



Bassett Creek Watershed Management Commission

Minutes of Regular Meeting August 21, 2014 Golden Valley City Hall, 8:30 a.m.

Commissioners and Staff Present:

| | | | |
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| Crystal | <i>Not represented</i> | Robbinsdale | <i>Not represented</i> |
| Golden Valley | Commissioner Stacy Hoschka, Treasurer | St. Louis Park | Commissioner Jim de Lambert, Chair |
| Medicine Lake | Commissioner Clint Carlson | Administrator | Laura Jester |
| Minneapolis | Commissioner Michael Welch | Attorney | Charlie LeFevere, Kennedy & Graven |
| Minnetonka | Commissioner Jacob Millner, Secretary | Engineer | Karen Chandler, Barr Engineering Co. |
| New Hope | Alternate Commissioner Pat Crough | Recorder | Amy Herbert |
| Plymouth | Commissioner Ginny Black | | |

Technical Advisory Committee (TAC) Members/ Other Attendees Present:

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| Patrick Anderson, AMLAC | Jeff Oliver, TAC, City of Golden Valley |
| Caroline Amplatz, Golden Valley Resident | John O'Toole, Alternate Commissioner, City of Medicine Lake |
| Derek Asche, TAC, City of Plymouth | Bob Paschke, City of New Hope |
| Marge Beard, City of Plymouth | Tory Peterson, Perpich Center for Arts Education |
| Harvey Feldman, Friends of Northwood Lake | Jim Prom, City of Plymouth |
| Erick Francis, TAC, City of St. Louis Park | David Stack, Friends of Bassett Creek |
| Christopher Gise, Golden Valley Resident | Liz Stout, City of Minnetonka |
| Steve Heiskary, MN PCA | Peter Tiede, St. Paul |
| Tom Mathisen, TAC, City of Crystal | Robert White, Friends of Northwood Lake |

1. CALL TO ORDER AND ROLL CALL

On Thursday, August 21, 2014, at 8:36 a.m. in the Council Conference room at Golden Valley City Hall, Chair de Lambert called to order the meeting of the Bassett Creek Watershed Management Commission (BCWMC) and asked for roll call to be taken. The Cities of Crystal and Robbinsdale were absent from the roll call.

2. CITIZEN FORUM ON NON-AGENDA ITEMS

Tory Peterson of the Perpich Center for Arts Education introduced himself, described the school and its location in Golden Valley and in the watershed. He explained that the theme for his students this year is “water.” Mr. Peterson explained his students would be working on 3 design concepts regarding water and that he would also like his students to learn about the watershed, community, and government. Administrator Jester and Commission Hoschka volunteered to connect with Mr. Peterson.

Minneapolis resident David Stack asked if the Commission has a policy on kayaking on Bassett Creek and if not, he requested that the Commission create one. There was a brief discussion on the Commission’s current 2014 Watershed Management Plan process, discussion within that process about recreational policies, and how kayaking considerations mean consideration in design of creek projects with regard to things like cross vanes. Administrator Jester said that she would follow up with Mr. Stack about opportunities within the plan process for discussion of such policies.

Patrick Anderson, President of the Association of Medicine Lake Area Residents (AMLAC), announced that AMLAC is holding its annual Medicine Lake “Walk About;” a community and education event at Medicine Lake on September 13 from 11 a.m. to 2 p.m. He said it is a walk on the path around the lake between East and West Medicine Lake Parks, with educational displays, food, and events.

3. AGENDA

Commissioner Black moved to approve the agenda. Commissioner Welch seconded the motion. Upon a vote, the motion carried 7-0 [Cities of Crystal and Robbinsdale absent from vote].

4. CONSENT AGENDA

Commissioner Welch requested the removal of items 4Cii – Barr Engineering Invoice, and 4D – Approval of TruStone Financial Building Project in Golden Valley. Chair de Lambert said that the invoice would be added to the agenda before item 5A and the TruStone item would be added to the agenda after 5A. Chair de Lambert requested that item 5C – Final Approval of 2015 Operating Budget – be added to the Consent Agenda. Commissioner Black moved to approve the Consent Agenda as amended. Commissioner Welch seconded the motion. Upon a vote, the motion carried 7-0 [Cities of Crystal and Robbinsdale absent from vote].

[The following items were approved as part of the Consent Agenda: the July 17, 2014, Commission Meeting minutes, the monthly financial report, and the payment of the invoices (except for the invoice from Barr Engineering, Approval to set public hearing date for October Commission meeting to receive comments from cities on 2015 Main Stem Project, and Final approval of the 2015 Operating Budget.)

The general and construction account balances reported in the Financial Report prepared for the August 21, 2014, meeting are as follows:

| | |
|--|----------------|
| Checking Account Balance | \$651,686.13 |
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| TOTAL GENERAL FUND BALANCE | \$651,686.13 |
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| TOTAL CASH & INVESTMENTS ON-HAND (8/12/14) | \$3,064,158.09 |
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| | |
|--|------------------|
| CIP Projects Levied – Budget Remaining | (\$2,861,732.83) |
| Closed Projects Remaining Balance | \$202,425.26 |
| 2013 Anticipated Tax Levy Revenue | \$8,756.59 |
| 2014 Anticipated Tax Levy Revenue | \$428,419.50 |
| Anticipated Closed Project Balance | \$639,601.35 |

5. BUSINESS

Barr Engineering Company Invoice for July 2014 Engineering Services

Referring to the invoice from Barr Engineering, Commissioner Welch wondered how the Commission Engineer and the Administrator handled inquiries from individuals with various concerns in the watershed. He recognized the Commission needed to be responsive to residents but also wanted to be sensitive to consultants' time. There was a brief discussion. Administrator Jester suggested that she and Commissioner Welch talk about his concern outside the meeting and bring the issue back to the Commission at a future meeting, if needed. Commissioner Black mentioned that she thinks the Administrative Services Committee should be conducting an annual review on how the Commission is functioning, conducting business, and using staff resources.

A. Receive Information and Updates on Blue-Green Algae

Administrator Jester reported that the algae data from the most recent monitoring of Sweeney Lake showed no evidence of the blue green algae toxins but the message is still for people to use discernment.

Engineer Chandler reported that other agencies in the metro area weren't surprised to see the appearance of blue-green algae early in the season especially due to the amount of rain this area received in June and the subsequent runoff from the rain events.

Chair de Lambert noted that the Commission should be considering its role in this issue if any, especially in regard to the watershed management plan.

Administrator Jester introduced Steve Heiskary, a research scientist with the Minnesota Pollution Control Agency. Mr. Heiskary provided a PowerPoint presentation on algae and algal toxins in Minnesota. He gave an overview of algae, a brief history of algal toxins, shared some case studies, and described the findings from some Minnesota studies.

Mr. Heiskary noted that blue-green algae develop each summer. He said that this summer the MPCA has been seeing it in new places, so the MPCA has been getting contacted a lot about it. He listed the types of algae and explained that blue-greens are grouped as a phytoplankton but are actually bacteria that gain energy through photosynthesis. Mr. Heiskary described the conditions in which different algae thrive. He said that blue-green algae prosper in hot temperatures, abundant sun, calm winds, and in nutrient-rich waters that are low in silica and nitrogen.

Mr. Heiskary described the different toxins that can be produced by blue-green algae: Microcystin (of which

there are 80 variants), saxitoxin, anatoxin-a, cylindrospermopsin, and BMAA. There was a discussion of the effects of these toxins. Ms. Chandler added that the sample from Sweeney Lake earlier in the summer showed the presence of anatoxin and some microcystin.

Mr. Heiskary gave an historical overview of documented cases of blue-green algae starting in the late 1800s. He talked about some activities in the early 2000s in Minnesota such as the formation in 2005 of the MN Blue-Green Algal Toxicity Workshop.

He noted that the MPCA has a lot of information on its website about blue-green algae including many photographs so that residents can learn more the algae.

Mr. Heiskary summarized that blue-green algae are one of several forms of algae in Minnesota lakes and that blue-green algae are found in all Minnesota lakes. He stated that severe blooms are most frequent in lakes with high nutrients, warm water, low wind, and an abundance of sunlight. Mr. Heiskary explained that several forms of blue-green algae produce toxins, which can cause death for animals that consume the water. He said that people can get gastrointestinal illnesses, skin rashes, and respiratory problems. He added that the most commonly measured toxin is microcystin. He said that the MPCA's message is "when in doubt, keep out" if residents suspect the presence of blue-green algae.

Mr. Heiskary also noted that the MPCA is developing microcystin recreational risk-based thresholds for water bodies.

Administrator Jester brought up the idea raised by residents and the Commission at a previous meeting about using rapid test kits to monitor lakes in the watershed. Mr. Heiskary suggested that if the Commission wanted to undertake some type of monitoring in the watershed, the Commission could consider doing a study for a range of lakes to get a better understanding of patterns and the relationship of blue-green algae and the waters in the watershed. He didn't recommend simply giving out the test kits for residents to sample here and there. He did think it might make sense to use the test kits at publicly-run beaches.

Mr. Stack asked what can help alleviate the problem of the blue-green algae blooms. Mr. Heiskary responded that there are no easy or short-term solutions. He said that reducing nutrients, implementing TMDLS (Total Maximum Daily Load Studies) and BMPs (best management practices) would help greatly. Mr. Heiskary said to think of the blue-green algae blooms in terms of frequency, intensity, and duration. Commissioner Welch said that blue-green algae add a health component to the reasons behind watershed management. Mr. Heiskary agreed that it does raise the bar and that there is an important educational component to get this information out to people regarding the reasons behind stormwater management and load reductions.

Mr. Heiskary answered questions and said that Administrator Jester has a copy of today's PowerPoint presentation.

B. Approval of TruStone Financial Building Project in Golden Valley

Commissioner Welch stated that he would like the Commission to consider how it handles projects such as this one because he believes that it is not good policy for projects of this size to receive no water quality treatment from the Commission. He remarked that most concerning to him with this project is the fairly substantial amount of fill in the 100-year floodplain.

Engineer Chandler noted that she believes that the City of Golden Valley had provided additional wetland mitigation and floodplain storage so that the City could do this type of project. She provided more details on the history of the site. Mr. Oliver also provided details about the history of the site, the land donated by General Mills and the purpose behind it, and the City's work with floodplain mitigation. Commissioner

Welch asked about the biofiltration system planned for the site and added that it would be a bad idea to infiltrate through a contaminated site. Mr. Oliver said he believes it is a filtration system, not an infiltration system. He said that his recollection is that the previous owner did mitigation prior to selling the property and that there were minor leaks that were cleaned up. He said that documentation on this will be provided.

Commissioner Welch requested that the Commission Engineer's recommendation number 5 in the August 12, 2014, memo on the project be revised to include that approval of the project is contingent on not infiltrating through contaminated soils. There were more questions about flood levels. Mr. Oliver clarified that there will be no increase in flood levels in this portion of the creek due to General Mills or any work here. Engineer Chandler wanted to clarify that the flood level in the area of the project is no longer 888 but is now quite a bit lower but the City hasn't yet gone through the formal process to have it changed. Mr. Oliver confirmed. He added that flood levels and flood mitigation is his top priority and this project does not pose greater flood risks.

Commissioner Black moved to incorporate Commissioner Welch's requested language into the Commission Engineer's recommendation number 5 and approve the project with the Engineer's recommendations. Commissioner Hoschka seconded the motion. Chair de Lambert asked Commissioner Welch to restate his recommendation. Commissioner Welch said that his recommendation was that the Commission's approval is contingent on there being no infiltration through contaminated soils. Upon a vote, the motion carried 6-0 [City of Minneapolis abstained from the vote, and the cities of Crystal and Robbinsdale were absent from vote].

C. Review Mid-Year 2014 Budget Status

Administrator Jester reported that she and the Commission Engineer reviewed the status of the annual budget. She said that overall the budget is anticipated to be exceeded for technical services by approximately \$9,500. She provided a correction to a line item in the Commission Engineer's memo on this agenda item. Administrator Jester described the reasons for the anticipated overages. She described the anticipated savings of up to \$10,000 to \$13,000 in other line (non-engineering) budget items. Administrator Jester recommended that the Commission not change or discontinue any services, and she said that she believes that the Commission will finish out its fiscal year in the black.

Administrator Jester said that for the watershed plan the Commission Engineer anticipates being over-budget by \$5,000 by the end of 2014. Administrator Jester reminded the Commission that it budgeted \$30,000 for the watershed plan in 2015. She said that the Commission may go over budget this year with the plan but will try to be back in line with the plan budget in 2015. Administrator Jester added a few caveats, noting that the Commission has had and may continue to have intense discussions on policies in the plan, there are questions about the Commission's role in recreation to discuss, and there is the implementation plan to put together. She said that she is not promising that the plan budget at the end of the process will come in exactly on budget but that is her hope.

Commissioner Black supported the Administrator's recommendation and recommended keeping a close eye on the budget. She asked that another budget review come to the Commission at its October meeting.

D. Consider Agreement with Golden Valley for Design and Construction of Schaper Pond Diversion Project

Administrator Jester reminded the Commission that last September it adopted a resolution ordering the project but did not enter into an agreement with Golden Valley because there were questions about whether the State would permit the project. She reported that the Commission has worked through the permitting issues and that discussions about whether or not Golden Valley will ultimately be able to take credit for this project in their MS4 permit are ongoing. Mr. Oliver noted the City would like to move forward. Administrator Jester said

that Barr Engineering has provided to the City of Golden Valley a proposal to design and construct the Schaper Pond Diversion Project. She noted that in front of the Commission today is an agreement between the City of Golden Valley and the Commission for the City to move ahead with the project with a total reimbursable project cost not to exceed \$612,000.

Commissioner Welch asked and Engineer Chandler confirmed that the Commission did not receive Clean Water funds for this project. There were some questions about who would construct the project. Commissioner Welch explained that the construction would be bid.

Commissioner Welch said that in paragraph 2 of the agreement, the language reads that plans and specifications are subject to review by the Commission. He said that the Commission refined that language to provide more specificity about checkpoints and asked why that more specific language doesn't appear in this agreement.

Engineer Chandler described the process that she envisions the project will follow, which is the Commission's CIP process. Commissioner Welch and Attorney LeFevere discussed the language in the agreement, and Commissioner Welch asked for the language to be more specific and for "subject to" to be removed. Mr. Oliver said that the City has no problem with that request.

Commissioner Black asked if the Commission Engineer would be reviewing its own work since Barr Engineering would be designing the project. There was a discussion. Attorney LeFevere said that the Commission could hire an outside engineer to do a peer review of the Commission Engineer's work, but it would be an unusual and costly step. Commissioner Black said that another option is to not have the Commission Engineer do the design. Mr. Oliver said that Barr Engineering is in the Commission's engineering pool and Barr Engineering has a 20-year history with the project site. Commissioner Black said that she has worked in many jobs in which she had her work reviewed and that now and again someone would find an error. She said that when the feasibility study and the design are both done by the Commission Engineer, it opens the project up to problems that may cause cost increases in the future. She said that she thinks it is not a good way to conduct business to have everything done internally with no one from the outside reviewing the project.

There was discussion about different member cities' processes with regard to contracting for feasibility studies and project design. Mr. Asche said that for him the perfect process would be for the Commission Engineer to do the feasibility studies but not the design. He said that instead he would look to an outside firm in the pool to do the design because he feels there is an advantage to having an outside consultant do the design and the Commission Engineer review it because he likes an extra set of eyes on it. Mr. Asche said that it is each city's choice since the City has to manage the projects.

There was discussion about the revision to the language in the agreement. Mr. Oliver said that the City is fine with a revision as long as it doesn't mean that minor change orders need Commission approval because the delays that could occur in construction would be costly.

Commissioner Welch moved that the Commission approve the agreement subject to Commission review of the 90% plans / bid documents and that the Commission authorize Counsel to work out change order language in the agreement with the Chair's review and approval. Commissioner Hoschka seconded the motion. Upon a vote, the motion carried 7-0 [Cities of Crystal and Robbinsdale absent from vote].

E. Receive Update on Next Generation Watershed Management Plan Development

Administrator Jester provided an update and reported that the Commission needs to hold a workshop in late September or early October to discuss remaining policies and the draft implementation plan. The Commission

agreed that Administrator Jester would send out a Doodle poll to coordinate the workshop.

F. Receive Update on Materials for New Commissioners

Commissioner Black recommended that the Joint Powers Agreement and a list of acronyms be included in the materials and suggested that the Commission have a presentation annually to review the Open Meeting Law. There was a brief discussion and the Commission agreed that these materials should go on the Commission's website and can be provided to new members in other formats if necessary.

[Commissioner Hoschka of Golden Valley and Commissioner Millner of Minnetonka depart the meeting]

Administrator Jester said that she will work on gathering those pieces and will work with the recorder to get the materials posted.

G. Consider Approval of Plans for Volunteer Recognition

Administrator Jester summarized the proposed process for recognizing volunteers. Commissioner Welch suggested that in this inaugural year the Commission recognize volunteers going back at least one year. Commissioner Black moved to approve the process with the addition of continuing to recognize outgoing Commission members with a certificate at the member's final meeting. Alternate Commissioner Crough seconded the motion. Upon a vote, the motion carried 5-0 [Cities of Crystal, Golden Valley, Minnetonka, and Robbinsdale absent from vote].

[Commissioner Carlson of Medicine Lake departs the meeting. Alternate Commissioner John O'Toole assumes voting role.]

H. Consider Commission Involvement on Project Advisory Team for MPRB Ecological System Plan

Administrator Jester gave a summary of the project and reported that Engineer Chandler attended the first meeting. She noted that approximately three more meetings are planned. Commissioner Welch moved that he attend the meetings and that if he can't attend, Administrator Jester will attend in his place. Commissioner Black seconded the motion. Upon a vote, the motion carried 5-0 [Cities of Crystal, Golden Valley, Minnetonka, and Robbinsdale absent from vote].

I. Receive Update on Watershed Map

Administrator Jester said that she has a meeting tomorrow about the map, plans to order the printing of 2,500 copies, and has requested that the map be done and ready for Golden Valley Days.

J. Receive Update on NEMO Workshops

Administrator Jester noted that 14 local officials and BCWMC members attended the July workshop on Lake Minnetonka. She announced that there is one more workshop, which will be a bus tour of storm water improvement projects. She added that staff is still investigating sites to add to the tour.

K. Discuss Plans for Commission Involvement in Golden Valley Days

Administrator Jester said that Golden Valley Days is on September 13th and the BCWMC will have a vehicle in the parade. She said that if anyone is interested in being in the parade to contact her. She announced that she will send out an email with updates on the event.

6. COMMUNICATIONS

A. Administrator:

- i. Administrator Jester announced that she and the City of Golden Valley are helping with a tour for

MPCA staff next Tuesday morning. She said the tour is of BMPs and will stop at the Wirth Lake Outlet Structure and the Main Stem restoration project in Golden Valley.

B. Chair: No Chair Communications

C. Commissioners:

- i.** Commissioner Black announced that she has requested that the Plymouth City Council appoint David Tobelmann as the Commissioner and her as the Alternate Commissioner for the BCWMC.
- ii.** Commissioner Welch, Administrator Jester, and Engineer Chandler provided an update on the permit status at the U.S. Army Corps of Engineers for the Main Stem restoration project in Minneapolis. Engineer Chandler reported that the grant for the project has been extended.
- iii.** Commissioner Welch announced that the Minneapolis Transportation Public Works Committee passed the Joint Powers Agreement amendment, which will go to the Minneapolis City Council next week for approval. He said he anticipates that the amendment will be signed before the next Commission meeting.
- iv.** Commissioner Welch requested that the Administrator touch base with the City of Robbinsdale regarding the city's representation on the Commission.

D. TAC Members: No TAC Communications

E. Committees: No Committee Communications

F. Legal Counsel: No Legal Communications

G. Engineer:

- i.** Engineer Chandler spoke about the MPCA's responses to the Commission's comments on the bacteria TMDL. She provided a summary of the responses. Engineer Chandler said that the Commission could have an informal conversation with the MPCA, could send a letter to the U.S. Environmental Protection Agency, or could just work things out during implementation and planning.
- ii.** Engineer Chandler reported that the Commission isn't eligible for this next round of Clean Water Fund grants because the Commission's Watershed Management Plan expires in September and for the Commission to be eligible there needs to be a plan in effect.

7. INFORMATION ONLY (Available at <http://www.bassettcreekwmo.org/Meetings/2014/2014-August/2014AugustMeetingPacket.htm>)

- A. Grant Tracking Summary and Spreadsheet
- B. WCA Notices, Plymouth

