Bassett Creek Watershed Management Commission

Minutes of the Meeting of April 15, 2010

1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:35 a.m., Thursday, April 15, 2010, at Golden Valley City Hall by Chair Loomis. Ms. Herbert conducted roll call.

Roll Call

Crystal **Commissioner Pauline Langsdorf, Secretary** Administrator **Geoff Nash** Golden Valley Commissioner Linda Loomis, Chair Counsel Charlie LeFevere Medicine Lake **Alternate Commissioner Ted Hoshal** Engineer **Karen Chandler Minneapolis** Recorder **Amy Herbert Commissioner Michael Welch, Treasurer**

Minnetonka Commissioner Bonnie Harper-Lore

New Hope Commissioner John Elder

Plymouth Commissioner Ginny Black, Vice Chair

Robbinsdale Commissioner Wayne Sicora

St. Louis Park Not represented

Also present: Derek Asche, BCWMC Technical Advisory Committee, City of Plymouth

Jack Frost, Metropolitan Council Environmental Services Dave Hanson, Alternate Commissioner, City of Golden Valley

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

Al Sarvi, Alternate Commissioner, City of New Hope/ Friends of Northwood Lake Assoc.

Stu Stockhaus, Alternate Commissioner, City of Crystal

Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka

Liz Thornton, Alternate Commissioner, City of Plymouth

Jim Vaughn, BCWMC Technical Advisory Committee, City of St. Louis Park

2. Approval of Agenda and Consent Agenda

Prior to addressing the Agenda and Consent Agenda, Chair Loomis introduced Al Sarvi, the newly appointed BCWMC Alternate Commissioner from the City of New Hope. Chair Loomis requested the addition to the Agenda of item Cvii – a second invoice from MMKR for audit services, item 6I – a Request from the Minnesota Pollution Control Agency (MPCA) for a contract extension with the BCWMC for the Sweeney Lake TMDL, and item 6J – an Update on the BCWMC's Minor Plan Amendment Request to BWSR. Commissioner Welch moved to approve the agenda as amended. Commissioner Black seconded the motion. The motion carried unanimously [City of St. Louis Park absent from vote]. Commissioner Welch requested the removal of the March 18, 2010, meeting minutes and the April financial report from the Consent Agenda. Commissioner Elder moved to approve the Consent Agenda as amended. Commissioner Black seconded the motion. The motion carried unanimously [City of St. Louis Park absent from the vote].

3. Citizen Input on Non-Agenda Items

No citizen input on non-agenda items.

4. Administration

A. Presentation of the March 18, 2010, BCWMC meeting minutes. Commissioner Welch requested a correction on page 6 of the March 18th minutes under item C – "Joint and Cooperative Agreement," where the minutes state that Commissioner Black both moved and seconded the motion. Ms. Herbert stated that Commissioner Welch seconded that motion and that she would correct the minutes.

Commissioner Welch commented that the last two paragraphs on page 7 of the minutes capture the Commission's discussion of Northwood Lake and its listing as impaired for nutrients. He wanted to make sure that the Commission understands that the Minnesota Pollution Control Agency (MPCA) has been talking for some time about listing wetlands on the TMDL 303d list, which would mean that wetland would be listed as impaired. Commissioner Welch wanted to make sure that the Commission knows that changing the classification of Northwood Lake from a lake to a wetland under public waters rules does not necessarily change its impaired status. Chair Loomis commented that the classification change may change the phosphorus standards by which Northwood would be measured. Commissioner Welch agreed that it would.

Commissioner Langsdorf asked for a correction to the minutes at the bottom of page 3 where the minutes state that the City of Robbinsdale seconded the motion but instead should state that the City of Robbinsdale was absent from the vote. Acting Commissioner Hoshal requested that the references in the minutes to Chair Welch be amended to state Commissioner Welch.

Commissioner Welch moved to approve the March 18, 2010, meeting minutes as amended. Commissioner Black seconded the motion. The motion carried [City of St. Louis Park absent from vote].

B. Presentation of the Financial Statement. Commissioner Welch reported that the Commission received an updated financial statement. He explained that the updated statement shows that the Education and Public Outreach line item includes the voided check that was intended for the payment of the reimbursement request from the Meadowbrook Elementary for the education grant. He reminded the Commission that it deferred action on the grant invoice until after the Commission receives the report that the school finished the grant-funded project. Commissioner Black moved to receive and file the financial report. Commissioner Harper-Lore seconded the motion. The motion carried unanimously [City of St. Louis Park absent from vote].

The general and construction account balances reported in the April 2010 Financial Report:

Checking Account Balance	700,753.13
TOTAL GENERAL FUND BALANCE	700,753.13
Construction Account Cash Balance	2,059,596.76
Investment due 10/18/2010	533,957.50
Investment due 1/21/2015	500,000.00
TOTAL CONSTRUCTION ACCOUNT BALANCE	3,093,554.26
-Less: Reserved for CIP projects	2,776,849.07
Construction cash/ investments available for projects	316,705.19

C. Presentation of Invoices for Payment Approval.

Invoices:

i. Kennedy & Graven – Legal Services through February 28, 2010 - invoice for the amount of \$1,432.50.

- ii. Barr Engineering Company March Engineering Services invoice for the amount of \$25,974.34.
- iii. Amy Herbert March Administrator Services invoice for the amount of \$2.759.85.
- iv. D'amico Catering April 2010 meeting catering invoice for the amount of \$342.69.
- v. Prairie Moon Nursery Seed Packets invoice for the amount of \$201.00.
- vi. MMKR Audit Services First progress billing invoice for the amount of \$3,000.
- vii. MMKR Audit Services Second progress billing invoice for the amount of \$1,500.

Commissioner Black moved to approve all invoices including the added invoice vii – MMKR second progress billing. Acting Commissioner Hoshal seconded the motion. By call of roll, the motion carried unanimously [City of St. Louis Park absent from vote].

- D. Discuss Creating Commission Work Group to Review CIP. Chair Loomis stated that the Commission had previously discussed creating a work group consisting of commissioners and TAC members to review the CIP and the prioritization of the projects as well as how the TMDL implementation plans could integrate into the prioritization of capital projects. Commissioner Welch added that the element of integrating TMDL implementation plans into the CIP moves the capital improvement planning discussion from a purely technical discussion into a policy discussion, which is why the issue warrants a joint Commission and TAC task force. Commissioner Welch stated that he thinks the goal of the task force would be to work with the TAC to have recommendations ready for January 2011. Commissioners Black, Elder and Welch volunteered to be part of the group and Chair Loomis said she would also sit in on the work group. Commissioner Welch suggested that the Commission inform the TAC of the Commission's action to create the work group and then direct the TAC to discuss how it wants to organize its participation, when it would like to meet, and to coordinate the meeting with Chair Loomis.
- E. Discuss Creating BCWMC Policy Manual. Chair Loomis directed Mr. Nash to work with Ms. Herbert to pull together the policies and start reviewing them for a manual.
- F. Discuss Creating Annual Printed Newsletter. Commissioner Black asked if it would need to be a printed piece because her city is moving to electronic newsletters and would prefer electronic communications. Commissioner Welch added that there is a statutory requirement that the Commission issue a broad public summary. He said that although the Commission's annual report could technically meet that requirement, the Executive Summary from the upcoming annual report could be adapted, even electronically, and could be posted on or linked to from member-cities Web sites to provide an entry point for people who want to know about the Commission.

Commissioner Elder said he could see a two-sided page that member-cities could duplicate at their own cost and could be inserted into the city water bills. He said it does increase the postage but it educates the citizens on what the Commission is doing. Commissioner Harper-Lore added that she agreed with Commissioner Elder's idea and that to see to it that every taxpayer receives a copy would increase support of the Commission's work. Commissioner Black supported the idea of having a pdf document available to member-cities to use. Commissioner Welch suggested that the

Commission direct Ms. Chandler and Ms. Herbert to finish the BCWMC's 2009 annual report and then submit the Executive Summary to the Education and Public Outreach Committee for review and suggestions on adapting it as a stand-alone piece. Mr. Nash volunteered to participate with the Education and Public Outreach Committee in its review of the piece.

- G. Authorize Recording Secretary to Sign Documents in Secretary's Absence. Chair Loomis explained that this recommendation came up because there are times when documents need to be signed when the Commission's Secretary is absent. Mr. LeFevere explained that the Commission Bylaws allow the Commission to authorize the Secretary to delegate the duties of the secretary to the recording secretary. Commissioner Welch moved that the Commission authorize the Commission Secretary to be able to delegate the duties of the Secretary onto the Recording Secretary when the Secretary anticipates missing a Commission meeting. Commissioner Sicora seconded the motion. The motion carried unanimously [City of St. Louis Park absent from the vote].
- H. Discuss Setting Policy Regarding Interim Authority for Delegation of Work to Consultants between BCWMC meetings. Commissioner Welch recommended that the Administrative Services Committee discuss the draft policy that was created by Mr. LeFevere and that was included in the meeting packet. Commissioner Welch said it doesn't seem that the issue comes up frequently and said that staff have been directed on these issues. He said that it seems the Commission can defer this issue for now until the Committee can review the draft and consider making the delegation specific to the various staff who do things on behalf of the Commission.

5. New Business

A. Statistically Relevant Representation of Sampling Data for Biota. Chair Loomis said that Acting Commissioner Hoshal had some questions for the Commission Engineer regarding sampling methods and data and that his questions were included in a memo in the meeting packet. Ms. Chandler said that if the Commission is interested in a follow up to Acting Commissioner Hoshal's questions, then Barr Engineering's aquatic biologist could develop a response memo. Chair Loomis said that the Commission may want to hold off until the MPCA clarifies how it is going to be addressing biota standards. She said the current standards for biota don't address intermittent streams.

Chair Loomis said it has been an ongoing problem to try to figure out who is doing monitoring and what is being monitored and it is hard to find out unless the information is going into STORET. Commissioner Black commented that most of her concern is with trying to understand what the cities, the watersheds, and the MPCA are doing because they are the primary entities the Commission relies on to base its decisions. Commissioner Black recommended that the BCWMC make available electronic copies of the annual water quality monitoring memos prepared for the Commission by the Commission Engineer.

Commissioner Welch remarked that Acting Commissioner Hoshal raises good questions but that Commissioner Welch would want more input from staff before deciding to do independent analysis of the issues. Commissioner Black recommended that looking at the parameters for the monitoring could be part of the *Commission's Watershed Management Plan* update as opposed to looking at those issues now.

B. Fireworks' Contribution of Phosphorus to Sweeney Lake. Chair Loomis brought the Commission's attention to a letter from a concerned Golden Valley resident regarding the possible phosphorus contribution by fireworks shot off over Sweeney Lake. Commissioner Black moved for the Commission to receive and file the letter, for staff to forward the letter to the MPCA with a request that the MPCA respond with any information or concerns it has on the issue, and for staff

to respond to the resident thanking the citizen and letting him know that the Commission has forwarded his letter to the MPCA. Commissioner Elder seconded the motion. The motion carried [City of St. Louis Park absent from the vote]. Mr. Nash volunteered to draft the response letter to the resident with assistance from Ms. Chandler as necessary.

C. Request to Evaluate the Sweeney Lake Outlet with Regard to Normal Water Levels. Ms. Chandler explained that the City of Golden Valley had raised a concern to the Commission that a rock weir structure located downstream of the outlet is backing up the water higher than the outlet elevation. Mr. Oliver added that a neighborhood lake association installed the structure. Chair Loomis added that the City of Golden Valley has noticed that the structure has contributed to higher water levels in Sweeney Lake and allows water to back up into Twin Lake. Mr. Oliver said the intent of the City's letter to the Commission was to request that the Commission Engineer inspect the structure and provide feedback as to whether the structure is appropriate or whether it needs correction and also what, if any, ramifications there would be to taking action or no action.

Ms. Chandler said there is a model in place to look at the impact on the flood level and that analysis would cost less than \$1,000. She said if the Commission also would want to examine the impact on phosphorus concentrations then the analysis would be more extensive and the cost would be higher. Ms. Chandler pointed out that since the structure does affect the normal water level of the lake someone needs to get a permit for the structure that was put in and she recommends that the Commission first look into that issue.

Commissioner Welch moved that the Commission direct the Commission Engineer to look into the legal status of the weir in question and to draft a brief memo to the Commission recommending action. Commissioner Black seconded the motion. The motion carried unanimously [City of St. Louis Park absent from the vote].

6. Old Business

- A. Contract with Geoffrey Nash for Administrative Coordinator. Commissioner Black moved to approve the contract. Commissioner Harper-Lore seconded the motion. The motion carried unanimously [City of St. Louis Park absent from the vote]. The Commission decided that the title for the contract position would be BCWMC Administrator. Mr. Nash provided an Administrator's Report, which included a report on the April 6th BCWMC TAC meeting that he attended, his recommendation of his charges to the BCWMC for his cell phone service at \$50 per month and copy charges of \$0.15 per page for black and white copies and \$0.55 per page for color copies, his discussion with the Administrative Services Committee about the Commission's priorities for his work, and his recommendation that he attend on behalf of the BCWMC the monthly MAWD meetings and also meetings in Hennepin County regarding an effort to establish countywide groundwater protection. The Commission decided that his attendance at the MAWD meetings were not a priority at this time but that he could attend next week's meeting between Hennepin County, Minnehaha Creek, Nine Mile Creek, and the Lower Minnesota River Watershed regarding the groundwater protection and then he could provide a report back to the Commission.
- B. CAMP 2010 Golden Valley Residents volunteering to sample Twin Lake. Commissioner Black moved to add Twin Lake to the 2010 CAMP program with the participation cost for this lake coming out of either water quality monitoring or surveys and studies. Commissioner Elder seconded the motion. The motion carried unanimously [City of St. Louis Park absent from vote].
- C. TAC Recommendations.
 - i. July meeting. Mr. Oliver reported that the TAC rescheduled its July 1st meeting to instead be held on Wednesday, June 30th.

[Commissioner Elder departs. Alternate Commissioner Sarvi steps in as Acting Commissioner for New Hope]

- ii. Sweeney Lake TMDL Proposed Load Reduction. Mr. Oliver explained that the TAC recommended that the Commission revise the Sweeney Lake TMDL to include the following revisions:
 - i. Justification for keeping the Sweeney Lake external phosphorus load reduction at 99 pounds.
 - ii. Discussion of the need for a flexible adaptive management approach in the implementation of the TMDL, which recognizes the BMPs are being constructed and implemented and will take time to become effective and that others are being considered for implementation.
 - iii. Information regarding the past efforts of the cities and the Commission to implement BMPs and improve water quality in the watershed.
 - iv. Dividing the implementation part of the report into three sections, including: the recommended actions that are ongoing, those BMPs that are under consideration, and possible chemical treatments of Sweeney Branch for controlling internal loads.

Commissioner Welch stated that the Commission hasn't looked at the Sweeney Lake TMDL and its revisions for a while. He recommended that the Commission approve the changes recommended by the TAC and then the revised version should come back to the Commission to finalize it. Commissioner Welch remarked that his comments on the TMDL have not been addressed and he will resend them to Ron Leaf. Alternate Commissioner Hanson added that he had not gotten a response to his comments.

Chair Loomis directed Administrator Nash to send the TAC's recommended changes to Ron Leaf and to request that Mr. Leaf incorporate the changes into the Sweeney Lake TMDL. She directed Commissioner Welch and any others that had comments on the TMDL to resubmit them to Ron Leaf so he could address those comments in a memo to the Commission and discuss how those changes could be incorporated into the TMDL. She directed staff to communicate to Ron Leaf to submit the revised TMDL and the memo to the Commission for its review in May or June – the sooner, the better. Chair Loomis directed Administrator Nash to communicate to Brooke Asleson of the MPCA the status of the Commission's work on the TMDL and the actions the Commission is taking.

Commissioner Welch stated that the implementation part of the report includes a table that breaks down reductions by MS4. He said it doesn't make sense to him to include such a table since the Commission decided to approach the TMDL categorically. Commissioner Black suggested that issue be raised by the Commission when it submits it comments to the MPCA.

iii. Medicine Lake TMDL. Mr. Oliver reported that the TAC did not have time to discuss the TMDL in full and decided to continue the discussion at the next TAC meeting. Chair Loomis added that the TAC recommended that the Commission request an extension from the MPCA of the comment period on the Medicine Lake TMDL. Chair Loomis directed Administrator Nash to send a request to the MPCA for an extension of the comment period. Commissioner Welch remarked that the Commission's Engineer is charged with providing feedback and assistance to the Commission and its Technical Advisory

Committee but that lines get blurred when the Commission Engineer provides comments to the MS4s or advises the MS4s. He noted that in the memo about the TMDL from Barr Engineering to the BCWMC TAC contained comments in blue that were comments to the Commission and comments in red that were comments to the MS4s. He said he thinks that each MS4 should have its own review of the TMDL. Commissioner Welch said he does not want the Commission to give the impression that it is advising the MS4s because they should be advised by their own technical people.

Commissioner Welch said that on page 5 of the memo from Barr Engineering, the last full paragraph states that the implementation plan should indicate who will be responsible for implementing each of the proposed alternatives. He said he does not think the Commission should make that comment because the Commission is approaching the implementation plan categorically and the Commission wants to be able to approach the implementation plan by working with its partners to find the most cost effective ways. He said he would like the TAC's thoughts on that issue the next time the TAC discusses the Medicine Lake TMDL. Commissioner Black suggested that the Commission ask Brooke Asleson of the MPCA whether the breakdown of implementation responsibilities has been included in order to address an MPCA or EPA recommendation. Commissioner Black said that Administrator Nash can clarify that point with Ms. Asleson.

Commissioner Welch said he doesn't think the Commission needs to ask the MPCA to clarify about the convener because the Commission wants to figure it out themselves instead of having the MPCA direct it.

- D. Maintenance of BCWMC-funded Projects (Continued from March). The Commission decided that the BCWMC CIP Review Work Group could take up this discussion as part of its process.
- E. TMDL Updates Wirth Lake. Ms. Chandler reported that the revised TMDL would be sent in this week to Ms. Asleson and that a stakeholder meeting would be scheduled for late May. Chair Loomis commented that there is a Wirth Beach Citizens Advisory Committee Group and at its last meeting Tim Brown of the Minneapolis Parks and Recreation Board (MPRB) reported that the MPRB now has land available for the Wirth Pond that was supposed to be constructed to handle runoff from Highway 55.
- F. Update on 2010 Clean Water Fund Grant. Ms. Chandler said she and Mr. Kremer had a meeting with BWSR staff to talk about the grants and the projects and to get some preliminary advice about the work plan, which is due May 14th. She said Barr Engineering will be preparing the work plan and will be coordinating with Hennepin County.
- G. Education Committee.
 - i. Commissioner Langsdorf reported on the requests the Committee has for tasks it would like the Administrator to handle for the Committee.
 - ii. Commissioner Langsdorf reported that the West Metro Watershed Alliance's plan is moving toward completion. She said the Committee anticipates presenting the plan to the Commission at its May meeting for the Commission's review and approval.
 - iii. Commissioner Langsdorf announced that the next Education Committee meeting will be on May 3rd at 9:00 a.m. at Plymouth City Hall and that the next West Metro Watershed Alliance meeting will be on May 11th at 8:30 a.m. in Plymouth City Hall.
 - iv. Alternate Commissioner Thornton reported on the Committee's experience at the Yard and Garden Expo.
 - v. Alternate Commissioner Thornton announced that the Committee would represent the

- Commission at Westwood Hills Nature Center's Earth Day celebration on April 24th. She invited Commissioners and TAC members to schedule the BCWMC display for their events
- vi. Alternate Commissioner Stockhaus announced that he was contacted regarding having a BCWMC display at the City of Crystal's celebration of its 50th anniversary of its charter on June 26th.
- H. Update on Cultural Resource Review Protocol. Ms. Chandler reported that the Commission Engineer is waiting for official comments from the U.S. Army Corps of Engineers but that the Corps informally made some minor changes and has sent it out for review and comments. She said she has more information on where the Commission is with regard to the cultural resource review process but in order to keep this meeting moving along perhaps she could send the information to anyone interested. Commissioners Black and Welch and Chair Loomis were interested in receiving the information. Commissioner Welch requested that Ms. Chandler also e-mail him the latest version of the protocols.

[Commissioner Langsdorf departs].

I. Discuss Request by MPCA for Contract Extension with BCWMC for Sweeney Lake TMDL. Commissioner Welch moved to approve the contract extension to February 2011. Commissioner Black seconded the motion. The motion carried unanimously [Cities of Crystal and St. Louis Park absent from the vote].

[Alternate Commissioner Stockhaus steps in as Acting Commissioner for Crystal].

J. Update on Minor Plan Amendment Request to BWSR. Ms. Chandler reported that when she and Mr. Kremer met with BWSR staff to talk about the 2010 Clean Water Fund Grant they also talked about the BCWMC's minor plan amendment request. She said that BWSR stated that the amendment would need to be a major plan amendment instead of a minor plan amendment since the two proposed projects are not in the Commission's *Plan* and because of the projects' high costs. Ms. Chandler said the Commission will need to go through the major plan amendment process but there is a recent law change that will remove the second of what used to be three reviews, meaning the 45-day review will be removed, if the first review were to end after August 1, 2010.

Ms. Chandler said the Commission would need to supply BWSR with a revised CIP table with its major plan amendment request. She said the request would need to go to a wider pool of reviewers than would a minor plan amendment, including to BWSR, the member cities, the County, the DNR, the MPCA, the MN Department of Health, the MN Department of Agriculture, and the Metropolitan Council. Ms. Chandler said the BCWMC would need to hold a public hearing, which could be held at the same time as it holds the public hearings to order the projects. She said the approval may not come until September, which runs up against the timetable the Commission is on regarding submitting its tax levy request to Hennepin County. Mr. LeFevere said all the Commission can do at this point is direct staff to get the process going and to try to get the process worked out with BWSR so the Commission can reserve the right to certify for the projects this year for collection next year. He said the worst that would happen is that the Commission wouldn't be able to certify the levy request for 2011 for collection in 2012.

Commissioner Black moved to approve that the Commission proceed with the major plan amendment. Acting Commissioner Hoshal seconded the motion. Commissioner Welch volunteered to call Brad Wozney of BWSR just to clarify BWSR's reasoning for this amendment being a major plan amendment instead of a minor plan amendment. Chair Loomis requested amending the motion to direct staff to proceed with the major plan amendment and to authorize

Commissioner Welch to call Brad Wozney. Commissioner Black and Acting Commissioner Hoshal approved the friendly amendment. The motion carried unanimously [City of St. Louis Park absent from vote].

7. Communications

A. Chair:

- i. Chair Loomis reported that the Fresh Water Society is having a meeting on April 27th at 7:00 p.m. in the St. Paul Student Center and that RSVPs are required.
- ii. Chair Loomis reported that she received a call from Janet Moore, who sits on the board of Shingle Creek, who said Crystal approved a dog park in the floodplain. Acting Commissioner Stockhaus commented that the park actually is not in the floodplain.
- iii. Chair Loomis stated that she would direct Ms. Herbert to add the new item, "Communications from the Administrator," to the BCWMC agenda.

B. Commissioners:

- i. Acting Commissioner Hoshal reported that the City of Medicine Lake is working on its Surface Water Management Plan.
- ii. Acting Commissioner Hoshal reported that the City of Medicine Lake would like a copy of the watershed map that would be suitable for framing.
- iii. Acting Commissioner Hoshal reported that the City of Medicine Lake has asked him to draft for the City's review a letter requesting a hydraulic and hydrologic evaluation of the dam at the headwaters of Bassett Creek [the Medicine Lake outlet]. Acting Commissioner Hoshal reported that the BCWMC will be receiving a formal request through a letter from the City of Medicine Lake.
- iv. Acting Commissioner Hoshal reported that David and Josie Nelson are the CAMP volunteers for 2010 for a small bay of Medicine Lake.

C. Committees:

i. Acting Commissioner Thornton announced that one of the Committee members has been attending BWSR workshops and the Committee will do a summary of the workshops in the late summer or fall.

D. Counsel: No communications

E. Engineer:

i. Ms. Chandler reported that she spoke with the Met Council and it is planning to do catch up work on the data from the WOMP stations. She said that starting this year the BCWMC will receive a summary of the annual data.

9. Adjournment

Chair Loomis adjourned the mee	eting at 2:10 p.	m.	
Linda Loomis, Chair	Date	Amy Herbert, Recorder	Date
Pauline Langsdorf, Secretary	 Date		

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