

Bassett Creek Watershed Management Commission

Minutes of the Meeting of September 23, 2010

1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:35 a.m., Thursday, September 23, 2010, at Golden Valley City Hall by Chair Loomis. Ms. Herbert conducted roll call.

Roll Call

<i>Crystal</i>	Commissioner Pauline Langsdorf, Secretary	<i>Administrator</i>	Geoff Nash
<i>Golden Valley</i>	Commissioner Linda Loomis, Chair	<i>Counsel</i>	Charlie LeFevere
<i>Medicine Lake</i>	Commissioner Ted Hoshal	<i>Engineer</i>	Karen Chandler
<i>Minneapolis</i>	Commissioner Michael Welch	<i>Recorder</i>	Amy Herbert
<i>Minnetonka</i>	Commissioner Bonnie Harper-Lore		
<i>New Hope</i>	Commissioner John Elder		
<i>Plymouth</i>	Commissioner Ginny Black, Vice Chair		
<i>Robbinsdale</i>	<i>Not represented</i>		
<i>St. Louis Park</i>	Commissioner Jim deLambert		

Also present:

Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park
Derek Asche, BCWMC Technical Advisory Committee, City of Plymouth
Pat Byrne, BCWMC Technical Advisory Committee, City of Minneapolis
Jeannine Clancy, BCWMC Technical Advisory Committee, City of Golden Valley
Jack Frost, Metropolitan Council Environmental Services
Dave Hanson, Alternate Commissioner, City of Golden Valley
Guy Johnson, BCWMC Technical Advisory Committee, City of New Hope
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
Jason Quisberg, City of New Hope
Al Sarvi, Alternate Commissioner, City of New Hope
Stu Stockhaus, Alternate Commissioner, City of Crystal
Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka
Liz Thornton, Alternate Commissioner, City of Plymouth
Jeff Weiss, Barr Engineering Company

2. Approval of Agenda and Consent Agenda

Commissioner Black moved to approve the Agenda. Commissioner Elder seconded the motion. The motion carried unanimously with eight votes in favor. Commissioner Black moved to approve the Consent Agenda. Commissioner deLambert seconded the motion. The motion carried unanimously with eight votes in favor.

3. Citizen Input on Non-Agenda Items

No citizen input on non-agenda items.

4. Administration

- A. Presentation of the August 19, 2010, BCWMC meeting minutes. Approved under the Consent Agenda.
- B. Presentation of the Financial Statement. Approved under the Consent Agenda.

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

<u>Checking Account Balance</u>	<u>534,546.01</u>
<i>TOTAL GENERAL FUND BALANCE</i>	<i>534,546.01</i>
Construction Account Cash Balance	2,244,591.24
Investment due 10/18/2010	533,957.50
Investment due 5/13/2015	508,918.39
<u>TOTAL CONSTRUCTION ACCOUNT BALANCE</u>	<u>3,287,467.13</u>
<u>-Less: Reserved for CIP projects</u>	<u>2,494,493.23</u>
<i>Construction cash/ investments available for projects</i>	<i>792,973.90</i>

- C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services through July 31, 2010 - invoice for the amount of \$1,169.65.
- ii. Barr Engineering Company – Engineering Services through August 27, 2010 - invoice for the amount of \$39,866.15.
- iii. Watershed Consulting, LLC – Administrator Services through August 31, 2010 – invoice for the amount of \$3,000.00.
- iv. Amy Herbert – August Administrative Services - invoice for the amount of \$2,288.38.
- v. D’amico Catering – September 2010 meeting catering – invoice for the amount of \$378.25.
- vi. Southdale MiniPrint – BCWMC Letterhead – invoice for the amount of \$233.97.

Commissioner Welch moved to approve payment of the invoices. Commissioner Elder seconded the motion. By call of roll, the motion carried unanimously with eight votes in favor [City of Robbinsdale absent from vote].

5. Public Hearing

Chair Loomis explained that today’s public hearing was being held in order to receive public testimony and comments of member cities regarding proposed Capital Improvement Plan (CIP) projects in the approved major plan amendment to the BCWMC’s *Watershed Management Plan*. The projects in the plan amendment include:

- Restore the Main Stem of Bassett Creek in the City of Golden Valley from Wisconsin Avenue to Rhode Island Avenue and from Duluth Street to the Golden Valley – Crystal boundary.

- Restore the channel of the North Branch of Bassett Creek in the City of Crystal from 200 feet upstream of Douglas Drive to 32nd Avenue North.

Chair Loomis introduced Mr. Jeff Weiss of Barr Engineering to present information regarding the updated information in the second draft of the feasibility reports for the projects. Mr. Weiss presented a PowerPoint presentation detailing the differences between the first version of the reports presented at the August BCWMC meeting and the second version distributed as part of the BCWMC's September meeting packet. He described updated figures, slightly decreased cost estimates for both projects, and additional project details as requested by the Commission at its August meeting.

Commissioner Welch asked Mr. Weiss which tier of the MPCA's three-tier classification of contaminated soil was assigned to the contaminated soil as a means of estimating the cost estimate of disposal. Mr. Weiss explained that he did not use an MPCA classification tier to assign a cost to the disposal estimate and instead he used historical information from the City of Golden Valley regarding levels of contamination and the cost of the disposal of soils from other City projects.

Commissioner Welch commented that the reports don't address the need for a maintenance easement. He asked if the assumption in the reports is that the maintenance will be done by the private property owner. Mr. Weiss explained that maintenance of restoration projects can be divided into two types:

1. Maintenance that should fall under a warranty period regarding the plantings by the contractor; and,
2. Routine maintenance such as surveying for or removing invasive plants that move into the area.

Commissioner Welch asked Mr. Weiss about what type of warranty period he would recommend. Mr. Weiss responded that a two-year warranty is sufficient. Mr. Weiss recommended that the contract for the maintenance under the warranty period be handled as a separate contract from the contract for the installation. Commissioner Welch commented that the warranty would get the original installer back onsite for continuity. He said that the cost isn't such a large cost that it significantly changes the cost estimate for the projects but he believes that the Commission should include this information and cost in future project cost estimates. Commissioner Black asked if the projects in front of the Commission include or do not include the warranty. Mr. Weiss explained that he thinks it could be included and that the reports request it be part of the project bids. Chair Loomis said she thinks the cities typically do include a warranty period as part of the bid request process but the Commission could request the warranty be part of the cities' bid process as a way of the Commission handling it as a more formal Commission policy. Mr. Mathisen commented that he would suspect that a two-year warranty is already built into the project costs presented.

Commissioner Welch remarked that he would like the Commission to discuss at a future meeting its role in the design of projects and the relationship between the implementing agency and the Commission. Commissioner Welch commented that his preference is that restoration projects use bioengineering whenever possible.

Commissioner Hoshal expressed his disappointment in the lack of public participation in this hearing and the August public hearing. Commissioner Elder suggested that the Commission could communicate with the cities in which the projects are being implemented to make sure the Commission's hearing notices are posted on the cities' Web sites. Commissioner Black remarked that the Administrator has been hired and one of the Administrator's tasks will be to document the BCWMC's processes and after the documentation process, the Commission can review and discuss the processes to determine if changes should be made.

Commissioner Hoshal asked if any agencies mandate the Commission to conduct an environmental assessment or any type of inventory, such as a biota survey, prior to conducting projects like the ones being discussed today. Mr. Weiss replied that an assessment of endangered species was conducted as part

of the Commission's Resource Management Plan but there were no mandated assessments. Commissioner Hoshal commented about his recent canoe outing along Bassett Creek. He added that monitoring is paramount to projects and monitoring before and after projects is the way to discover the effectiveness of projects.

Commissioner Welch remarked that the Commission should discuss in the future the idea of whether or not it wants to conduct a voluntary Environmental Assessment Worksheet (EAW) on future projects. Chair Loomis commented that the EAWs are the responsibility of the Local Governmental Units (LGUs) and that the Commission could recommend that cities undertake an EAW if the Commission wants to be more stringent than the state but she doesn't see that the Commission could enforce such a request of the cities. Commissioner Harper-Lore said that it would be nice for the Commission to document all of the species by taking steps beyond just the required assessments and before projects move forward so that the Commission can get a big picture view. Mr. Oliver stated that the Commission's Resource Management Plan addressed some of the issues addressed in an EAW. He commented that EAWs are expensive and drive project costs up significantly. He explained that the cost for basic, voluntary EAWs start at \$25,000 and their costs can go up to as much as \$150,000.

Commissioner Welch remarked that he has been increasingly uncomfortable with how early in the process the Commission lets go of the wheel on their projects and would like the Commission to consider its approach. He commented that the Commission should discuss a policy about property rights involved in projects. Commissioner Welch added that the Commission should also discuss a policy about project design and the involvement of the Commission with the cities in projects' design phase to ensure that the Commission's goals are being met, which is the Commission's responsibility.

Commissioner Elder suggested that the Commission evaluate the processes of other watersheds in terms of at what point they forward their projects on to cities. Mr. LeFevere remarked that there is another step in the process of the two projects being discussed today. He explained that the Commission will need to review and approve a contract with each of the cities undertaking the implementation of the projects. Mr. LeFevere said that part of the contract includes the requirement that the projects' design and specs be reviewed by the Commission. He said that the Commission Engineer reviews the design and specs to ensure that it conforms to the Commission's *Watershed Management Plan* and that the Commission could direct its Engineer to review the design and specs with additional concerns in mind that the Commission has communicated to the Engineer. Mr. LeFevere added that if the Commission wants a bigger role in the specifics of the design, the Commission could require the design and specs to come in front of the Commission.

Chair Loomis opened the public hearing and called for comments. There were no comments. Chair Loomis closed the public hearing. Chair Loomis added that handed out before the meeting was a copy of the order by the Minnesota Board of Soil and Water Resources approving the BCWMC's major plan amendment.

6. New Business

- A. Commissioner Welch moved to adopt Resolution 10-07 approving the *Watershed Plan* Amendment. Commissioner Black seconded the motion. The motion carried with eight votes in favor [City of Robbinsdale absent from the vote]. Commissioner Black moved to adopt Resolution 10-08 ordering the following projects:
 - a. Restoration of the Main Stem of Bassett Creek from Wisconsin Avenue to Rhode Island Avenue in the City of Golden Valley and from Duluth Street in Golden Valley to the City of Crystal boundary.
 - b. Restoration of the channel of the North Branch of Bassett Creek from 200 feet upstream of Douglas Drive to 32nd Avenue North in the City of Crystal.

Commissioner Welch seconded the motion. By call of roll, the motion carried with eight votes in favor [City of Robbinsdale absent from the vote]. There was discussion of the City of Golden Valley's annual creek inspection and several commissioners expressed interest in participating. Commissioner Welch requested that Ms. Clancy send an e-mail to the Commission with the details once the City works out its schedule. Ms. Chandler stated that the Commission's next step with the two projects it just ordered is to proceed through the permitting process. She explained that the Commission needs to forward the final feasibility reports to the Army Corps of Engineers and to fill out the combined form and send it to the Department of Natural Resources, BWSR, MPCA and the Local Governmental Units as part of BCWMC's Resource Management Plan process. Commissioner Welch moved to direct staff to forward the feasibility reports to the necessary parties. Commissioner Black seconded the motion. The motion carried with eight votes in favor [City of Robbinsdale absent from vote].

- B. **Certification of Levy to Hennepin County.** Mr. LeFevere reminded the Commission that it approved the levy amount and the levy certification by adopting Resolution 10-08 and the Commission just needed to direct staff to send the certification to the County. Chair Loomis directed Ms. Herbert to send the certification and levy request to the County. Chair Loomis commented that Administrator Nash and the Commission Engineer met to discuss how the annual levy request is set each year and that it seems appropriate for the Administrator to assume responsibility to create the memo to the Commission outlining the annual levy request. The Commission agreed.
- C. **City of Plymouth Reimbursement Request for West Medicine Lake Park Pond.** Chair Loomis said that the BCWMC received this request from the City of Plymouth and that she directed staff to forward the request to the Commission Engineer for its review of the request and its supporting documents. Ms. Chandler stated that the request received by the Commission had a slight typographical error in it and the requested amount of \$199,081.71 has been corrected and resubmitted by the City in the amount of \$199,082.41. She said that the Commission Engineer reviewed the supporting documents submitted by the City of Plymouth and found that everything was in order. Ms. Chandler stated that the Commission Engineer recommends reimbursement to the City in the requested amount of \$199,082.41 and that the Commission notifies Deputy Treasurer Sue Virnig of the change for the Commission's financial records. Commissioner Black moved approval of payment of the reimbursement request in the amount of \$199,082.41. Commissioner Elder seconded the motion. By call of roll, the motion carried with eight votes in favor [City of Robbinsdale absent from vote]. Commissioner Welch asked if the Commission and staff could refer to the projects by using the same name that the cities use in order to minimize confusion. Chair Loomis directed staff to use the same project names as the cities in communications to the Commission about projects.

Commissioner Welch asked if the Commission would want to make more specific direction to staff regarding the policy issues talked about earlier in the meeting. He said he thought it would make sense for the Administrator to manage the work on the policy issues and perhaps the Administrator could bring the issues to the Administrative Committee. Chair Loomis stated that she and Administrator Nash could put together a proposal to bring back to the Commission with a timeline on how to address the issues. Commissioner Welch recommended that the Administrative Services Committee see and discuss the proposal first. Chair Loomis agreed that the proposal would go to the Administrative Services Committee and would be headed up by the Administrator.

7. Old Business

- D. **Commissioners' Roles in BCWMC Watershed Management Plan Revision.** Chair Loomis requested that this Old Business item be addressed first since Commissioner Welch would be

leading the discussion and would also need to leave the meeting promptly at 2:00 p.m. Commissioner Welch explained that the Watershed Management Plan is really at the heart of what the Commission is meant to do. He said it is a goal- and policy-setting document. He said that the goal in revising the Plan is to make sure that the commissioners come away with a primary understanding of the goals and policies of the Commission because they help set the framework for all of the decisions the Commission makes. He said that the Commission is required to update its Plan every ten years and the next update is due by 2014. Commissioner Welch stated that the current version of the Plan was adopted in 2004 and the make up of the BCWMC's Board was very different during that revision process. He said that the roles in the process of updating the Plan are not directed by statute and that the Commission can structure the process how it wants. Commissioner Welch stated that in his mind one of the most important things in the process is that the commissioners understand the Plan. He reminded the Commission that it has started the process in that it has directed the TAC to start discussing Plan issues to start putting a framework around them. He thinks that there will be a time when the Commission will want to make a decision about what the process is and how it will be structured. Commissioner Welch said he would like to hear today about what the commissioners would need in order to make decisions on the process and structure and to put together a process flowchart for the 2014 Plan.

Commissioner Black commented that during the last revision there was a lot of unrest from the residents of Plymouth regarding their requests to have Medicine Lake cleaned up and she doesn't think there will be such a vociferous citizen push during this revision. She asked to hear from the commissioners on how they would like the public to get involved in the process. Commissioner Black said her thought is that the commissioners' comments on the process and structure would be gathered and taken up by the Administrative Services Committee, which would then develop a proposal for a process to bring back to the Commission.

Mr. LeFevere added that during the last process the Steering Committee identified issues that needed to be addressed and assigned priorities to the issues and assigned the issues to groups and worked from there. Commissioner Welch stated that his expectation is that the Commission Engineer would again during this revision do a lot of the so-called heavy lifting.

Mr. Mathisen stated that the last revision process was time consuming in number of hours and in calendar years. He said that the Shingle Creek Watershed Commission set a budget of \$100,000 for each of 2011 and 2012 operating budgets for its Plan update. He recommended that the Commission figure out what it wants to address in its Plan but that the Commission also set a budget and then make sure that both ends match.

Ms. Black said that the Commission has an Administrator to head up the project and do a lot of the writing of the Plan. She said the Commission will bring in the technical staff but that the TAC is an even more important technical component than the Engineer because of the CIP and the TMDL implementation projects and the MS4 permits. She said that the last version was a very thorough process and she hopes that a lot of that Plan can be used or reasonably updated. Commissioner Black remarked that she doesn't want to see the Commission spending more than \$100,000 and that a share of that is the cost of the Administrator to coordinate the project.

Mr. LeFevere stated that Rule 8410 hasn't changed but it is undergoing an evaluation process and may change at some point. He suggested that the Commission identify what parts of the Plan are worth re-evaluating, which will help the Commission formulate a structure.

Chair Loomis commented that the Commission needs to make a decision on how to proceed. Commissioner Black said the Commission could use the existing Administrative Services Committee or could establish a separate Next Generation Plan Committee. Commissioner Welch recommended establishing a fresh committee and set an initial meeting that would also include the Commission Engineer, Administrator Nash, and Mr. LeFevere. Commissioner Welch asked if the

Commission was interested in establishing a Committee of the Whole. Commissioner Black commented that she doesn't want to exclude the TAC from the process but that she didn't think it would need to be involved at this level. Chair Loomis directed Administrator Nash to organize a Committee of the Whole, including the commissioners and alternate commissioners, and to set up the initial meeting and directed the Commission Engineer to draft an outline of the public process from the 2004 Plan.

A. TAC Recommendations.

- i. Standardization of BCWMC and member cities data collection.** Administrator Nash reported that Greg Wilson of Barr Engineering gave a great presentation on data collection practices. Administrator Nash said that the TAC discussed a concern about the MPCA's use of CAMP data. He said that Mr. Wilson explained that the MPCA does not rely solely on CAMP data for impairment listing purposes. Administrator Nash said there were no TAC recommendations on this issue and that the TAC will have a future discussion on standardization of stormwater modeling software such as between Barr Engineering and the member cities.
- ii. Sweeney Lake Outlet.** Administrator Nash reported that the TAC recommends that the structure replacement be considered a CIP project. He said that Commission Engineer Len Kremer would check with the Department of Natural Resources (DNR) to see if the project would be eligible for the Dam Safety Project. Administrator Nash said that the issue will be raised again at the January CIP review. Commissioner Black asked if the DNR has money for the project. Ms. Chandler said that a request would need to be submitted. Commissioner Welch asked the City of Golden Valley what policy drives the Commission's involvement in the project. Mr. Oliver said the construction of the flood control structure is the responsibility of the Commission and is key to minimizing the risk of flooding downstream in Minneapolis, which would be a risk if the control structure fails in its entirety. Commissioner Welch wondered if this project fits under the Commission's flood control emergency maintenance budget. Mr. Oliver remarked that the City is planning to do short-term repairs later this fall when the water is easier to control but the short-term repairs are only meant to be short-term repairs, not the long-term solution. He said the appropriate thing to do to minimize risk is to replace the structure. He said it is not urgent and doesn't represent a short-term risk but represents a mid-term risk.
- iii. Next Generation Plan Issues Update.** Administrator Nash reported that he sent the TAC the first of several memos on issues to be raised during the Plan revision such as education issues and public involvement. He said he will send out a reminder for the TAC to return their comments since he has received only two so far. Commissioner Welch asked Administrator Nash to copy the Commission on the e-mails he sends to the TAC regarding the issues so that the Commission is informed on what issues the TAC are discussing. Administrator Nash said he will send the Commission the materials in an information-only e-mail.
- iv. New Hope Noise Wall and Culvert Replacement/ Pond Project.** Administrator Nash reported that the TAC requested that New Hope submit a formal request to the Commission to add the project to its CIP and for the City to work with the City of Plymouth for possible collaboration on one of its pond projects in the Four Seasons Mall area.
- v. Administrator Nash reported that the TAC would like to discuss at a future meeting ways to revise the Commission's financial report to make the information more useable to the cities.**

- vi. Chair Loomis asked if the next TAC meeting will be held in October or in November. It was decided that the TAC would meeting in November and then again in January.
- B. TMDL Updates.**
- i. Sweeney Lake TMDL. Administrator Nash reported that Ms. Brooke Asleson of the MPCA asked her supervisor for their comments on the Sweeney Lake TMDL. He reported that the comments included a request for more information on a monitoring plan, and a budget for the implementation strategy. Administrator Nash stated that Ron Leaf of SEH is going to provide that information to the MPCA by tomorrow or next week and then the TMDL will be sent to the Environmental Protection Agency. Administrator Nash explained that the turn-around time by the EPA will be two to three months. He announced that the technical stakeholder meeting will be September 30th at 1:00 p.m. in the City of Golden Valley's Council Chambers.
 - ii. Medicine Lake TMDL. Administrator Nash reported that the TMDL will be ready for public notice in October.
 - iii. Wirth Lake TMDL. Administrator Nash reported that the public comment period on the TMDL ended September 1st. He said that Greg Wilson of Barr Engineering sent the final TMDL, which addressed Mn/DOT comments, to the MPCA and that Ms. Asleson said that the TMDL would go to the EPA at the end of this month.
- C. Ownership of the BCWMC's Web Site.** Ms. Chandler said currently Barr Engineering owns the domain name and the renewal date came up and Barr renewed it. She said the ownership of the domain name can be transferred with a processing fee or the Commission could wait until next year's expiration and take over the ownership at that time. Commissioner Black said if it costs the same to do it now, then the Commission should go ahead and do it but if it would be more expensive, then the Commission could wait until the next renewal date. Commissioner Harper-Lore asked why the Commission wants to own it. Commissioner Black said because it is public information owned by a private company. Chair Loomis directed the Commission Engineer to verify the costs of transferring it now compared to at the next renewal date.
- E. Working Paper on Possible Alternate Funding Methods for BCWMC's CIP.** Chair Loomis said that Administrator Nash had contact with the County who asked that the Commission not take the issue out to the cities until after the County had discussed it. Administrator Nash brought up information from Joel Settles of Hennepin County that the County Board asked its staff to assemble a lake water quality report discussing if there is a relationship between funding levels and water quality. Administrator Nash explained that Mr. Settles' research found no correlation between the amount of money spent on water quality projects and the achievement of water quality goals. Administrator Nash said he would provide that report to the Commission as he receives it.
- F. Education and Public Outreach Committee.** Ms. Langsdorf mentioned that the Committee's report was included in the meeting packet. She reported that at its last meeting the Committee worked on the education and outreach plan and then talked about the history project. She reminded the Commission that there is a meeting of the history committee following today's Commission meeting. Ms. Langsdorf announced that the next Education and Public Outreach Committee meeting will be on October 8th at 9:00 a.m. at Plymouth City Hall. She updated the Commission on the most recent WMWA meeting and announced that the next WMWA meeting would be held on October 12th at Plymouth City Hall. Ms. Langsdorf mentioned that Nine Mile Creek Watershed District has given permission for use of their salt brochure. Ms. Langsdorf asked

for ideas from the Commission on any changes to the brochure for cities' use. She announced that there will be a salt workshop on November 3rd in the City of Plymouth.

7. Communications

A. Chair:

- i. Chair Loomis asked Administrator Nash to run down a list of upcoming seminars.

B. Administrator: Administrator Nash reviewed his Administrator's Report with the Commission.

C. Commissioners:

- i. Commissioner Hoshal commented that County Commissioner Stenglein's campaign flyer noted the Bassett Creek restoration projects in Golden Valley and Plymouth.

D. Committees: No communications

E. Counsel: No communications

F. Engineer:

- i. Ms. Chandler reported that the Commission Engineer submitted the three grant applications for Bassett Creek restoration, North Branch restoration, and the Wirth Lake outlet modification. She said the grant applications requested a total of \$499,000 in Clean Water grant funds and the decision date is mid-December.
- ii. Ms. Chandler reported that the Minneapolis Park and Recreation Board's consultant has been in contact with the Commission Engineer regarding their proposed Wirth Park project.
- iii. Ms. Chandler announced that the Bassett Creek Watershed isn't a targeted area for the MPCA's Surface Water Assessment Grant opportunity.
- iv. Ms. Chandler reported that the Minnesota Environmental Quality Board came out with a draft plan and it is available online for public comment until October 1st.

9. Adjournment

Chair Loomis adjourned the meeting at 2:25 p.m.

Linda Loomis, Chair

Date

Amy Herbert, Recorder

Date

Pauline Langsdorf, Secretary

Date