

# **Bassett Creek Water Management Commission**

## **Minutes of October 7, 2003 Special Meeting**

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

The Bassett Creek Water Management Commission was called to order at 3:35 p.m., Tuesday, October 7, 2003, at the City of Golden Valley City Hall by Chair O'Toole.

### ***Roll Call***

<i>Crystal</i>	Commissioner Pauline Langsdorf	<i>Counsel:</i> Not present
<i>Golden Valley</i>	Commissioner, David Hanson, 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 Vincent Vander Top	
<i>Plymouth</i>	Commissioner Elizabeth Thornton	
<i>Robbinsdale</i>	Not represented	
<i>St. Louis Park</i>	Commissioner Paul (PJ) Andersen	

**Also present:**

- Karla Anderson, Alternate Commissioner, city of Plymouth
- Mary Gwin-Lenth, Alternate Commissioner, city of New Hope
- Tom Mathisen, BCWMC Technical Advisory Committee, city of Crystal
- Ron Quanbeck, BCWMC Technical Advisory Committee, city of Plymouth
- William Deblon, BCWMC Technical Advisory Committee, city of Robbinsdale
- Jeff Oliver, BCWMC Technical Advisory Committee, city of Golden Valley
- Jim Vaughan, BCWMC Technical Advisory Committee, city of St. Louis Park
- Fred Moore, BCWMC Steering Committee and former TAG Chair
- Ginny Black, City Council Member, city of Plymouth
- Terrie Christian, Association of Medicine Lake Area Citizens
- Nancy Azzam, Golden Valley League of Women Voters
- Jack Frost, Metropolitan Council
- David Stack, Friends of Bassett Creek

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

The following is an outline of the Special Meeting agenda:

- ? Overview of Second Generation Plan
- ? Agenda Preview
- ? Discussion of Proposed New Policy Issues
- ? CIP Modifications (time permitting)

## **Overview of Second Generation Plan**

Mr. Kremer started with background information to help answer some of the comments relating to why a particular issue is discussed in the plan. The Minnesota Board of Water & Soil Resources has published standards or rules addressing what must be included in a second generation plan. Prior to the start of the planning process, the Commission proactively contacted the reviewing regulatory agencies and asked them to identify issues that the Commission needed to address in the plan.

The Commission began the plan process by conducting a public meeting in the fall of 2000 where the public was asked to provide input. A steering committee was set up and the steering committee organized three subcommittees to work on the plan – the technical advisory group (Fred Moore, chair), the citizen advisory group (John O’Toole, chair), and a policy advisory group (Lee Gustafson, chair). The issues raised by the regulatory agencies in the letters to the Commission were sorted and assigned to the advisory groups to be discussed.

The Commission engineer submitted the first draft of the second generation plan to the steering committee in the fall of 2002. However, prior to the steering committee receiving the first draft of the plan, a draft capital improvements program (CIP) was prepared. A number of issues related to the CIP needed to be resolved before the final issuance of the draft plan.

After gathering input from the various advisory groups, the current draft plan (dated July 2003) is ready for the Commission to review. This is the final step prior to submitting the draft plan to the member cities, adjacent watersheds, Hennepin County, and the regulatory agencies, which will begin the 60-day formal review process.

Comments received on the draft plan are categorized according to useful points that were missed, clarifications, additions to the plan, suggested language and style changes; possible need for additional policies in addition to the proposed new policies; questions on the new policies proposed; and suggested modifications to the CIP.

## **Agenda Preview**

Chair O’Toole prefaced the discussion by saying that although the Commission will want to accomplish what is possible at today’s meeting, additional attention may be required to address some of the issues.

The following is a list of new policies proposed in the plan:

- ? Implement Level I water treatment for all runoff in the watershed. This revision to the current policy may mean for redevelopment or new development proposed in a fully developed area (e.g., Golden Valley) that more land and resources will be required and reduce the tax base within a city.
- ? Adopt a wetland buffer policy.
- ? Require 2 feet of freeboard over the 100-year flood as a policy goal for structures.
- ? Use of the ad valorem tax to finance the CIP.
- ? Standardization of methods for wetland inventories.
- ? Modifications and rewording to a number of proposed polices requested by the city of Plymouth.

Chair O’Toole suggests that the Commission discuss at least three of the proposed new policies leaving time to discuss modifications to the CIP and how the Commission will move forward from here.

## Discussion of Proposed New Policy Issues

Mr. Kremer will revise and redraft the proposed policies discussed below for the Commission to review at the October 16, 2003 meeting.

1. **PROPOSED NEW POLICY: Section 4.2.2.2(A).** *The BCWMC will require all regulated stormwater to be treated to Level I standards throughout the watershed. See Policy A, under “Water Quality-Related BCWMC Administration.” [New policy from Advisory Groups Recommendations table – TAG-C.2]*

*Section 4.2.2.4(A). The BCWMC will review projects and developments to evaluate compliance with BCWMC water quality management standards. The BCWMC water quality management standards will be revised to reflect treatment of all regulated stormwater to Level I standards and non-degradation (no increase in phosphorus load) during redevelopment to a more intensive land use and other revisions. The types of projects that must be submitted to the BCWMC for review, the BCWMC’s review procedure, submittal requirements, guidelines, design criteria, etc. are provided in the BCWMC’s document Requirements for Improvements and Development Proposals (Barr Engineering Company, November 1998, as revised).*

The cities of Golden Valley and Plymouth asked the Commission to review this policy. The idea behind treating all water to a Level I was that by requiring all water going into a water body not classified as a Level I may help achieve some of the water quality goals in the receiving water body sooner than treating to the lower level of the water body.

**Background:** In 1994, the Commission along with the member cities reviewed all the water bodies in the watershed and classified them by Level I, II, III, or IV according to their use. For example, Medicine Lake was classified as a Level I water body because certain water quality goals needed to be achieved in order to use the lake to its maximum extent. In order to achieve that Level I classification, stormwater running into Medicine Lake (from new development or redevelopment) would have to meet Level I criteria so that it is consistent with the lake’s classification. Another example is Northwood Lake, which is classified as a Level II and therefore all stormwater running into Northwood Lake would be required to meet the Level II water quality goals. The Main Stem of Bassett Creek is classified as a Level III and goals for Level III needed to be met by stormwater running into that area of the creek. Each tributary watershed has different degrees of treatment based on the classification of the downstream water body.

During the Second Generation Planning process, the Technical Advisory Group made the recommendation to the Commission that all stormwater be required to meet Level I water quality goals. Chair O’Toole pointed out that the watershed is primarily developed except for portions located in Plymouth. This will affect mostly redevelopment areas and some small new development sites. Mr. Kremer pointed out a variance policy is included in the water quality policy and has been applied on a few occasions.

Mr. Moore, former chair of the Technical Advisory Group, said one of the main reasons the TAG discussed changing the classification policy was because the Minnesota Pollution Control Agency will be setting water quality standards for water bodies flowing into the Mississippi River sometime in the future. Secondly, the requirements by the Environmental Protection Agency and the MPCA for developments disturbing greater than 5 acres to meet Level I treatment standards. In July 2003, this 5-acre standard was changed to disturbing areas greater than 1 acre. It will be federal and state rules that are going to govern the water quality level regardless of what the Commission does.

Chair O’Toole asked for the consensus of the Commission – proceed with the policy, modify the policy, or assign to a subcommittee for further study and recommendation to the Commission.

Mr. Vander Top added that redevelopment is already not cost effective because of the economic issues with acquiring existing properties and may be viewed by the developer and the developing community as another strain on revitalizing a community. He pointed out that this policy change could impact the economy of the member communities. Mr. Vander Top anticipates comments from the member cities on this issue when the draft plan goes to the cities for formal comment.

Ms. Thornton asked if the regulatory agencies will view the existing policy negatively. Mr. Jack Frost, Metropolitan Council, said the Met Council would challenge the Commission to change to a Level I requirement, although the Commission can have a separate policy for development and redevelopment. Mr. Welch said he would favor a split policy to help facilitate redevelopment of already impacted properties.

Mr. Kremer added that the current policy applies differently to development and redevelopment. The current policy is meeting water quality standards to the level of the receiving water body and applies to new development areas greater than ½ acre (commercial/industrial) and greater than 2 acres for residential. For redevelopment, the policy applies to areas greater than 5 acres (commercial/industrial) and greater than 10 acres for residential. The new development and redevelopment definitions also apply to the proposed water quality policy in the plan.

Mr. Mathisen said the cities also have standards for new development and redevelopment. The EPA's and PCA's new 1-acre regulation does not specify a level of treatment, but does require a best management practice.

A poll was taken for a consensus of the commissioners regarding the proposed new policy:

**Minnetonka** In favor of the proposed new policy including the definitions for new development and redevelopment.

**Crystal** Agrees with the proposed new policy.

**Plymouth** Agree with the proposed new policy and that the definitions for new development and redevelopment be included in the plan.

**Minneapolis** Agrees with the proposed new policy; Mr. Welch is concerned that 5 acres would be too large for redevelopment and believes redevelopment would best achieve existing requirements if there is a split development / redevelopment standard. Mr. Welch would like more stringent standards for new development.

**St. Louis Park** Agree with the proposed new policy including the definitions for new development and redevelopment.

**New Hope** Agrees with the proposed new policy.

**Golden Valley** Mr. Hanson asked what the definition of “redevelopment” means, especially in areas where there is no room for new development. For example, is it redevelopment when razing an estate and building an apartment? Mr. Hanson would like the definition for redevelopment clarified.

Ms. Thornton asked how the standards set by the Commission and the standards set by the cities are administered. Mr. Kremer said the cities can set their own standards as long as the cities meet the minimum Commission standards.

Ms. Azzam said it would make sense to set a standard high if the Commission will later be asked to meet a higher standard of water quality set by federal and state rules. Mr. Kremer said that if a phosphorus load is set for Bassett Creek, it will be a set annual amount for the watershed. Mr. Frost added that the Metropolitan Council is now working with the Riley-Purgatory-Bluff Creek Watershed District and will be discussing what the options are for setting the goals. The options may differ between the watershed districts and WMOs. Mr. Frost thought the Commission would be approached sometime in 2004.

**Proposed REVISED New Policy:**

*Section 4.2.2.2(A). The BCWMC will require all regulated stormwater to be treated to Level I standards throughout the watershed. See Policy A, under “Water Quality-Related BCWMC Administration.” [New policy from Advisory Groups Recommendations table – TAG-C.2]*

*Section 4.2.2.4(A). The BCWMC will review projects and developments to evaluate compliance with BCWMC water quality management standards. The BCWMC water quality management standards will be revised to reflect treatment of all regulated stormwater from new development to Level I standards and non-degradation (no increase in phosphorus load) for redevelopment projects that result in increased impervious surface. The types of projects that must be submitted to the BCWMC for review, the BCWMC’s review procedure, submittal requirements, guidelines, design criteria, etc. are provided in the BCWMC’s document Requirements for Improvements and Development Proposals (Barr Engineering Company, November 1998, as revised)*

*Commercial, industrial, institutional, or public redevelopment is defined as a project involving more than 5 acres of land where commercial, industrial, institutional, or public redevelopment currently exists and a more intense land use is proposed (increased impervious surface). A residential redevelopment project is defined as a site greater than 10 acres where there are more than 4 existing living units and where more intense land use is proposed (increased impervious surface).*

2. **PROPOSED NEW POLICY:** Section 4.2.2.3(1) *The BCWMC will work with the member cities and others to study, evaluate and develop appropriate and reasonable standards/requirements for vegetative buffers adjacent to water resources (including wetlands). [New policy from Advisory Groups Recommendation table – TAG-C.4] Also stated in Section 8.2.2(E) in the plan.*

The city of Plymouth asked the Commission to consider changing the policy to read that the Commission will supply copies of ordinances from other cities and the most current research on the use of buffers. Plymouth is not in favor of the Commission setting a buffer standard, but favors supplying the communities with research material used by other cities.

Mr. Moore said that the TAG made this recommendation on the basis that something should be stated in the plan that buffers are good, but the lack of research information available at the time made it difficult for the TAG to cite any specifics. Mr. Moore recommended that the plan state that the Commission will continue to study this in the future or recommend each community to address the use of buffers in their local plans.

Ms. Black asked how many member cities have existing buffer regulations. Mr. Kremer said the information is available, but not stated in the plan. Mr. Frost added that many cities have buffer requirements according to criteria set by the cities (e.g., to protect against phosphorus, etc.). The Commission can offer minimum standards to be met by the cities according to the scientific research that is available.

Ms. Black said Plymouth studied buffers in 1995 and set buffer standards at varying degrees.

Mr. Hanson pointed out that on Page 4-23, Section 4.3.3, #6 states, “Require/encourage vegetated buffer strips between maintained lawns and water bodies.” Mr. Hanson believes “require” is too strong of language to use in the plan and would like to leave the buffer policy up to the cities to develop. Mr. Kremer said the city of Plymouth recommended rewording of that statement to say, “The BCWMC will encourage cities to adopt ordinances regarding vegetative strips between maintained lawns and water bodies.” Mr. Kremer said the rewording is essentially a new policy to the previously proposed new policy. Mr. Thornton recommends that the wording regarding buffers stated on page 4-24 and 8-2 be consistent.

Mr. Welch is concerned about achieving harmony between what the Commission asks or requires the cities to do and what the Commission is doing according to the plan. Mr. Welch is in favor of buffers and to whatever degree the Commission can encourage or require cities to have buffer policies in place would be beneficial. Since the Commission is proposing a statement in the plan encouraging member cities to adopt buffer ordinances, the Commission should be the source of information to distribute to the member cities. Ms. Thornton suggested that the Commission also encourage member cities to include buffer policies in their local plans.

Ms. Black added that buffers need to be grandfathered into a policy because buffers cannot be required for existing properties. Plymouth encouraged existing property owners to put in buffers by creating a small grant program to help buy the plantings with the provision the public will be allowed to view the buffers.

Mr. Mathisen noted that in its effort to control the West Nile virus carried by mosquitoes, the Mosquito Control Agency said mosquitoes like to breed in buffers.

Chair O’Toole is in favor of delegating the buffer issue to the member cities as a primary responsibility. The Commission can encourage them to develop a policy and the member cities have their own idea of what buffer policy is going to fit their city. Mr. Yaeger would like the Commission to strongly encourage the member cities to develop a policy and ask that the city of Plymouth share the information they have acquired with the member cities.

Ms. Christian said that if the Commission did have a buffer policy in place when the Wesley Commons area was developed that perhaps the trees would not have been removed down to the bank and a new cement wall (proposed at the September 2003 Commission meeting) would not have to be built to curtail erosion. Mr. Oliver clarified that the erosion problem existed prior to construction of the Wesley Commons development.

**Proposed REVISED New Policy:** *The BCWMC requires that a buffer policy adjacent to water resources (including wetlands) be included in the member cities’ revised local stormwater management plans.*

Mr. Welch recommended the Commission staff provide copies of buffer ordinances from other cities as well as the most recent research information available on the use of buffers to the member cities. Chair O’Toole added the Commission can consider this task in the future.

3. **PROPOSED NEW POLICY:** Section 8.2.2(C). *The BCWMC will develop standards/methodologies/guidelines for wetland inventories so they look similar across the watershed. [New policy from Advisory Groups Recommendations table – TAG-F.1]*

The city of Plymouth questioned why the Commission is asking the member cities to develop a wetland classification system when systems are already in place and recommends the Commission serve as a resource for the cities to decide what system to use.

Mr. Frost said in Minnesota, the system typically used is the Minnesota Board of Water and Soil Resources' Minnesota Rapid Assessment Method (MINRAM) to evaluate the functions and values of wetlands. Mr. Frost thought about 99% of the cities use this system because that is what is developed.

The cities of Golden Valley, Minnetonka, New Hope, Plymouth, and St. Louis Park have mapped the wetlands in their communities. Mr. Kremer said the purpose of the system would be to set a minimum standard for this evaluation process so that all cities are evaluating the wetlands in the same manner. Ms. Black added that it was costly for Plymouth to perform the wetland evaluation. Mr. Oliver said the city of Golden Valley used the MINRAM system. The commissioners agreed to use the MINRAM system and not require the communities to reclassify their wetlands.

Proposed REVISED New Policy: *The BCWMC adopts the Minnesota Rapid Assessment Method (MINRAM) as the wetland classification system for the member cities to utilize when classifying wetlands located within their cities. Wetland classifications already performed by member cities are not required to be reclassified using the MINRAM system. However, if wetland reclassification is necessary, the cities are encouraged to use the MINRAM system in their re-evaluation process. [New policy from Advisory Groups Recommendations table – TAG-F.1]*

## **CIP Modifications**

1. **PROPOSED NEW POLICY:** Section 4.2.2.1(G). *The BCWMC will continue to identify opportunities to maintain or improve the excellent water quality in Twin Lake (in the city of Golden Valley). [New policy from Advisory Groups Recommendations table – TAG-C.8]*

The Capital Improvements Program lists the construction of a water quality pond tributary to Twin Lake to be constructed in the year 2012 at a capital cost of \$52,700. The city of Golden Valley requests that this project be moved as far forward in the CIP as possible to protect Twin Lake as soon as possible.

Mr. Vander Top suspects that similar discussions will be brought up and the Commission will need to decide how to work through those discussions. Chair O'Toole said a number of factors will be considered in those discussions such as financial situations within the individual cities, the value of the project, the rate of CIP projects constructed in a certain time period, etc. Because the cost of the Twin Lake project is relatively small, Chair O'Toole recommends moving the project forward in the CIP.

Mr. Vander Top recalled from a previous discussion, that if cities wanted to do a project ahead of the CIP time schedule, the cities can float the project costs until the project year comes around and the cities can then be reimbursed.

Mr. Kremer added that the Commission prioritized the water bodies on the CIP, considering a variety of factors. Because the Medicine Lake projects were moved ahead from 2005 to 2004, the Twin Lake project can be moved to 2005.

Once the projects are listed on an approved CIP or included on the potential project list, the Commission can move a project without a minor plan amendment. However, if the project is not listed on the approved CIP or on the potential project list, a minor plan amendment is required. A minor plan amendment is required when moving a project in the timeline on the CIP or if the intent of a new water quality measure is put into the plan that will improve the water quality of an existing water body listed on the CIP. Mr. Frost recommends that the Commission add language to the plan that all new water quality measures meeting the intent to improve the water quality of an existing water body shown on the CIP will be considered a minor plan amendment and all new water quality projects outside of this criteria will be a major plan amendment.

Ms. Thornton asked if there are any potential problems foreseen from the reviewing agencies concerning the current CIP. Mr. Kremer did not think so, but the biggest obstacle in implementing the CIP will be getting concurrence from the various communities during the public hearing process.

Mr. Welch pointed out that the Twin Lake project is not in the city of Golden Valley's local CIP. Mr. Oliver said it will be added in the city's next 5-year CIP, which is consistent with moving the project into 2005.

**Recommendation:** Section 4.2.2.1(G) will remain as stated in the draft plan. It was the consensus of the Commission to move the Twin Lake project forward from 2012 to the year 2005.

Ms. Black said Plymouth reactivated the Medicine Lake subcommittee to look at the Plymouth Creek watershed. If the second generation water management plan is approved before the committee completes its evaluation, a minor plan amendment will be required to add any new water quality projects in the Plymouth Creek watershed to the approved CIP.

## ***Second Generation Plan Response Process***

1. The Commission is required to submit a draft plan to a certain number of agencies, member cities, etc. who will be reviewing the draft plan. The reproduction cost for the current draft plan is \$50 per plan. Chair O'Toole asked if a CD-ROM would be an appropriate way to submit the revised draft to people interested in receiving a copy of the plan. Ms. Langsdorf suggested sending copies to the public libraries.

The Commission decided to make 50 paper copies of the draft plan (member cities – 2 copies; regulatory agencies – 2 copies; public libraries – 1 copy) and 50 CD-ROMs. Copies will be available on CD-ROMs for interested people and paper copies will be provided at a cost of \$50 each to cover copying charges. The draft plan will also be on the Commission's website.

Mr. Kremer said there are additional policy issues plus additional issues concerning Medicine Lake that the Commission should consider. In discussions with Ms. Black, Mr. Kremer said it was suggested that the Commission hear a presentation on the process Plymouth went through to develop their Medicine Lake plan to help the Commission understand the extensive involvement from the numerous parties that helped developed Plymouth's plan.

Ms. Thornton suggested the Commission try and get as much done at the next meeting as possible and make a decision at that time if another work session is necessary. Because the time of the October meeting is changed to 3:30 p.m., Mr. Welch said he will not be able to attend and added that it would be beneficial for all the commissioners to attend the meeting in order to get the full understanding of the second generation plan since it is the next 10-year blueprint for the Commission. Mr. O'Toole agreed and said the importance of what is communicated in the second generation plan will be addressed in another 10 years by a different group of commissioners making up the Commission.

Mr. Moore added that once the plan goes to the formal review process, the Commission will receive a number of comments that the Commission will be required to respond to and the Commission will also be required to conduct a public hearing where additional comments will be given that the Commission will be required to respond to. Mr. Moore encourages the Commission to start that formal review process because once the first formal review is started, it will most likely be another 6 months before anything can be sent final to the Board of Water & Soil Resources.

Chair O'Toole said the next steps for the Commission will be to discuss the additional proposed policy issues and listen to the city of Plymouth's presentation on Medicine Lake.

**Chair O'Toole directed the Commission engineer to prepare a memorandum for the Commission's October 16<sup>th</sup> meeting that addresses the discussion today concerning the revised proposed policies.**

***Adjournment***

**It was moved by Mr. Andersen and seconded by Mr. Vander Top to adjourn the meeting. Chair O'Toole adjourned the meeting at 5:45 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:** \_\_\_\_\_

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