusive internal load reduction of 45% would be needed to meet the in-lake phosphorus concentration target. Mr. Leaf mentioned that the MPCA wants to see the MS4s do as much as they can to reduce the load to the lake and will expect the MS4s to do the best they can to reduce their loads. Mr. Leaf explained that possible implementation strategies could be to assign individual load allocations, to take a categorical approach, or to combine those two approaches such as assigning a categorical load allocation to Golden Valley and St. Louis Park and an individual load allocation to Mn/DOT.

Ms. Black asked if a decision on the implementation strategy should be made prior to the public stakeholder meeting that is currently scheduled for June 3<sup>rd</sup> or if there are plans to hold a third public meeting. Chair Welch said a third public meeting is not currently in the project plan or budget. The Commission decided to go ahead and hold the June 3<sup>rd</sup> public meeting.

[Chair Welch departs meeting. Vice Chair Black takes over as Acting Chair]

- E. **BCWMC's Proposed 2010 Operating Budget.** Mr. Kremer said that line 49 listing the proposed 2010 Capital Projects should be changed to \$1,000,000. Mr. Sicora moved to adopt the 2010 operating budget as amended. Ms. Templeman seconded the motion. The motion carried unanimously [Cities of Minneapolis, Minnetonka, and St. Louis Park absent from vote].
- F. **Order Publication and Distribution of 2008 Annual Report.** Mr. Kremer suggested a change to the second bullet of the Capital Improvements Program to clarify that the BCWMC participated in the funding of the in-lake treatments. Ms. Black commented that there were four treatments and the BCWMC participated in three of them. Ms. Loomis moved to order the publication and distribution of the 2008 annual report as amended. Mr. Stauner seconded the motion. The motion carried unanimously [Cities of Minneapolis, Minnetonka, and St. Louis Park absent from vote.]
- G. **Education and Public Outreach Committee**
  - i. **Education Grant Recommendation – Meadowbrook School.** Ms. Black reported that the Committee recommends the Commission enter into a grant agreement with the school for \$1,000 for its outdoor classroom project. Ms. Langsdorf moved approval. Ms. Templeman seconded the motion. The motion carried with five votes in favor. The City of Golden

Valley abstained from the vote. The Cities of Minneapolis, Minnetonka, and Robbinsdale were absent from the vote.

- ii. **Update on Grant Outreach.** Mr. Stockhaus said that he and Ms. Thornton compiled a list of all of the public, parochial and private schools in the watershed and distributed to those schools a packet of information about the grant program including the application. He said that over the last month he and Ms. Thornton have been meeting with principals and directors of schools to explain the grant program and what the BCWMC was looking for in terms of grant proposals. Ms. Loomis asked if the Commission asks the schools what practices they are currently implementing such as parking lot sweeping. Ms. Black said the Education Committee has not discussed it but it could discuss it at a future meeting. Ms. Loomis asked if the Commission asks the applicants how they will maintain the projects. Ms. Black said the Meadowbrook School did address maintenance in its application. Mr. Sicora suggested a Channel 12 video about the grant program.

[Commissioner Sicora departs]

#### **H. TAC Recommendations**

- i. **60-Day Rule.** Mr. Oliver said the TAC concluded that with the one exception of the New Hope property discussed earlier in the meeting, there hasn't been an issue for the Commission so the TAC doesn't think any action by the Commission is necessary.
  - ii. **TMDL Load Allocations.** Mr. Oliver said the TAC anticipates continuing this discussion after more information comes in about the Medicine Lake TMDL.
  - iii. **Resource Management Plan.** Mr. Oliver said the TAC had no comments on the Resource Management Plan. Acting Chair Black stated that in the future, the BCWMC wants to see draft copies before they are sent out. Mr. Kremer noted that the RMP submitted to the Army Corps of Engineers is a draft and the Commission Engineer is waiting for comments on the draft before the final copy is distributed. Ms. Black directed Ms. Herbert to send the draft Resource Management Plan to the Commission.
- I. **BCWMC's June 11<sup>th</sup> Watershed Tour – Information Only.** Acting Chair Black announced that the BCWMC's Watershed Tour will be at 8:30 a.m. on Thursday, June 11<sup>th</sup> and that the meeting packet included a map to West Medicine Lake Park, which is the starting location of the tour. She noted that the tour bus will depart the West Medicine Lake Park parking lot at 8:45 a.m.
- J. **BCWMC's Missions and Goals – Deferred to next month.**

## **7. Communications (continued)**

#### **B. Commissioners:**

- i. Ms. Loomis mentioned that the University of Minnesota is doing a study of pond dredging and how to treat for polyaromatic hydrocarbons.

#### **C. Committees:**

##### **Education Committee**

- i. Ms. Langsdorf reported that the Committee is out of seed packets and the Commission should let the Committee know if it anticipates needing any seed packets this year.

