

# **Bassett Creek Watershed Management Commission**

## **Minutes of the Meeting of March 20, 2008**

### **1. Call to Order**

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:30 a.m., Thursday, March 20, 2008 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>	<i>Not represented</i>	<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>	Commissioner Karla Peterson		
<i>St. Louis Park</i>	Commissioner Manuel Jordan		

**Note:** Commissioners Linda Loomis [Golden Valley] and Kris Sundberg [Minnetonka] arrived after roll call.

**Also present:** Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park  
Brooke Asleson, Minnesota Pollution Control Agency (MPCA)  
Lane Christianson, BCWMC Technical Advisory Committee, City of Minneapolis  
Jack Frost, Metropolitan Council  
Lee Gustafson, BCWMC Technical Advisory Committee, City of Minnetonka  
Dave Hanson, Alternate Commissioner, City of Golden Valley  
Denise Leezer, Minnesota Pollution Control Agency (MPCA)  
Tom Mathisen, BCWMC Technical Advisory Committee, City of Crystal  
Bob Moberg, BCWMC Technical Advisory Committee, City of Plymouth  
Jeff Oliver, BCWMC Technical Advisory Committee, City of Golden Valley  
Stu Stockhaus, Alternate Commissioner, City of Crystal  
Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka  
Elizabeth Thornton, Alternate Commissioner, City of Plymouth  
Brian Vlach, Three Rivers Park District

### **2. Approval of Agenda and Consent Agenda**

Chair Welch requested that items 3E. – Discussion of BCWMC Meeting Logistics, 5D – Army Corps Permitting of Future CIP Projects, and 5M – 2007 Lake Water Quality Study for Westwood and Crane Lakes - be deferred to the April BCWMC meeting. [Ms. Sundberg arrived.] Ms. Black moved to approve the amended agenda. Ms. Templeman seconded the motion. The motion carried unanimously. Chair Welch removed the financial statement from the Consent Agenda. Ms. Black moved to approve the amended Consent Agenda. Ms. Templeman seconded the motion. The motion carried unanimously [City of Golden Valley was absent from the vote]. [Ms. Loomis arrived].

### 3. Administration

- A. Presentation of the February 21<sup>st</sup> BCWMC meeting minutes. The February 21<sup>st</sup> minutes were approved as part of the Consent Agenda.
- B. Presentation of the Financial Statement. Chair Welch requested that the financial report be removed from the Consent Agenda because he wanted to clarify to the Commission that the March financial report and the 2007 fiscal year-end financial report were included in the meeting packet. Ms. Loomis announced she handed out a revised March financial statement. She said the revised report contains the project reimbursements that the BCMWC has received from the Minnesota Ballpark Authority and the MPCA. Chair Welch announced that the Commission receives and files the financial report.

The general and construction account balances reported in the March 2008 Financial Report are as follows:

<u>Checking Account Balance</u>	603,709.02
<u>TOTAL GENERAL FUND BALANCE</u>	603,709.02
Construction Account Balance	1,834,008.48
Investment Balance (CP due 3-24-08)	494,568.89
<u>TOTAL CONSTRUCTION ACCOUNT BALANCE</u>	<u>2,328,577.37</u>
<u>-Less: Reserved for CIP projects</u>	<u>3,412,900.73</u>
<i>Construction cash/ investments available for projects</i>	1,084,323.36

- C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services through January 31, 2008 - invoice for the amount of \$2,107.68.
- ii. Barr Engineering Company – February Engineering Services - invoice for the amount of \$33,155.59.
- iii. Amy Herbert – February Recording Administrator Services - invoice for the amount of \$3,204.00.
- iv. Michael Welch – Reimbursement of Meeting Expenses – invoice for the amount of \$40.70.
- v. City of Golden Valley – Reimbursement for Sweeney Lake Branch Channel Restoration Work – invoice for the amount of \$119,681.82.

Ms. Loomis moved to approve all of the invoices. Ms. Black seconded the motion. By call of roll, the motion carried unanimously.

- D. Discussion of Recording Administrator Contract. Ms. Black moved to approve an amended contract for Recording Services with the hourly fee for services increased from \$50 an hour to \$55 an hour. Ms. Templeman seconded the motion. The motion carried unanimously.

- E. Discussion of BCWMC Meeting Logistics. Deferred to April meeting.

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## **4. New Business**

No New Business

## **5. Old Business**

- A. **Sweeney Lake TMDL Phase II Contract with the Minnesota Pollution Control Agency (MPCA).** Mr. Kremer stated that the original scope of work for the Sweeney Lake TMDL planned for the possibility of needing a second year of data. He said that a second year of data will be needed due to the unusual weather conditions last year. Chair Welch asked what would happen if this year is also an unusual year in terms of rain conditions. Mr. Kremer said in that case a third year of data may be necessary.

Chair Welch said the contract is ready today and asked Mr. LeFevere to comment. Mr. LeFevere said the contract is what the Commission was expecting and said the Commission doesn't need a companion contract with SEH since the first contract with SEH covered Phase 2 in the event Phase 2 needed to happen. Ms. Aselson emphasized that work cannot be done on the project until the Department of Administration signs the contract, which will take approximately two weeks from today.

Ms. Black moved that the Commission enter into the contract with the MPCA. Ms. Templeman seconded the motion. The motion carried unanimously. Chair Welch directed Ms. Herbert to invite Ron Leaf of SEH to the April meeting to present an update on the Sweeney Lake TMDL Study.

Ms. Black raised the concern that the Sweeney Lake TMDL study information hosted on SEH's Web site may not be accessible in future years and suggested the Commission find a way to move that information onto the Commission's Web site. Chair Welch directed Ms. Herbert to discuss the topic with Ron Leaf. Ms. Aselson mentioned that the MPCA's Web site links to TMDL project Web sites created and maintained by the MPCA.

- B. **Wirth Lake TMDL Update.** Mr. Kremer reported that Ms. Aselson provided comments to Barr today regarding the Wirth Lake TMDL study work plan. He said the comments included a suggestion to add references to past work completed on Wirth Lake and suggestions for a couple of modifications in the way the work would be done. Mr. Kremer remarked that the modifications can be made. He said that all the modeling and all the data collected to-date will be put on a CD so that the CD can go out with the request for proposals so contractors can use that information while developing their proposals.

Ms. Black said the phosphorus goal is listed as 30 micrograms per litre in the Wirth Lake Management Plan prepared by the BCWMC. She said the MPCA sets the goal at 40 micrograms per litre and she asked which goal the Wirth TMDL is trying to reach. Mr. Kremer said the TMDL follows the state's goal [40 micrograms per litre]. Mr. Kremer commented that the Commission should in the future revisit the goals that it has set for all of the waterbodies.

Ms. Black agreed that more bullet points are needed in the work plan to reference what studies were done when and by whom. Chair Welch commented that under Task 2 the language states that the modeling will be developed to address all the impairments. He pointed out that the Wirth

Lake TMDL is a nutrient TMDL and commented that the language should be refined to make that point clear. Mr. Kremer said the Commission should decide how to send out the work plan for proposals.

Ms. Black said that on the bottom of the second page there is a discussion about communication but she said it does not mention communication with the cities, the Commission, or the Minneapolis Park and Recreation Board. She asked if that should be added. Mr. Kremer said yes. Ms. Asleson stated that there can be other communications about the TMDL besides just a TMDL Web site such as a quarterly TMDL newsletter. Chair Welch directed that the work plan specify the entities that need to be kept in the loop regarding the Wirth Lake TMDL – the BCWMC, the MS4s, and the Minneapolis Park and Recreation Board. Ms. Black moved to approve the Wirth Lake TMDL Study work plan with the amendments discussed today and with Barr and the MPCA working together to respond to the work plan comments. Chair Welch seconded the motion. The motion carried unanimously.

Chair Welch explained that the BCWMC could decide to run the TMDL and to conduct the request for proposal (RFP) process or could decide to hand the completed work plan over to the MPCA to let it conduct the RFP process and to select from its pool of contractors. Ms. Asleson said that having another organization take the lead on the project means that she would have a contact person from that organization that knows as much about the project, if not more, than she does and who she can contact and work directly with.

Ms. Black asked what the Commission's role would be if the MPCA takes the lead in the Wirth Lake TMDL study and the RFP process. Ms. Asleson said it would be a partnership although contractually it would be the MPCA controlling the process. She said the stakeholder process and the process of determining the stakeholder contribution would be a place where the MPCA would expect the Commission to step up in its role and play a more significant process.

Mr. Kremer mentioned that the Wirth Lake TMDL Study is much simpler than the Sweeney Lake TMDL, which means that the leader of the Wirth TMDL has a lot less responsibility than the leader of the Sweeney Lake TMDL study. Ms. Sundberg asked if the Commission takes the lead would it mean that Barr would take on that role. Mr. Kremer said not necessarily because the Commission could take the lead and then bid that piece of the project out also. Ms. Black said if the Commission takes the lead she would prefer that the Commission Engineer takes the lead. Chair Welch agreed.

Mr. Stockhaus asked if there is a cost difference between the different alternatives. Mr. Kremer said those cost differences aren't yet known. Mr. LeFevre remarked that more or less the costs of the Commission's staff time would be under the MPCA grant. He said if the MPCA takes the lead then Barr's time won't be paid for under the MPCA grant so there would be some cost savings to the Commission for Barr to take the lead.

Ms. Asleson said the MPCA doesn't typically add in additional labor costs for outside collaboration.

Ms. Loomis asked if there would be a benefit to having a state agency as the project lead in terms of working with Mn/DOT as an MS4.

Mr. Jordan said his understanding is that there are two different issues being discussed by the Commission: one, the financial impacts to the Commission by its decision on who takes the project lead and two, the enforcement implications.

Mr. Hanson commented that it seemed to him that the Commission would want to keep more control over the TMDL by taking the lead.

Ms. Black moved to approve the MPCA to take the lead of the Wirth Lake TMDL study. Ms. Loomis seconded the motion. Chair Welch stated he was in favor of the BCWMC leading the Wirth Lake TMDL. The motion carried with seven votes in favor [Cities of Golden Valley, Medicine Lake, Minnetonka, New Hope, Plymouth, and Robbinsdale] and two votes against [Cities of Minneapolis and Crystal].

- C. **Medicine Lake TMDL Update.** Chair Welch explained that the Commission had asked Barr to work with the Three Rivers Park District to revise the work plan. He said the revised work plan has been distributed to the Commission. He said that today the Commission is deciding whether to approve the work plan and also who will take the lead on the Medicine Lake TMDL study.

Mr. Kremer said Barr did receive comments on the Medicine Lake TMDL work plan the day after the Commission's meeting packet was mailed out. He said Mr. Vlach requested that the work plan provide more information on the work previously completed so that the bidders on the project would have a better understanding of what has been done. Mr. Kremer said that all of the data and analysis will be put on CD to accompany the request for proposals so the bidders can consider the information for their proposals. He said that Barr and the Three Rivers Park District agree that additional public information meetings should be included beyond the seven meetings previously included in the work plan.

Chair Welch asked if there are any issues that still need to be worked out between Barr and the Three Rivers Park District on the work plan. Mr. Vlach responded that the Three Rivers Park District had comments regarding the implementation plan and wanted to make sure there isn't a duplication of effort in preparing the implementation plan. He asked Ms. Asleson if an implementation plan would be a legally binding portion of the TMDL study. Ms. Asleson said the Environmental Protection Agency (EPA) does not approve implementation plans but the MPCA does require an implementation plan be done within a year after the EPA has approved the TMDL. She said nothing in the implementation plan is legally enforceable by the EPA or the MPCA. Mr. Vlach said he thinks the implementation plans already compiled by the various cities could be assembled and added as an attachment to the TMDL work plan without much additional effort and that this action would satisfy the Three Rivers Park District's concerns regarding the implementation plan.

Ms. Black asked about the CIP tables included in the Commission's *Watershed Management Plan* and asked if those tables already have the Medicine Lake implementation measures already pulled together. Mr. Kremer said yes and that the BCWMC would not need to do a major or minor plan amendment to implement some of those features. He said that when information on the Medicine Lake TMDL is sent to bidders, the information will refer them back to the *Watershed Management Plan* as potential implementation features. Ms. Black asked if the *Plan* is listed in the Medicine Lake TMDL work plan as a reference. Mr. Kremer said he didn't think so but that it would be added.

Ms. Black asked how the margin of safety will be addressed. Mr. Kremer said the margin of safety will be addressed as part of the TMDL.

Chair Welch commented that the phosphorus levels during May and September were above 60 micrograms per litre, which isn't close to the goal of 40 micrograms per litre, meaning there is work to be done. He also commented that the MPCA has set aside \$50,000 for the Medicine Lake TMDL and that amount has not changed over the last couple of months.

**Ms. Black moved that the MPCA send the request for proposals and also take the lead on the Medicine Lake TMDL. Ms. Peterson seconded the motion.**

**Mr. Moberg asked that the Commission send the revised work plan to the member cities for review and comment.**

**Mr. Mathisen asked if the Commission is sure it isn't giving up more control than benefits it thinks it is gaining by not having Barr take the lead. He said that by having the MPCA take the lead it introduces a third-party into the coordination. He suggested having Barr take the lead in one TMDL and the MPCA taking it in another instead of putting all of the eggs in one basket. Ms. Asleson commented that regardless of whether the MPCA takes the lead or not, it has the authority to say that a TMDL is not approvable.**

**Ms. Black said she would be more comfortable with the Commission taking the lead if the Commission had a point person, which it doesn't.**

**Mr. Gustafson said the BCWMC has been conducting studies for 30-plus years without a point person so to him that should have no bearing on the decision. He said the MPCA's \$50,000 cap does concern him and he supports the MPCA taking the lead on the Medicine Lake TMDL study because he sees an inconsistency in the fact that the MPCA will spend over \$200,000 on the Sweeney Lake TMDL but only \$50,000 on the Medicine Lake TMDL.**

**Mr. Gustafson asked the Commission to request the MPCA to forward to the Commission the final total costs of the Sweeney Lake, Medicine Lake, and Wirth Lake TMDL studies. Ms. Asleson said the costs would be part of the contracts.**

**Ms. Black reiterated her motion. She said her motion was to submit this work plan to the MPCA for review and approval and to contract with whomever they decide to carry out the work plan and to send the work plan to the other MS4s for review and comment. The motion carried unanimously.**

- D. Army Corps of Engineers Permitting of Future CIP Projects; Status of West Medicine Lake Permit. Deferred to April meeting.**
- E. Amendment to Contract with City of Plymouth for Curlyleaf Pondweed Spot Treatment of Medicine Lake in 2008. Mr. Moberg said the City of Plymouth has received confirmation from the Department of Natural Resources (DNR) that it has approved a grant for the project in the amount of \$20,000. He said that the City does not yet know the extent of the costs for the spot treatment. Mr. LeFevere commented that the contract could be amended so the Commission is agreeing to pay the costs incurred by the city for the 2008 spot treatment of Medicine Lake less the funds from the DNR grant. Ms. Black moved to approve that contract amendment. Chair Welch seconded the motion. The motion carried with seven votes in favor [Cities of Crystal, Medicine Lake, Minneapolis, New Hope, Plymouth, and Robbinsdale] and two votes against [Cities of Golden Valley and Minnetonka].**
- F. Contract with Metropolitan Council for 2008 CAMP Program. Ms. Black moved to enter into the contract with the Metropolitan Council for the 2008 CAMP program. Ms. Loomis seconded the motion. The motion carried unanimously.**
- G. Administrator Proposals. Ms. Black reported that the Administrator Committee interviewed**

two firms, Springsted and DeYoung, and liked both of them. Ms. Loomis said she didn't have a preference between the two and that the difference between the two in their cost estimates was only \$85. Ms. Templeman mentioned that as part of the Administrator Committee she had reviewed the nine proposals the Commission received and she had ranked Springsted as the number one candidate. Ms. Langsdorf said she has had professional experiences with two of the members of Springsted and she would be very comfortable with Springsted based on her experience with those individuals. Ms. Black moved that the Commission go with Springsted for the BCWMC operational analysis. Ms. Templeman seconded the motion. The motion carried with eight votes in favor [Cities of Crystal, Golden Valley, Medicine Lake, Minneapolis, Minnetonka, New Hope, Plymouth, and Robbinsdale] and one vote against [City of St. Louis Park].

Chair Welch said the Administrator Committee will have an agreement in principal with Springsted and would have that put in contract form for the next meeting. Mr. LeFevere said the Commission and Springsted should have a common expectation of what work will be done. Ms. Black said that the Administrator Committee should therefore hold a meeting with Springsted to finalize the work plan before the contract is signed. Ms. Black moved to approve sending a letter to member cities regarding the selection. Ms. Loomis seconded the motion. The motion carried unanimously. Chair Welch directed Ms. Herbert to notify the other applicants. Ms. Black handed out to the Commission a draft a letter to the cities regarding the selection and asked the commissioners to review and comment by Tuesday, March 25<sup>th</sup>.

#### **H. TAC Recommendations from March 6<sup>th</sup> TAC Meeting:**

- i. Additional Sampling of the Main Stem Associated with Fecal Coliform Impairment.** Mr. Kremer said the sampling for the Fecal coliform would cost approximately \$7,800. He said the sampling would take place in May, June, July, August, and September and would hopefully identify the Fecal coliform sources in the watershed. Mr. Moberg asked for clarification on whether Plymouth Creek is part of Basset Creek. Mr. Kremer said it is not. Ms. Asleson said Plymouth Creek is not on the impaired waters list. Ms. Black moved to approve that the MPCA sample biota and fish in the Main Stem and that the Commission conduct sampling for Fecal coliform and E. coli in the Main Stem. The motion carried unanimously.
- ii. Capital Improvements Program.** Chair Welch asked for a ballpark cost of the Plymouth Creek restoration project. Mr. Kremer said \$750,000. He said it would cost approximately \$12,000 to conduct the feasibility report for the project and to apply for the permits from the Army Corps of Engineers and the DNR. Chair Welch asked how long it would take to put the feasibility report together. Mr. Kremer said it would take approximately 60 days. He said the Commission will discuss the permitting for these restoration projects at the April Commission meeting. Ms. Black moved that the feasibility study and the preliminary plan be completed. Ms. Peterson seconded the motion. The motion carried unanimously.
- iii. Ramada Pond.** Mr. Gustafson explained that the City of Minnetonka tried to do the project but it couldn't get the easements. He said the project would be easy to do but the easements are an issue. Chair Welch moved that Barr investigate the issues with the easements and the permits for the project and to evaluate what would be involved to put a feasibility study together. Ms. Black seconded. The motion carried unanimously.
- iv. Reimbursement for Wetland Mitigation Costs Incurred as Part of CIP Projects.** Mr. Kremer stated that in the Commission's Joint Powers Agreement there is a requirement that the local community is responsible for acquiring all right of way. He

explained that the issue is that if a project is going in on a wetland is the cost of mitigating the wetland impacts a right-of-way cost or is it a project cost. He said the Commission needs to reach a decision on whether it will help the cities with a project sited in a wetland or not. Mr. Moberg said the TAC would like the Commission to take a position on that issue. Ms. Loomis moved that the Commission Engineer and Attorney prepare a memo on the topic for the next Commission meeting. Ms. Black seconded the motion. Chair Welch asked the cost for preparing the memo. Mr. Kremer responded approximately \$500. The motion carried unanimously.

- I. **Discuss Review of Golden Valley and Minnetonka Surface Water Management Plans.** Chair Welch explained that Barr Engineering prepared the local surface water management plans for the cities of Golden Valley and Minnetonka so the Commission would want another party to conduct the review of the plans. Mr. Kremer recommended that Ms. Herbert send the Commission's surface water management plan requirements and a request for cost estimates to three qualified consultants. Mr. Gustafson said the TAC can give Ms. Herbert a list of three or four consultants. Ms. Black moved that the TAC and Ms. Herbert pull together a list of three contractors and send out a request for a cost estimate of professional services for review of local surface water management plans. Ms. Loomis seconded the motion. The motion carried unanimously.
- J. **Review 2007 Budget.** Review deferred to April meeting. Ms. Loomis recommended that the BCWMC Budget Committee meet prior to the April Commission meeting. Chair Welch directed Ms. Herbert to coordinate the meeting along with the Administrator Committee meeting. Chair Welch directed the Commission staff to submit the anticipated 2009 costs for legal, engineering, and administrative services.
- K. **Discuss 2007 Annual Report Process.** Ms. Loomis moved that Commission staff move forward with preparing the annual report. Ms. Black seconded the motion. The motion carried unanimously.
- L. **Review Final Version of BCWMC Education Grant Contract.** Ms. Loomis moved to approve the final version of the BCWMC's Education Grant contract. Ms. Black seconded the motion. The motion carried unanimously.
- M. **2007 Lake Water Quality Study: Westwood Lake and Crane Lake.** Deferred to April meeting.

## **6. Communications**

- A. **Citizen Input on Non-agenda Items: No Citizen Input.**
- B. **Chair: No Chair Communications.**
- C. **Commissioners: No Commissioner Communications.**
- D. **Committees:** Ms. Langsdorf announced the Education Committee is participating in the Environmental Quality Fair tonight at Sunset Hills Elementary. She stated that she has handed out the instructions on checking out the BCWMC Education Exhibits. She asked everyone to please make sure all pieces are returned after borrowing the exhibits. Ms. Langsdorf also requested maps of each city showing where the Bassett Creek Watershed boundaries in the city so the maps can be used in the education displays. She commented that if the individual cities don't want to cover the cost of creating the map that the Education Committee can cover the cost. Mr. Oliver commented that the Commission Engineer should have the aerial photos.



E. Counsel\*

F. Engineer: No Engineer communications.

## 8. Adjournment

Ms. Loomis moved to adjourn the meeting. Ms. Black seconded the motion. The meeting adjourned at 2:28 p.m.

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Michael Welch, Chair

Date

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Amy Herbert, Recorder

Date

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Pauline Langsdorf, Secretary

Date