

Bassett Creek Watershed Management Commission

Minutes of the Meeting of December 17, 2009

1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:40 a.m., Thursday, December 17, 2009, at Golden Valley City Hall by Chair Welch. Ms. Herbert conducted roll call.

Roll Call

<i>Crystal</i>	Commissioner Pauline Langsdorf, Secretary	<i>Counsel</i>	Charlie LeFevere
<i>Golden Valley</i>	Commissioner Linda Loomis, Treasurer	<i>Engineer</i>	Karen Chandler
<i>Medicine Lake</i>	<i>Not represented</i>	<i>Recorder</i>	Amy Herbert
<i>Minneapolis</i>	Commissioner Michael Welch, Chair		
<i>Minnetonka</i>	Commissioner Kris Sundberg		
<i>New Hope</i>	Commissioner Daniel Stauner		
<i>Plymouth</i>	Alternate Commissioner Liz Thornton		
<i>Robbinsdale</i>	<i>Not represented</i>		
<i>St. Louis Park</i>	Alternate Commissioner Justin Riss		

Also present: Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park
Derek Ashe, BCWMC Technical Advisory Committee, City of Plymouth
Jeannine Clancy, BCWMC Technical Advisory Committee, City of Golden Valley
Jack Frost, Metropolitan Council
Dave Hanson, Alternate Commissioner, City of Golden Valley
Randy Lehr, Three Rivers Park District
Tom Mathisen, BCWMC Technical Advisory Committee, City of Crystal
Stu Stockhaus, Alternate Commissioner, City of Crystal
Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka

2. Approval of Agenda and Consent Agenda

Commissioner Loomis moved to approve the agenda. Commissioner Stauner seconded the motion. The motion carried unanimously [Cities of Medicine Lake and Robbinsdale absent from the vote].
Commissioner Loomis moved to approve the consent agenda. Acting Commissioner Thornton seconded the motion. The motion carried unanimously [Cities of Medicine Lake and Robbinsdale absent from the vote].

3. Citizen Input on Non-Agenda Items

No citizen input on non-agenda items.

4. Administration

- A. Presentation of the November 18, 2009, BCWMC meeting minutes. The minutes were approved under the consent agenda.
- B. Presentation of the Financial Statement. The December financial statement was received and filed under the consent agenda.

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

<u>Checking Account Balance</u>	<u>482,167.24</u>
<i>TOTAL GENERAL FUND BALANCE</i>	482,167.24
Construction Account Cash Balance	3,008,992.67
Investment due 10/18/2010	533,957.50
<u>TOTAL CONSTRUCTION ACCOUNT BALANCE</u>	<u>3,542,950.17</u>
<u>-Less: Reserved for CIP projects</u>	<u>3,256,699.00</u>
<i>Construction cash/ investments available for projects</i>	286,251.17

C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services through October 31, 2009 - invoice for the amount of \$1,714.95.
- ii. Barr Engineering Company – November Engineering Services - invoice for the amount of \$28,370.95.
- iii. Amy Herbert – November Recording Administrator Services - invoice for the amount of \$2,093.39.

Commissioner Loomis moved to approve the payment of the invoices. Commissioner Stauner seconded the motion. By call of roll, the motion carried unanimously with seven votes in favor [Cities of Medicine Lake and Robbinsdale absent from the vote].

- D. Resolution 09-07 to Transfer Budgeted BCWMC Funds from its Administrative Account to its Erosion/Sediment (Channel Maintenance), Long-Term Maintenance, and TMDL funds. Commissioner Loomis moved to approve Resolution 09-07. Acting Commissioner Thornton seconded the motion. The motion carried unanimously [Cities of Medicine Lake and Robbinsdale absent from the vote].

5. New Business

No New Business this month.

6. Old Business

- A. **Medicine Lake Draft TMDL Update.** Chair Welch reported that Hans Holmberg of LimnoTech, the MPCA’s contractor for the TMDL, is trying to finish the report and that Brooke Asleson of the MPCA has said the BCWMC should receive the TMDL in the second half of December. Ms. Herbert added that yesterday Ms. Asleson communicated to her that the BCWMC would receive it in early January.

Chair Welch asked if the Commission wants to formally communicate to the MPCA its expectations of receiving the TMDL by a deadline date. Commissioner Stauner asked if the delay in receiving the TMDL would impact the cities’ MS4 permitting or reporting process. Mr. Asche replied that it would not and that municipalities will have 18 months to update their SWPPPs from the date of receiving the final TMDL. The Commission indicated it did not think a formal communication would be worth the time spent on putting it together. Chair Welch said he would

informally communicate with Ms. Asleson that the BCWMC wants to see the Medicine Lake TMDL get wrapped up as soon as possible.

Chair Welch suggested having an update on the Sweeney Lake and Wirth Lake TMDLs now while the Commission is on the topic of TMDLs. Chair Welch said Ron Leaf of SEH, Inc., the BCWMC's contractor for the Sweeney Lake TMDL, reported that he is waiting for comments back from the MPCA on the TMDL report. Ms. Chandler said Mr. Leaf indicated to Barr Engineering that the MPCA will get the comments to SEH by Tuesday, December 22nd and that the comments will include the MPCA's comments as well as comments from the Minnesota Board of Water and Soil Resources (BWSR) and the Minnesota Department of Natural Resources (DNR). She said Mr. Leaf suggested that the BCWMC and SEH review the comments once received and if no significant implementation concerns are raised then the review of the draft implementation plan should be scheduled to occur in January. Ms. Chandler said there is no update on the Wirth Lake TMDL. Chair Welch asked for the Wirth Lake TMDL to be added to the January meeting agenda and asked Ms. Chandler to ask Greg Wilson of Barr Engineering to provide an update for the meeting packet and an update on the status of the contract.

- B. Administrative Services Committee Update.** Chair Welch reported that the Committee met to discuss the draft Request for Proposals (RFP) for administrative services provided by Springsted, Inc. He said that the RFP in the meeting packet was the version from Springsted and that today's handouts include the RFP and also a position description and that one version includes his comments and one version contains Commissioner Black's revisions. Chair Welch said the Committee recommends distributing the RFP and position description via e-mail to a list of people put together by the Committee, including recommendations from BWSR, and via posting on the BCWMC's Web site and the MPCA's SEEK Web site. He said the Committee is open to additional locations for posting the RFP and stated that Commissioners are welcome to forward the e-mail to contacts they have who may be qualified and interested. Mr. LeFevere suggested posting the position with the League of Minnesota Cities job listing.

The Commission discussed whether or not the qualifications should include that applicants must hold a bachelor's degree and decided to make it a requirement. Chair Welch stated that he plans to step down from the Chair position at the end of the term in January and asked the Commission to keep that fact in mind as it considers the RFP and the applicants for the position.

Commissioner Stauner commented that the current position description portrays the position as a job instead of a contract. He recommended that the description be revised to clearly state that the BCWMC is looking to contract for the administrative services. Commissioner Stauner remarked that the position description also should include that the person will act as the primary contact for the public. The Commission discussed the RFP's requirement that a writing sample be submitted and decided the RFP should require the submission of a professional writing sample. The Commission decided that the RFP should require that the submissions be sent electronically as a PDF to the BCWMC's Deputy Treasurer, Sue Virnig. The Commission decided that hard copies of applications would not be accepted and that the RFP should not state that receipt of applications will be confirmed nor should the RFP list dates of applicant interviews or of the Commission's final decision.

Commissioner Loomis move to approve the discussed revisions and the distribution of the revised RFP and position description and their posting on the discussed Web sites. Commissioner Sundberg seconded the motion. The motion carried unanimously [Cities of Medicine Lake and Robbinsdale absent from the vote]. Chair Welch said he will draft the discussed changes and will send them to the Administrative Services Committee for review and then to Commissioner Black for distribution.

C. Education and Public Outreach Committee

- i. **\$100 Budget Increase for Teacher Focus Group.** Commissioner Langsdorf reported that the focus group will occur on January 14th and that seven out of ten teachers have accepted the invitation to participate. She reminded the Commission that it approved a budget to pay a \$100 stipend to each participating teacher and requested the Commission approve an additional \$100 to cover a pizza lunch for the participants. She said the additional budget will only be used if the full amount of the original \$1,000 budget is spent. Commissioner Loomis moved to approve the additional \$100 for pizza for the focus group. Chair Welch seconded the motion. The motion carried unanimously [Cities of Medicine Lake and Robbinsdale absent from the vote].

D. Resource Management Plan. Chair Welch reminded the Commission that at its November meeting it directed staff to sound out the possible costs involved in conducting a cultural resource review due to comments submitted to the U.S. Army Corps of Engineers on the BCWMC's Resource Management Plan (RMP). He said that Jeff Lee of Barr Engineering is working with the Corps and with the consultant who did the initial cultural resources review for Barr Engineering as part of the RMP.

Ms. Chandler said that as part of the RMP there was a paper-type of archeological survey, meaning a review of documents that have already been published. She said if there are sites in the RMP that require an on-the-ground survey, also known as a shovel test," the Commission Engineer estimates the cost to be \$6,000 - \$8,000. She said that cost estimate is based on the premise that the BCWMC uses a contractor similar to the one used for the paper survey. Ms. Chandler said that the cost estimate might change based on the outcome of the meeting between the Commission Engineer, the U.S. Army Corps of Engineers (the Corps), and the interested Commissioners.

Ms. Chandler reported that the Corps would like to hold a meeting in January involving their staff archeologist Brad Johnson, staff members Joseph Yanta and Melissa Jenny, the representatives from Barr Engineering including Len Kremer and Jeff Lee, and the Commission representatives.

Chair Welch asked to be included on the e-mail that is coordinating the meeting dates and said he would like to attend but that his availability is secondary to Mr. deLambert's schedule. Commissioner Stauner said that he would like to be informed about the meeting date. Chair Welch explained that the cultural review costs are ballpark numbers at this time because the Commission needs to hear from the Corps about which sites need to be reviewed before the information can be forwarded to a contractor for a cost estimate. Chair Welch clarified that the review costs are project costs the BCWMC would incur even without the RMP because the cultural review would be part of any Corps review. Ms. Chandler explained that the BCWMC is trying to get ahead in the process so the cultural review doesn't present a delay down the road.

Ms. Chandler reported that Joseph Yanta of the Corps indicated that after the January meeting between Corps staff and the BCWMC representatives, the Corps would develop a cultural resources memorandum of agreement with the BCWMC, the State Historical Preservation Office, and other interested parties – perhaps the cities - to outline the steps that would need to be taken before the BCWMC could begin work.

E. Mississippi River E. Coli TMDL Update. Chair Welch explained that the MPCA is conducting the Upper Mississippi River Bacteria TMDL. He said the Bassett Creek Main Stem is also impaired for bacteria and the issue in front of the Commission is whether it wants that TMDL to

be done as part of the Upper Mississippi River Bacteria TMDL. Chair Welch stated that Barb Peichel's memo to the Commission assumes that the Bassett Creek TMDL will occur as part of the Upper Mississippi River TMDL. He said that one main theme that comes through from her memo is that things are very open ended right now and it is not yet clear how the process will proceed.

Ms. Chandler reported that Len Kremer spoke yesterday to Barb Peichel. She said their conversation included the pros and cons of the BCWMC doing the Bassett Creek bacteria TMDL as part of the Upper Mississippi River TMDL. Ms. Chandler listed that one pro is that the BCWMC would be eligible for implementation project funding sooner. Chair Welch pointed out it would only be available sooner if the TMDL was completed sooner than if the BCWMC conducted it on its own. Chair Welch stated that Ms. Peichel's memo lists the goal for the Upper Mississippi TMDL as having a draft in 2012 - 2013. Ms. Chandler said another pro for going under the umbrella of the MPCA's TMDL is that costs would be covered by the MPCA, outside of the BCWMC paying for its staff representation in the project. She said the MPCA communicated that it is not sure it will have funds available for the BCWMC to conduct the TMDL on its own. Ms. Chandler reported that Ms. Peichel said that waiting to conduct the TMDL probably won't change the level of detail required for the TMDL. Ms. Chandler said that as a point of information, whichever way the BCWMC conducts the TMDL, the TMDL probably won't be completed by 2011 when the MS4 permits are supposed to be renewed.

Chair Welch pointed out that the Commission does have funds earmarked for TMDLs but the current available balance won't cover the cost of the Bassett Creek E. coli TMDL. He said another consideration is whether the Commission wants to sign on for conducting another TMDL in collaboration with the MPCA. Chair Welch said it makes sense to get a couple of commissioners, a staff member, Barb Peichel and Brooke Asleson of the MPCA together to address some of the Commission's questions. He said staff should put together a memo of the outcomes of that meeting for the TAC's review and then the TAC should present recommendations to the Commission. Chair Welch directed the Commission Engineer to coordinate the meeting to occur in January after the January BCWMC meeting and to invite Commissioner Loomis and Alternate Commissioner Riss. He directed staff to add the item to the TAC's March meeting agenda and to the BCWMC's March meeting agenda.

[Commissioner Sundberg departs meeting.]

- F. **Flood Control Project Inspections.** Ms. Chandler explained that there were two aspects to this year's inspection: the required annual above-ground inspection that occurred in mid- to late-November and the November 19th inspection of the double box culvert, which is inspected every five years. She pointed out the summary and recommendations listed on the first page of the December 9th inspection memo that was included in the meeting packet.

Ms. Chandler reported that the double box culvert is in good condition; however, she stated that a three-inch hole was discovered during the flood control inspection. She said that the hole needs to be patched and that Barr Engineering recommends that the BCWMC notify the Minnesota Ballpark Authority (BPA). She said cracks and other deficiencies noted in the double box culvert inspection do not need to be addressed at this time and will be inspected in the next five-year inspection. Ms. Chandler stated that copies of the inspection notes and report will be sent to the City of Minneapolis and the U.S. Army Corps of Engineers. Chair Welch stated that it seems that the request for the repair of the three-inch hole can wait until the BCWMC sees who will be handling it and requested that the inspection notes and report also be sent to the BPA.

Ms. Chandler said that Barr Engineering will complete the 2009 flood control inspection report in early 2010 and the report will be available for the BCWMC's February meeting. Mr. LeFevere said he spoke with the BPA yesterday and informed them of the hole in the ceiling of the tunnel

and said the BPA had not been aware of it. He said he thinks the issue would be resolved by the BCWMC informing the BPA of the hole and then the BPA arranging for the contractor to return to the site to repair the hole it drilled in the double box culvert.

Chair Welch said the ownership of the easement above the tunnel is not yet resolved but that Mr. LeFevere is working on it.

Ms. Clancy requested that Barr Engineering coordinate the annual flood control project inspection with city staff. Chair Welch said that going forward the BCWMC should invite city staff to accompany Barr on the annual inspection.

- G. Clean Water Fund Grants Update.** Chair Welch asked for staff to give an update regarding Hennepin County's grant program before the update about the Clean Water Fund Grants. Ms. Chandler said the Hennepin County staff members haven't made their formal recommendations to the Hennepin County Board of Commissioners (County Board). Commissioner Loomis said that Joel Settles of Hennepin County contacted the City of Golden Valley to discuss its application. Mr. Asche said that Joel Settles also contacted him regarding the City of Plymouth's application. Commissioner Loomis said Mr. Settles told the City of Golden Valley that it will be getting funding just not in the amount requested. Mr. Asche reported that he received the same message from Mr. Settles. Ms. Chandler said the County Board is slated to make its final recommendations in January. Chair Welch commented that BWSR got \$44 million in requests for the \$13- \$14 million available for Clean Water Fund Grants.

7. Communications

A. Chair:

- i. Chair Welch reminded the Commission that it will elect a new set of officers at the February meeting.
- ii. Chair Welch announced that the City of Plymouth's Web site has an application where people can sign up for e-mail updates on the Plymouth Creek restoration project.
- iii. Chair Welch stated that the DNR is pulling together a work group to consider existing plans and policies, existing ordinances and conditions, identified resources and features and other things in the Mississippi Corridor and if anyone is interested in the announcement to let him know.
- iv. Chair Welch reported that the MPCA has what it calls its 10-year intensive watershed monitoring and that in 2010 the Bassett Creek Watershed is part of that monitoring. He said that Brooke Asleson of the MPCA contacted him regarding the BCWMC convening a meeting to discuss what monitoring and data exists and what data needs there may be. Ms. Herbert reported that she will work with Ms. Asleson to coordinate the meeting.

B. Commissioners:

- i. Mr. Asche reported that the Plymouth Creek water quality project started yesterday with tree removal and that the dewatering process will start next week. He commented that the Commission should consider the project as a tour stop in its next watershed tour.

C. Committees: Education Committee:

- i. Ms. Langsdorf announced that the Committee expects the salt article to be written and marketed in early January.

