



## Bassett Creek Watershed Management Commission

DATE: November 12, 2013

TO: Bassett Creek Board of Commissioners

FROM: The BCWMC Dispute Resolution Committee (Ginny Black, Jim de Lambert, Jacob Millner)

RE: Medicine Lake Road and DeCola Ponds - Recommendations regarding the dispute between the cities of Golden Valley, New Hope and Crystal.

The following is a brief summary of events and recommendations prepared by the BCWMC Dispute Resolution Committee (Committee) with regards to the Medicine Lake Road and DeCola Ponds flooding issue.

### Summary of Events

Section 12.1.1.3 (Dispute Resolution Process) of the Commission 2004 Water Management Plan (WMP) contains language that allows cities to request the Commission's involvement in resolving disputes between cities within the watershed. The cities of Golden Valley, New Hope and Crystal came to the Commission and asked for assistance regarding the distribution of costs for a Phase II study evaluating flooding issues in the Medicine Lake Road and DeCola Ponds area. Per the requirements in the 2004 WMP, the commission appointed three commissioners (the Committee) to hear the dispute and make recommendations to the full Board of commissioners.

On August 14, 2013, the Committee met with the staff of all three cities' staff to discuss the areas of disagreement and the preferred process. In addition to hearing the concerns from city staff, the outcome of that meeting was 1) that a round table type discussion process would be implemented to address the cities' concerns (as opposed to a hearing type process) and 2) the recommendations of the Committee to address the issues would not be binding on the parties. A second meeting was held on September 9, 2013 with city staff, and at this meeting it was decided that the Committee would meet with the city of Crystal City Council, and with the councils of other cities, if desired, to discuss their concerns.

The Committee met with the Crystal City Council on October 15, 2013 and identified Crystal's three primary issues:

- The cost share formula for the financial participation of each city in the Phase II study is unfair to Crystal
- The City's concern that participation in the Phase II study would obligate it, or set a precedent, for future cost sharing in any project(s) recommended in the Phase II study; and
- The high amount of contingency (25 percent) for the Phase II study.

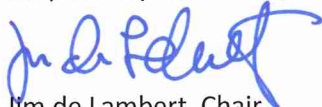
## Recommendations

The Committee met on October 28, 2013 to discuss the issues, the information presented to the Committee and the concerns raised at the October 15, 2013 meeting. The following are the recommendations of the Committee;

The committee encourages the BCWMC member cities to develop their own cooperative agreements for jointly conducting studies and projects. The following recommendations are intended to address this specific dispute between the cities of Golden Valley, New Hope and Crystal.

1. The cost share formula for the Phase II study should mirror the cost share formula used by the Commission to assess annual BCWMC costs, but determined on the basis of the contributing sub-watershed (50% based on the net tax capacity of all a member city's properties within the boundaries of the contributing sub-watershed and 50% based on the total area of a member city within the boundaries of the contributing sub-watershed);
2. Include language in the agreement for the Phase II study stating clearly that participation in the Phase II study does not set a precedent for cost sharing or obligate any city to participate in future studies or projects identified in the Phase II recommendations; and,
3. Remove the 25 percent contingency from the proposal for the study and include language that any additional costs, associated with items outside of the initial scope of work, would need to be negotiated between the three cities before the costs could be incurred.

Respectfully Submitted,



Jim de Lambert, Chair  
BCWMC Dispute Resolution Committee