

# **Bassett Creek Water Management Commission**

## **Minutes of the Special Meeting of March 10, 2004**

### ***Call to Order***

The Bassett Creek Water Management Commission was called to order at 3:05 p.m., Wednesday, March 10, 2004, at the City of Golden Valley City Hall by Chair O'Toole.

### ***Roll Call***

<i>Crystal</i>	Commissioner Pauline Langsdorf	<i>Counsel:</i> Charlie LeFevere
<i>Golden Valley</i>	Commissioner Linda Loomis, Treasurer	<i>Engineer:</i> Len Kremer
<i>Medicine Lake</i>	Commissioner John O'Toole, Chair	<i>Recorder:</i> Pat Schutrop
<i>Minneapolis</i>	Commissioner Michael Welch, Vice Chair	
<i>Minnetonka</i>	Commissioner Bill Yaeger, Secretary	
<i>New Hope</i>	Commissioner Mary Gwin-Lenth	
<i>Plymouth</i>	Commissioner Elizabeth Thornton	
<i>Robbinsdale</i>	Commissioner Karla Peterson	
<i>St. Louis Park</i>	Commissioner Paul (PJ) Andersen	

**Also present:** Karla Anderson, Alternate Commissioner, city of Plymouth  
Laura Adler, BCWMC Technical Advisory Committee, city of St. Louis Park  
Jennifer Posma, BCWMC Technical Advisory Committee, city of Minnetonka  
Ron Quanbeck, BCWMC Technical Advisory Committee, city of Plymouth  
William Deblon, BCWMC Technical Advisory Committee, city of Robbinsdale  
Al Lundstrom, BCWMC Technical Advisory Committee, city of Golden Valley  
Guy Johnson, BCWMC Technical Advisory Committee, city of New Hope  
Ginny Black, City Council Member, city of Plymouth  
Terrie Christian, Association of Medicine Lake Area Citizens  
Karen Chesebrough, city of Plymouth Environmental Quality Committee

### ***Special Meeting Agenda***

The purpose of the Commission's special meeting was to review and discuss draft responses to comments received regarding the 60-day review draft of the BCWMC watershed management plan. Seventeen plan reviewers submitted written comments prior to the public hearing on February 19, 2004, and two people gave testimony at the hearing. As a result of comments received, draft responses were prepared and submitted to the Commission for review in two memorandums dated February 13, 2004 and March 4, 2004.

The objective is to go through the comments and draft responses and reach concurrence and make revision to the draft responses. The final responses will be brought back to the Commission at its regular meeting on March 18, 2004, for formal approval. After approval, the responses will be sent out to the plan reviewers. The plan will then be revised and sent to the reviewing state agencies along with the comments received and the public hearing report for the 45-day review period. The reviewing agencies will again have opportunity to give comment to the revised draft plan. Mr. LeFevere said technically the Commission is not required to respond to the next round of comments received.

Procedurally, the Commission will go through the two memorandums page by page. If time permits, Ms. Thornton asked that some of the comments received where draft responses were not prepared be discussed. Mr. Kremer said changes to the draft responses would be presented in an underline/strikeout format for the Commission to approve at its March 18<sup>th</sup> meeting.

The draft responses in both memorandums were categorized according to the following topic areas:

1. Capital Improvements Program (CIP)
2. Water quality
3. Flooding and rate control
4. Wetland management
5. Joint Powers Agreement
6. Erosion and sediment control
7. BCWMC administration
8. Groundwater
9. County Ditches
10. History and background information
11. Land and water resource inventory
12. Stream restoration
13. Public involvement and public information
14. Miscellaneous comments

Page No.	Commenter	Discussion	Consensus or Conclusion
<i>Memorandum dated February 13, 2004</i>			
<b>Capital Improvements Program (CIP)</b>			
3	City of Plymouth		Include the last 2 lines following the indented portion of the response and include with the indented language.
3 & 4	City of Golden Valley	Golden Valley requests that BC-10-3 be moved to 2004 and requests BCWMC to adopt language in the plan allowing the project to receive funding from the Commission.	Because the city cannot wait until approval and adoption of the BCWMC plan, the CIP table will show construction will be immediate in 2004 and the question of funding or reimbursement by the Commission using the process in the Joint Powers Agreement will be added to a future agenda for discussion. The project will remain on the CIP.
4	City of New Hope	Similarly, New Hope has a project (Pond NB-36A) underway and the project is on the CIP (2006). Even though the plan is not approved or adopted, will New Hope be reimbursed in the scheduled year (2006) of the improvement?	Similar language will be added to the response.  Discussion for reimbursement of projects will be only for those projects beginning in 2004 and beyond. The plan does NOT have to include a statement indicating this deadline.
5	City of New Hope		Additional language that includes projects in Table 12-2 will be reviewed and revised annually.

Page No.	Commenter	Discussion	Consensus or Conclusion
5	City of Plymouth	Have discussions taken place with Hennepin County concerning setting up separate taxing districts?	The county has been approached with the idea. The text states that it will be pursued and if the county will allow it, it will be one of the funding mechanisms the Commission is considering to use.
5	City of Plymouth	Is it already possible for the cities to pay their share with a different source of funding?	According to the JPA, the cities are assessed and it is up to the cities to determine how that is paid. However, when the CIP is approved, those projects may be paid by an ad valorem tax levied by the County.
5	City of New Hope	Confusion concerning moving projects to an earlier year in the CIP and would the reimbursement costs occur in the year that the project is completed versus reimbursement occurring in the originally scheduled year?	Yes, it there is flexibility in the CIP where projects can be moved around without impacting the total cost if there is flexibility as to when reimbursement can be made.
6&7			Okay
<b>Water Quality</b>			
8 & 9	BWSR & MPCA	How the plan addresses impaired waters. Should there be a decision made as to funding of the TMDL studies and include in the plan?	Acknowledge in the plan that the studies may need to be funded in the BCMWC annual administrative budget. Also clarify the description of the water bodies to say "...five BCWMC lakes and Bassett Creek..."
10&11	City of Golden Valley Sweeney Lake Assn. David Hanson	Clarify statement, "...the TMDL study will consider the suggestions provided..."	As part of the project, the Commission will have to evaluate a variety of options to achieve a phosphorus goal, for example, meaning the Commission will have to identify options and decide which one to use and that the option chosen will achieve the goal. <b>NO CHANGE TO RESPONSE NEEDED.</b>
12&13			Okay
14	City of Minneapolis	Why is level I stormwater treatment being proposed in watersheds where water bodies are classified as Level III?	The Technical Advisory Group argued that it would be best to have a uniform standard across the watershed for stormwater treatment for runoff leaving sites. The TAG's rationale was there are areas in the watershed that will never be treated because they will not be redeveloped and therefore the Commission should be treating runoff that does occur to the highest level possible. The response will be clarified and language will be added to the plan to explain the rationale for the policy. [Plan Change]
15			Okay
16&17	MPCA City of Plymouth City of Minneapolis	Changing the phosphorus goal from 30 ? g/L to 38 ? g/L for Medicine Lake.	The Commission agreed with the city of Plymouth request to change the goal for Medicine Lake to 38 ? g/L. Plan text will reflect this change. [Plan Change]  The Commission will review the 38 ? g/L

Page No.	Commenter	Discussion	Consensus or Conclusion
			goal in year 5 of the plan.
19	MPCA	The MPCA is looking for information on other parameters, specifically bacteria, for body contact recreation to be addressed in the plan.	Response will be added stating the Commission recognizes other parameters, specifically bacteria, are an issue and will collect what information is available.
18&19	Met Council DNR	The comments promote the use of rain gardens, green roofs, and infiltration and the response should include more emphasis on the Commission complying with the comment.	Change last sentence to read, "The BCWMC will add <del>consider adding</del> similar language..."  More definition will be added to the plan when the language "where practical" is used.
20&21	City of Plymouth City of New Hope	Should plans regarding sedimentation and projects implementing plans relating to sedimentation be added to the second generation plan?	Language will be added relating to evaluation of sedimentation at Turtle and Lost lakes to Table 12-4.
22&23			Okay
<b>Flooding and Rate Control</b>			
24-27			Okay
<b>Wetland Management</b>			
28	Met Council	The Met Council requested a schedule to be included in the plan.	If the Commission adopted the MnRAM method, then the schedule is not necessary. <b>NO CHANGE TO RESPONSE NEEDED.</b>
<b>Joint Powers Agreement</b>			
29&30			Okay
<b>Erosion and Sediment Control</b>			
31			Okay
<b>BCWMC Administration</b>			
32	BWSR	BWSR asked that reference to the WMC's mandate under MS103B.211, subd. 4, to offer a permit program for appropriations for small watercourses be in the plan.	The Commission did adopt a permitting process in 1990 for the appropriations and it will be added to the discussion in the text.
<b>Groundwater</b>			
33			Okay
<b>County Ditches</b>			
34			Okay
<b>Land and Water Resource Inventory</b>			
35	DNR	Since the MLCCS information is currently only available for the city of Golden Valley, that information should be included in the plan.	Information regarding the available MLCCS data will be added to the plan [Plan Change].
<b>Stream Restoration</b>			
35			Okay
<b>Public Involvement and Public Information</b>			
36			Okay
<b>Miscellaneous Comments</b>			
36-37			Okay
<b>March 4, 2004 Memorandum</b>			
2			Okay
3			Okay

Page No.	Commenter	Discussion	Consensus or Conclusion
4			Okay

## Additional Discussion of Various Responses

1. **TMDL Studies for Impaired Waters.** In the past, watershed and lake management plans were funded as part of the administrative budget. The TMDL studies could potentially be multi-year studies and could be costly. This may be an issue where the Commission budget is already aggressive. The studies would be paid for either by the cities or the county. The possibility of preparing the TMDL study and the associated costs may be tied to a capital project and therefore included in the tax levy for the project.

Mr. Andersen said that if the Commission recommends in the second generation plan that the ad valorem tax is a funding option, he would like to see it also stated as a funding option for the TMDL studies. Ms. Peterson wanted to know if the TMDL studies would be funded solely by the tax or would it be linked with the actual project. Mr. LeFevere said capital projects in the CIP can only be funded by the tax levy so funding a TMDL study would need to be linked to a capital project. If the studies are linked with the capital projects, a plan amendment would need to be completed in order to use the tax levy. Chair O'Toole supports that concept, but cautions that the TMDL studies will most likely be paid out of the administrative budget. Ms. Peterson added there will be a significant amount of time between the study and the project and the Commission therefore needs to be ready in the budgeting process to realize that reimbursement could be far out. Ms. Thornton also pointed out there are no capital projects listed on the CIP for Sweeney and Bassett Creek, but they are listed on the impaired waters list and the Commission will have to address those TMDL studies in the administrative budgeting process as well.

2. **Treating all Stormwater Runoff to Level I.** The principal reason the Technical Advisory Group argued that it would be best to have a uniform standard across the watershed for stormwater treatment was runoff leaving sites. There are areas in the watershed that will never be treated because they will not be redeveloped and therefore the runoff should be treated to the highest level possible. Level I treatment does not mean Level I water quality will be reached in the receiving water body. Chair O'Toole asked about incorporating that into the plan to clarify the question should it be asked again.
3. **Phosphorus Goal for Level I Lakes (30 ? g/L vs. 38 ? g/L).** Is more information available at this time that supports maintaining a goal of 30 ? g/L for Medicine Lake as opposed to 38 ? g/L? Mr. Kremer said it is appropriate for the Commission to review water quality goals for Medicine Lake, as well as other water bodies in the watershed. The Commission may want to review the entire classification system. There are water bodies in the watershed that have existing water quality where the average phosphorus concentration is below 30 ? g/L and it would not make sense to change the goal for that water body to a higher level. Sweeney Lake and Northwood Lake are two lakes in addition to Medicine Lake that the Commission should consider re-evaluating and discussing at a future Commission meeting. Mr. Kremer suggested asking a representative of the Minnesota Pollution Control Agency to address the issue and give the Commission some additional information. The change in the plan for Medicine Lake does not have to be done in this draft, but can be changed at a later date after the Commission has heard a presentation from the MPCA. An overall change to all the water bodies from 30 ? g/L to 38 ? g/L is not advisable.

Ms. Thornton asked if language could be included in the plan that does not state 30 ? g/L as the phosphorus goal for Medicine Lake. Mr. Kremer said the plan could state the process will be reviewed by the Commission or the process could occur prior to the final issuance of the plan. Ms. Thornton would like to see a range to strive for and not a set goal of 30 ? g/L.

Ms. Black has had numerous discussions with MPCA staff concerning this issue and printed off an excerpt of the MPCA's Lakes Strategy document from their website discussing recent information available that addresses the eco-region that Medicine Lake is located. The MPCA is looking at or below 40 ?g/L for full-body contact water bodies for the TMDL upper limit standard for a lake like Medicine Lake. The city of Plymouth's surface water management plan set the limit at 38 ?g/L and felt it was an attainable goal without using alum treatment. Leaving the goal at 30 ?g/L is more costly for the city to achieve and, according to the MPCA, the TMDLs will impact how the cities can develop which is a serious issue for developing cities like Plymouth.

This is a fundamental issue. If 30 ?g/L is the goal and that goal is not met then the use of alum treatment may have to be used to accomplish the goal and that is costly. There is no financial penalty for setting a goal and not reaching it; however, the Commission will be questioned as to why a goal is not achieved if it was set at a certain level in the plan. Mr. LeFevere said the state rules require that the plan quantify water quality goals and provide an annual report. Setting unrealistic goals would not be beneficial for the Commission.

Ms. Terrie Christian added that the MCPA feels that goals for a lake should be based on what is reasonably obtainable for a lake. The MPCA believes that 40 ?g/L for total phosphorus is a reasonable upper threshold goal for Medicine Lake. The Medicine Lake citizens committee, including John Barten of Three Rivers Park District who served on the committee, thought that 38 ?g/L was a reasonable and attainable goal to be reached without alum treatment for Medicine Lake.

Sweeney Lake Homeowners Association is using aeration to attempt to improve water quality. Mr. Kremer said that Sweeney Lake is consistently exceeding 40 ?g/L for phosphorus.

Mayor Loomis believes the Commission should allow the cities to set the limits for the lakes within a city's borders.

The watershed management plan is good for 10 years before it will be required to be revised. The Commission continued the discussion about setting a water quality goal of 38 ?g/L with a review by the Commission after 5 years.

It was the consensus of the Commission (although not agreed by the city of Minnetonka) to initiate a review time of the CIP in year 5 and change the current phosphorus goal for Medicine Lake to 38 ?g/L. The review will include examining BMPs implemented, what is to be implemented, etc.

4. Memory Lane Ponds Diversion in Shingle Creek to Bassett Creek. The diversion of Memory Lane Pond to Bassett Creek is being evaluated by the city of Crystal. If implementation of the pump station were done, the pumping would be done via the lake during extended rainfalls. It would be part of the storm sewer system for the city of Crystal and paid for by the city of Crystal. This comment is brought to the attention of the Commission as an issue being evaluated that should be identified in the second generation plan. When Crystal completes its evaluation, the city would bring a plan to the Commission with significant impacts identified. Mr. Kremer said the discharge would be less than 1 cfs.

## **Additional Discussion of Comments Received**

1. Comment received from BWSR, paragraph #2, referring to state funding for water quality. What is the state funding for water quality? This is referring to funding proposals for the TMDL studies being considered. The actual bill is No. 416 and Senate file 1166 which is discussed on the legislative website. The draft second generation plan does contemplate potential future sources of funding and that is stated in the plan.
2. Comment received from the DNR, bottom of page 2, referred to Section 4.3.3, the emphasis of BMP #8 is also moderated by the language "where practical." This language decreases the emphasis of the recommendation, is not necessary, and diminishes the strength of the particular recommendation.

Ms. Thornton would like the language changed when “where practical” is used and where it would take away from the strength of the statement. Mr. Kremer said the intent of the language is to address a number of areas within the watershed that have clay soils and where infiltration would not be practical and areas where the MPCA would not allow infiltration basins.

**CONSENSUS:** These two situations will be more fully described in the plan.

- 3. Comment received from Hennepin County, paragraph #3, referring to not providing enough detail consistent with the format and content of a long-range plan for staff to recommend approval of the CIP to the County Board. Mr. LeFevere said the level of detail the county is looking for is provided in their comment in the next paragraph regarding the estimated cost of \$500,000 or more for capital projects.
- 4. Comment received from the MPCA, page 2, second full paragraph, referring to the focus of the draft plan on the control of phosphorus and sediment. Is there more that the draft response should include to accommodate the MPCA’s comment?

**CONSENSUS:** A response will be prepared stating the Commission recognizes other parameters like bacteria are issues and that the Commission intends to investigate the issues, including collecting available data and developing an action plan, if necessary, based on data that is available.

- 5. Ms. Thornton expressed appreciation to the Commission for acceptance of the city of Plymouth’s submittal of Section 4.3.3.1 as rewritten.

Mr. Yaeger moved and Mr. Welch seconded the motion to direct the Commission staff to revise the proposed responses to the comments and to consolidate and incorporate discussion points of this meeting. Carried unanimously.

**Future Action:**

- ? The Commission will formally approve the responses to comments received at the March 18, 2004 meeting.
- ? The approved responses will go the plan reviewers.
- ? The draft plan will be revised and, after Commission approval if necessary, will be submitted to the state reviewing agencies for the 45-day formal review – sometime in April.

**Adjournment**

It was moved by Mr. Yaeger and seconded by Ms. Thornton to adjourn the meeting. Chair O’Toole adjourned the meeting at 5:10 p.m.

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John O’Toole, Chair

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Pat Schutrop, Recorder

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Bill Yaeger, Secretary

Date: \_\_\_\_\_