

## Bassett Creek Watershed Management Commission Minutes of the Meeting of March 15, 2012

### 1. CALL TO ORDER

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:33 a.m., on Thursday, March 15, 2012, at Golden Valley City Hall by Chair Black. Ms. Herbert called roll.

ROLL CALL		Counsel	Charlie LeFevere
Crystal	Commissioner Dan Johnson	Engineer	Karen Chandler
Golden Valley	Commissioner Stacy Hoschka, Treasurer	Recorder	Amy Herbert
Medicine Lake	Commissioner Ted Hoshal, Secretary		
Minneapolis	<i>Not represented</i>		
Minnetonka	<i>Not represented</i>		
New Hope	Commissioner John Elder		
Plymouth	Commissioner Ginny Black, Chair		
Robbinsdale	<i>Not represented</i>		
St. Louis Park	Commissioner Jim de Lambert, Vice Chair		

*Note:* Commissioner Michael Welch, City of Minneapolis, arrived after roll call.

**Also present:** Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park  
 Derek Asche, BCWMC Technical Advisory Committee, City of Plymouth  
 Jeannine Clancy, BCWMC Technical Advisory Committee, Golden Valley  
 Christopher Gise, Golden Valley Resident  
 Dave Hanson, Alternate Commissioner, City of Golden Valley  
 Gary Holter, AMLAC (Association of Medicine Lake Area Citizens)  
 Linda Loomis, Golden Valley Resident  
 Tom Mathisen, BCWMC Technical Advisory Committee, City of Crystal  
 Richard McCoy, BCWMC Technical Advisory Committee, City of Robbinsdale  
 Scott Marks, Medicine Lake Resident  
 Jeff Oliver, BCWMC Technical Advisory Committee, City of Golden Valley  
 Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka  
 Pete Willenbring, WSB & Associates  
 Mary Anne Young, Mayor, Medicine Lake

**2. APPROVAL OF AGENDA AND CONSENT AGENDA**

Chair Black requested that the Commission switch the order of presentation of Old Business agenda items 6A and 6B so that 6B – AMLAC Request – is heard first. Commissioner Elder moved to approve the agenda and the Consent Agenda as amended. Commissioner Hoshal seconded the motion. The motion carried unanimously with six votes in favor [Cities of Minneapolis, Minnetonka, and Robbinsdale absent from vote].

**3. CITIZEN INPUT ON NON-AGENDA ITEMS**

No citizen input on non-agenda items

**4. ADMINISTRATION**

**4A. Presentation of February 16, 2012, Meeting Minutes.** The meeting minutes were approved as part of the Consent Agenda.

**4B. Presentation of Financial Statements.** The BCWMC’s March 2012 financial report was approved as part of the Consent Agenda.

The general and construction account balances reported in the March 2012 Financial Report are as follows:

Checking Account Balance	\$821,927.02
<b>TOTAL GENERAL FUND BALANCE</b>	<b>\$821,927.02</b>
<b>TOTAL CONSTRUCTION CASH &amp; INVESTMENTS</b>	<b>\$2,437,330.62</b>
Revenue	(\$45.05) bank charges
Current Expenses	(\$6,467.87)
<b>TOTAL ON-HAND CONSTRUCTION CASH &amp; INVESTMENTS</b>	<b>\$2,430,817.70</b>
CIP Projects Levied – Budget Remaining	(\$2,262,714.46)
Closed Projects Remaining Balance	\$168,103.24
2011 Anticipated Tax Levy Revenue	\$9,450.41
Anticipated Closed Project Balance	\$177,553.65

#### 4C. Presentation of Invoices for Payment Approval.

- i. Kennedy & Graven – Legal Services through January 31, 2012 – invoice for the amount of \$2,282.45.
- ii. Barr Engineering Company – Engineering Services through February 24, 2012 – invoice for the amount of \$29,904.86.
- iii. Amy Herbert – February Secretarial Services – invoice for the amount of \$1,790.73.
- iv. D’amico - ACE Catering – March BCWMC meeting catering – invoice for the amount of \$324.88.
- v. MMKR – FY Audit Work through January 31, 2012 – invoice for the amount of \$1,600.

*[Commissioner Welch arrives.]*

Commissioner Elder moved to approve payment of all of the invoices. Commissioner de Lambert seconded the motion. By call of roll the motion carried unanimously with seven votes in favor [Cities of Minnetonka and Robbinsdale absent from vote].

#### 5. NEW BUSINESS

**A. Approval of 2012 BWSR Grant Agreement.** Ms. Chandler reminded the Commission that the grant is for the Bassett Creek Main Stem restoration project in the cities of Golden Valley and Minneapolis. She said the agreement is very similar to the 2011 grant agreement and contains a few changes. Mr. LeFevere said that the agreement looked fine. Ms. Chandler said that the Commission needs to approve and sign the grant agreement and return it to the Minnesota Board of Water and Soil Resources and the Commission needs to get some information about the grant up on the Commission’s Web site. Commissioner Elder moved to approve executing the grant agreement. Commissioner Welch seconded the motion.

Commissioner Welch brought up a comment about a statement in paragraph 15 of the agreement regarding the language “supplement”. He questioned if the language is supposed to read, “supplant.” He also asked the Commission Engineer to make sure the prevailing wage requirement is clearly communicated to the City as it needs to be included in the contract documents for the construction project. Commissioner Welch said he did not want the Commission to hold up signing the agreement over the wording of supplement versus supplant but would like the Commission to clarify with BWSR its intention. Chair Black said that she would talk to Brad Wozney of BWSR about it. The motion carried unanimously with seven votes in favor [Cities of Minnetonka and Robbinsdale absent from vote].

#### 6. OLD BUSINESS

**B. AMLAC Request to Create a Document Regarding the Medicine Lake Dam and Lake Level.** Gary Holter, board member of AMLAC – the Association of Medicine Lake Area Citizens, said the group has listened to concerns of the citizens around the lake regarding the lake level. He said that AMLAC would like the Commission to do what it can to keep water in Medicine Lake as long as possible during the summer. Mayor Mary Anne Young asked the Commission to move forward with a process to alter the current dam on Medicine Lake even on a temporary basis such as for three years to allow for

documentation, as a way to keep more water in the lake through the summer. Scott Marks, City Council member for Medicine Lake, said that he supports the requests made by AMLAC and Mayor Young. He added that the lake is a heavily used recreation lake and that in the past several years by late July it has been hard to get boats in and out of the lake.

Chair Black clarified that it sounds like the issue being brought in front of the Commission is not a water quality issue but is a recreation issue. Mr. Holter, Mayor Young, and Mr. Marks agreed.

Ms. Chandler explained that as the Commission has previously informed AMLAC, as well as Medicine Lake residents, if anything is done to the Medicine Lake outlet so that it holds water back above the current elevation, the flood level around the lake will be raised, which is a serious undertaking especially since people around the lake do live in the floodplain. She said that the low level of the lake has seemed to be very recurrent. Ms. Chandler said that the Commission Engineer has presented to AMLAC and the city residents who attended a public meeting on this topic the data showing the precipitation amounts and the lake water level and that these items are very closely tied.

Commissioner Welch asked for clarification of the request from AMLAC since the memo from AMLAC asks for information and today the verbal requests have been for action. Mr. Holter said that AMLAC is looking for an end result.

Ms. Clancy brought up the fact that the precedent is that the City pays for the costs of such a project. She provided the example of a Golden Valley project involving a structure that controlled the time of water retention on the Golden Valley golf course. She said that the city wanted the water to drain off the golf course quicker. Ms. Clancy said that the City was responsible for the modifications of the weir and all of the costs of the project.

Commissioner Johnson asked for clarification on whether this request is within the Commission's jurisdiction or if not, in whose jurisdiction does it fall?

Mr. LeFevere responded that it would probably fall within the BCWMC's authority to do something since there is language in the Metropolitan Surface Water Management Act regarding preserving and enhancing water resources. He said that the issue is more a question of the BCWMC's priorities. Mr. LeFevere said this sounds like a very big project requiring a lot of analysis, title work, easements, changing of the flood map and so on with the administrative process, which is in addition to the bricks and mortar side of the project. He described other ways that the project could be organized such as through the formation of a lake improvement district and then taxes could be levied within a special area to pay for the project, or a special storm sewer tax district that would tax the properties around the lake.

Mr. Mathisen brought up the currently ongoing process of the updating of TP40, which is the source of all the rainfall data for flood plain elevation determinations. He said the update probably won't be released until the end of the year and after its release would be the time to redo floodplain elevations such as for Medicine Lake.

Chair Black summarized that she is hearing that the project would not be as simple as just doing the construction work to raise the dam and that the Commission has typically focused its efforts on flooding issues and water quality issues. She asked for comments or feedback from the Commission.

Commissioner Hoshal suggested a letter be prepared and send to Kate Drewry of the Minnesota Department of Natural Resources to ask her for information about a process that a citizen group could undertake for such a project. Commissioner Elder recommended that such a letter be prepared

directly from the group instead of from the Commission but that the group could certainly share the information with the Commission.

Mr. Asche noted that the BCWMC has significant investments adjacent to Medicine Lake and encouraged the Commission to study the impacts that any project would have to the three regional ponds adjacent to the lake.

After some discussion Chair Black said that she agreed with the idea of AMLAC or the City of Medicine Lake taking the lead to write a letter to the DNR for information. Commissioner Elder commented that the Commission would be interested in the information received back from the DNR if the group is willing to share it with the Commission.

Commissioner Hoshal said that he would be happy to help AMLAC and the City of Medicine Lake with preparing that letter and he will send a copy to the Commission.

Mayor Young asked if the information that the Commission is capturing with its SWMM model process could be shared with the City of Medicine Lake. The Commission said yes. Mayor Young noted that the dam on Medicine Lake is in the City of Plymouth and that the City of Medicine Lake couldn't move forward on a project without the City of Plymouth.

Mr. Holter stated that AMLAC has been in touch with the DNR, which recommended the group get a petition. Mr. Holter provided the Commission with a copy of the petition and said that AMLAC has gathered 600 signatures and of those only 60 or so are lakeshore owners and the rest are recreational users of the lake.

Chair Black directed the Commission Engineer to distribute to the Commission, AMLAC, and the City of Medicine Lake the information that the Engineer had previously presented and distributed on the topic of the lake level of Medicine Lake.

- A. **Cooperative Agreement for Feasibility Study for the Pond Dredging Project in the Northwood Lake Watershed.** Mr. Asche reported that the reimbursement amount to be listed in the Cooperative Agreement is \$49,893.00. Chair Black moved approval of the agreement. Commissioner Elder seconded the motion. Commissioner Welch commented on the partnership approach with the Four Seasons Mall Project. He said he is concerned about the Commission spending public funds to treat water from a commercial facility, which will potentially undergo redevelopment, without a mechanism in place for the Commission to recover those funds.

Mr. Asche said the project will not assist on the Commission's dime the redevelopment of the Four Seasons Mall. He said that he will be happy to draft summaries of proposals that come in to the Four Seasons Mall site to keep the Commission informed of the process occurring on that site.

Commissioner Welch said that he remains uncomfortable with the degree to which the Commission funds projects and then is disconnected from the way that the projects roll out. Mr. Asche said that the Commission does not have involvement that is representative of the Commission's investment to the projects. He recommended that the Commission discuss where, when, and how the Commission wants to review the projects.

Chair Black provided background on the project for the Commission.

**The motion carried unanimously with seven votes in favor [Cities of Minnetonka and Robbinsdale absent from vote].**

- B. **AMLAC Request to Create a Document Regarding the Medicine Lake Dam and Lake Level. See**

minutes of the discussion addressed as the first business item under Old Business.

**C. TAC Recommendations on BCWMC CIP for 2014 – 2018.**

- i. **Annual CIP Review: Develop a Draft Five-Year BCWMC CIP for 2014-2018.** Mr. Asche summarized the TAC's recommended modifications to the Five-Year CIP for 2014 – 2018. He stated that the TAC recommended that the Commission add to the TAC's April agenda a review of the preliminary modifications to the CIP and to draft a final recommendation for Commission review at its April meeting. Mr. Asche reported that the TAC also recommended making modifications to the format of the CIP table such as creating a new table that would list the BCWMC's completed CIP projects and also creating a map to accompany the tables. The Commission discussed the idea of the table format modifications and how they could enhance communication about the CIP.

Commissioner Welch suggested that in regard to enhanced communication the Engineer Memo start including a section that would list "Past Commission Actions" regarding CIP projects. Mr. Asche added that along that same line, the TAC suggested that the CIP table include information on what type of Plan Amendment would be needed for each CIP project.

Commissioner Welch moved to approve the TAC's recommendations as listed in the March 7, 2012, TAC memo. Commissioner de Lambert seconded the motion. The motion carried unanimously with seven votes in favor [Cities of Minnetonka and Robbinsdale absent from vote].

- D. **Discuss BCWMC Procedure of Review of Final Plans and Specs of CIP Projects.** Chair Black asked if the Commission has a flow chart of the project approval process. Ms. Chandler replied no. Chair Black asked if the Commission is interested in having one. Commissioners indicated that they were interested. Chair Black said that the Commission could designate this task to the TAC.

Commissioner Welch said that it is a good idea but he wanted to clarify the issue. He said that the issue that he was trying to raise here is how can the Commission identify those places in the process where the Commission has the opportunity to say, "Go," or "No go," to components of the project. Commissioner Welch said that the standard agreement the Commission enters into with a member city for project construction has the city bring the plans and specs to the Commission Engineer for review and approval. He remarked that it is not practical that the Commission page through the plans and specs so the Commission needs to consider how it could make sure that funds it has approved levying from taxpayers are going toward building the projects that the Commission wants to construct. He added that the Commission has to provide appropriate feedback and the Commission needs to design a system that is transparent and accountable.

Ms. Clancy remarked that she thinks the Commission does have input during the process and that the City of Golden Valley does not see the process as disjointed. She volunteered to work with the Commission Engineer to document the process in a flow chart.

Chair Black commented that she needed the visual of the flow chart to provide a framework for the discussion and suggested that the Commission direct staff to put together the flow chart as a starting point to the discussion.

Commissioner Welch brought up the fact that a project's feasibility report is a conceptual document and that pieces of the project will change from that concept. He noted that a component of the project's

process is prioritizing and he said that the Commission historically hasn't given good direction on prioritizing.

Chair Black asked Ms. Clancy if she could prepare a draft flow chart for the TAC's review. Ms. Clancy said yes, if she could bounce a draft off of the Commission Engineer. Ms. Loomis brought up the fact that so far during the meeting the Commission brought up five tasks that hadn't been budgeted for during the 2012 budgeting process. Chair Black suggested that since the Commission does have a budget this year for the Next Generation Plan the Commission could use that budget for some of the previously discussed tasks or if the Commission wants then it could ask staff to review the recently added tasks in light of the budget and provide information on what budgeted tasks may be displaced as a result of the additional tasks. Ms. Chandler said that the Commission Engineer could come back with an estimate. Chair Black added that this Ms. Loomis' comment was a good reminder to the Commission to keep track of its budget.

Mr. LeFevere noted that the Commission's process has been that once it approves a feasibility report the project has been out of the Commission's hands unless the Commission Engineer brings it back in front of the Commission. He said that the Commission could add a step to the process to have the Commission approve projects' plans and specifications, or the Commission could add a process for change order approval. Commissioner Welch said that the Commission could provide criteria at the time of approval of a feasibility report. Chair Black reiterated that having the flow chart created could help with the discussion and decision-making process. Ms. Clancy said that her biggest concern about a change order approval process is that change orders tend to arise in the middle of construction and would need to be handled in a timely manner. Chair Black reiterated that the draft flow chart will be prepared as discussed for the TAC's review and also that the Commission would like the TAC's input on the flow chart and information on whether there are any additional costs to the Commission for doing those tasks and if so then what the costs are.

- E. Bassett Creek Restoration Project: Wisconsin Avenue to Crystal Border (2011 CR). Ms. Chandler provided a summary of the project and its funding. She said this project is coming in front of the Commission because the approach of the project as described in the feasibility study, which was approved by the Commission, was strongly bioengineering. Ms. Chandler said that the plans and specs for the project show more riprap than the approach in the feasibility report due to City concerns about easements for maintenance, access to sites, ability for plantings to establish in certain shady areas, and landowner objection to certain bioengineering approaches. Ms. Chandler said that technically the engineering solutions will work, they will just look different than approaches described in the feasibility report. She said this project update is in front of the Commission because the project does look different than how it was presented in the feasibility report and so the Commission Engineer wanted to communicate the differences to the Commission. Ms. Chandler said that the Commission Engineer does have some minor recommended changes.

Jeff Oliver of the City of Golden Valley commented that the project is adding to the bioengineering approach with solutions that make the project more durable and longer lasting, as well as cause less impact such as less grading. Mr. Oliver and Pete Willenbring presented information to the Commission about the plans and specs of the project and details as to why the project has been designed as submitted to the Commission. The Commission discussed the feasibility report and asked questions about the project.

Commissioner Welch moved to communicate to the City of Golden Valley the three recommendations as listed in the March 7<sup>th</sup> Engineer Memo along with a fourth recommendation that vegetation and

bioengineering solutions should be added to the project where appropriate and feasible. Commissioner Elder seconded the motion. The motion carried with six votes in favor [City of Medicine Lake opposed the motion. Cities of Minnetonka and Robbinsdale absent from vote].

- F. Next Generation Watershed Management Plan. The Commission decided there wasn't time to discuss this issue today and decided to schedule a meeting for the Commission to address this issue prior to the Commission's April meeting. The Commission directed Ms. Herbert to coordinate the meeting of the Commission.

## 7. COMMUNICATIONS

### Chair:

1. Chair Black said that she has the Capstone project mentioned at last month's meeting and would have Ms. Herbert distribute it.
2. Chair Black said that the Plymouth City Attorney put together information for members of the City's Boards and Commissions and it would be helpful information for the BCWMC members as well. She said that she would have Ms. Herbert distribute it.
3. Chair Black asked for the Commission's consent to have the Vice Chair sign on the Commission's behalf the BCWMC agreement with the City of Plymouth that the Commission approved earlier in the meeting. The Commission indicated consent.

### Commissioners:

1. Commissioner Hoshal updated the Commission on CAMP volunteers for Medicine Lake and noted that he did not find a volunteer for Hidden Lake. Mr. Asche said that he found a CAMP volunteer for Parkers Lake.
2. Commissioner Hoshal updated the Commission about details about the pressure transducer in Medicine Lake.
3. Commissioner Hoshal informed the Commission that the BCWMC Education display is now being stored at the New Hope public works building instead of at City of Crystal storage facilities.
4. Commissioner Hoshal reminded the Commission that its display will be at the upcoming Plymouth Environmental Quality Fair and the Plymouth Yard and Garden Expo and asked for interested volunteers to contact him.
5. Commissioner Hoschka reported that the draft fiscal year 2011 audit has been prepared and the final will be ready for the Commission in April.
6. Commissioner Hoschka asked that at its April meeting the Commission consider being a presence in this year's Golden Valley Days.
7. Commissioner Hoshal asked about a project review on a private residence in Medicine Lake at 228 Peninsula Road. Ms. Chandler said that she would follow up on it.

### Committees:

1. Commissioner Welch reported that Doug Snyder, Director/ Executive Administrator of the Mississippi Watershed Management Organization would be attending the BCWMC's April meeting.

**Counsel Communications: No Counsel Communications.**

**Engineer Communications: No Engineer Communications.**

**9. ADJOURNMENT**

**The meeting adjourned at 2:25 p.m.**

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**Chair**

**Date**

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**Amy Herbert, Recorder**

**Date**

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**Secretary**

**Date**