

Bassett Creek Watershed Management Commission

Minutes of the Meeting of January 21, 2010

1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:30 a.m., Thursday, January 21, 2010, at Golden Valley City Hall by Acting Chair Black. Ms. Herbert conducted roll call.

Roll Call

| | | | |
|-----------------------|---|-----------------|------------------|
| <i>Crystal</i> | Commissioner Pauline Langsdorf, Secretary | <i>Counsel</i> | Charlie LeFevere |
| <i>Golden Valley</i> | Commissioner Linda Loomis, Treasurer | <i>Engineer</i> | Karen Chandler |
| <i>Medicine Lake</i> | Alternate Commissioner Ted Hoshal | <i>Recorder</i> | Amy Herbert |
| <i>Minneapolis</i> | Alternate Commissioner Lisa Goddard | | |
| <i>Minnetonka</i> | <i>Not represented</i> | | |
| <i>New Hope</i> | Commissioner Daniel Stauner | | |
| <i>Plymouth</i> | Commissioner Ginny Black, Acting Chair | | |
| <i>Robbinsdale</i> | Commissioner Wayne Sicora | | |
| <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
- Jeannine Clancy, BCWMC Technical Advisory Committee, City of Golden Valley
- Erick Francis, WSB & Associates
- Jack Frost, Metropolitan Council
- Lee Gustafson, BCWMC Technical Advisory Committee, City of Minnetonka
- Jupe Hale, WSB & Associates
- Dave Hanson, Alternate Commissioner, City of Golden Valley
- Kathi Hemken, Alternate Commissioner, 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
- Justin Riss, Alternate Commissioner, City of St. Louis Park
- Al Sarvi, Friends of Northwood Lake Association
- Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka
- Liz Thornton, Alternate Commissioner, City of Plymouth
- Alex Bole, City of Minneapolis Environmental Services
- Patrick Hanley, City of Minneapolis Environmental Services
- Cara Groans, City of Minneapolis, environmental inspector
- Dustin Maddy, City of Minneapolis, environmental inspector

2. Approval of Agenda and Consent Agenda

Commissioner Loomis requested the removal of the financial report and moved to approve the agenda as amended and to approve the Consent Agenda. Alternate Commissioner Goddard seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].

3. Citizen Input on Non-Agenda Items

Al Sarvi, Friends of Northwood Lake Association, introduced himself as the Association's representative

to the BCWMC and announced that the Association officially formed as a non-profit group two weeks ago.

4. Administration

- A. Presentation of the December 17, 2009, BCWMC meeting minutes. The minutes were approved under the consent agenda.
- B. Presentation of the Financial Statement. Commissioner Loomis reported that she handed out an updated financial report that reflected three voided checks due to three individuals not attending the BCWMC Education Committee's teacher focus group. Commissioner Langsdorf moved to approve the amended financial report. Commissioner Loomis seconded the motion. The motion carried unanimously [City of Minnetonka absent from vote].

The general and construction account balances reported in the January 2010 Financial Report are as follows:

| | |
|--|--------------|
| Checking Account Balance | 388,141.41 |
| <i>TOTAL GENERAL FUND BALANCE</i> | 388,141.41 |
| Construction Account Cash Balance | 3,075,539.84 |
| Investment due 10/18/2010 | 533,957.50 |
| <i>TOTAL CONSTRUCTION ACCOUNT BALANCE</i> | 3,609,497.34 |
| -Less: Reserved for CIP projects | 3,296,747.06 |
| <i>Construction cash/ investments available for projects</i> | 312,750.28 |

- C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services through October 31, 2009 - invoice for the amount of \$2,766.65.
- ii. Barr Engineering Company – November Engineering Services - invoice for the amount of \$29,434.56.
- iii. Amy Herbert – November Recording Administrator Services - invoice for the amount of \$1,625.02.
- iv. Judy Arginteanu – Education Article – invoice for the amount of \$300.00
- v. City of Golden Valley – Annual Financial Management Services – invoice for the amount of \$3,000.00.
- vi. JASS – BCWMC's Portion of Administrative Services for the Joint Education and Public Outreach Committee – invoice for the amount of \$1,089.36.
- vii. CNA Surety – Annual Bond Premium – invoice for the amount of \$100.00.

Commissioner Loomis asked if the BCWMC will submit to the BallPark Authority (BPA) an invoice for reimbursement of the Commission's legal costs, reflected in Kennedy & Graven's invoice, for time spent on Twins Stadium issues. Acting Chair Black replied that it is the Commission's understanding that per the executed agreement between the Commission and the BPA, the BPA will reimburse the Commission's costs. Commissioner Loomis also asked Barr

Engineering to clarify whether the biota costs charged in Barr's invoice under water quality monitoring should be charged to the TMDL budget. Commissioner Loomis moved to approve the payment of the invoices including the invoice from the City of Golden Valley for the annual financial management fee of \$3,000, which was not included on the agenda. Commissioner deLambert seconded the motion. By call of roll, the motion carried unanimously with eight votes in favor [City of Minnetonka absent from the vote].

- D. **Resolution 10-01 to Reimburse the BCWMC 2.5% of the 2009 Annual Tax Levy for Administrative Expenses Charged to CIP Projects and to Transfer the Funds into the Administrative Account.** Commissioner Loomis moved to Approve Resolution 10-01. Commissioner Stauner seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].
- E. **Direct MMKR Certified Public Accountants to Prepare Audit Report for fiscal year 2009.** Alternate Commissioner Goddard moved to direct MMKR to prepare the audit. Commissioner Loomis seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].
- F. **BCWMC Liaison Schedule for Upcoming TAC Meetings.** Commissioners deLambert and Black volunteered to be contacted if a February TAC meeting is scheduled. Commissioner deLambert and Alternate Commissioner Goddard volunteered to attend the March 4th TAC meeting.

5. New Business

- A. **Golden Valley County Club Pond Dredging/ Creek Stabilization: Golden Valley.** Ms. Chandler stated that the proposed project is in front of the Commission because it is in the Bassett Creek floodplain. She said the project comprises pond dredging, which will include quite a bit of excavation, and some creek bank stabilization. Ms. Chandler said the City estimates 2, 800 cubic yards of sediment is anticipated to be removed. She said the plan includes approximately 100 feet of restoration of creek bank and stabilization of the berm that separates the pond from Bassett Creek. She said the plan the Commission Engineer received was more of a concept plan and more information will be available when the project goes to bid later in 2010. Ms. Chandler reported that the Commission Engineer wants to review the more detailed plans when they are available to make sure there is no net fill in the floodplain. She said the Commission Engineer recommends approval with the four conditions listed in the January 12th Engineer's Memo about the project and adding the conditions that fill in the floodplain will be balanced by cut or excavation so there is no net fill in the floodplain and also that the cross section of the creek must not be reduced.

Commissioner Loomis moved to approve the permit for the project with the conditions as discussed. Alternate Commissioner Goddard seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].

- B. **TruStone Financial Federal Credit Union: Golden Valley.** Ms. Chandler explained that this proposed project is in front of the Commission because it is in the floodplain. She said the Commission Engineer recommends unconditional approval of the project because the City of Golden Valley has already mitigated for the loss of storage on the site, which is the mitigation site on the General Mills property. She pointed out that even though they are not required, there are three bioretention sites proposed for the project, which will provide additional treatment, and the site also drains to a regional treatment facility. Commissioner Loomis moved to approve the project. Commissioner deLambert seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].

6. Old Business

- A. **City of Robbinsdale Local Surface Water Management Plan Submitted to BCWMC.** Ms. Chandler said there was a mix-up in the mailing of the Plan to the Commission and said the Commission asked the City of Robbinsdale for an extension of time for the plan review so the Commission would have 60-days from the actual date of receipt of the Plan. She reported that the City of Robbinsdale granted the extension. Commissioner Loomis moved that the Commission direct the Commission Engineer to review the Plan. Alternate Commissioner Goddard seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].
- B. **City of Crystal's Response to BCWMC's Comments on City's Local Surface Water Management Plan and Resolution 10-02 Approving Plan.** Ms. Chandler reminded the Commission that it reviewed the plan in the fall and sent comments back to the City of Crystal. She said the City responded and made changes to the plan and the Commission asked the City to look into a few additional items. Ms. Chandler said she has seen the final changes in response to those additional items and she recommends the Commission adopt the resolution approving the City of Crystal's Local Surface Water Management Plan. Commissioner Langsdorf moved to approve Resolution 10-02 with the change that the City of Crystal is named in number 4. Commissioner Loomis seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].
- C. **Update on Cultural Resources Review Process for Resource Management Plan.** Ms. Chandler reported that Commissioners Stauner, deLambert, and Welch attended a January 12th meeting with representatives of the U.S. Army Corps of Engineers (the Corps) including Brad Johnson, Melissa Jenny, and Joe Yanta, and with Len Kremer and Jeff Lee of Barr Engineering. She said the purpose of the meeting was for the Corps and the Commission to come to an agreement about the final approval process of the Resource Management Plan (RMP) and to develop a plan for addressing the cultural resource issues. Ms. Chandler said the result was a recommendation to the Commission that the RMP be revised to include protocols for the cultural resource review and how the final permitting will happen for the final projects. She said once the Corps approves the revised RMP the methodology will be in place for moving forward. Mr. Stauner added that an issue discussed at the meeting that he thought was still unresolved was what distance from the project sites would be within the reach of the cultural review. Ms. Chandler stated that she thinks that issue would be resolved as the protocols are developed. She said that the Commission Engineer's estimate is that it would cost \$1,500 to develop the protocols. Acting Chair Black asked if that amount is in addition to the previous budget for drafting the RMP. Ms. Chandler replied yes. Commissioner Sicora moved to approve the Commission Engineer to develop the draft protocols as discussed for a cost up to \$1,500 and to bring the draft in front of the Commission when it is prepared. Commissioner Loomis seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote].
- D. **TAC Recommendations**
- i. **2010 Channel Maintenance Fund Requests.** Mr. Gustafson reported that the TAC reviewed both applications for channel maintenance funds – one from the City of New Hope for \$16,448 for the Northwood West Inlet Cleaning Project and one from the City of Golden Valley for up to \$100,000 for the Bassett Creek Channel Stabilization portion of the Golden Valley Country Club project. He said the TAC recommends that the Commission approve both applications for use of the channel maintenance funds. Ms. Chandler added that the funds for the City of Golden Valley project are for the channel maintenance portion of the Golden Valley Country Club project. Commissioner Loomis moved that the Commission approve the requests from the cities of New Hope and Golden Valley for the use of channel maintenance funds for the projects as described.

Commissioner Stauner seconded the motion. The motion carried unanimously [City of Minnetonka absent from vote].

Comments on Proposed Revisions to Capital Improvements Program and 2011 Capital Improvement Project. Mr. Gustafson said the TAC reviewed the CIP and discussed whether revisions were necessary. He stated that the TAC recommended that the CIP be revised and recommended specific changes to the next three years of projects listed in the CIP as reflected in the draft revised CIP table handed out at today's meeting and labeled "Revised January 8, 2010." He said the TAC recommends that the Commission adopt the revised CIP. Commissioner Loomis moved to adopt the revised CIP. Alternate Commissioner Goddard seconded the motion. The motion carried unanimously [City of Minnetonka absent from vote].

Mr. Gustafson said the TAC also discussed projects that may come out of the TMDL studies and other projects that could be requested by cities. He said that currently the TAC, per the Commission's direction, reviews the CIP once a year. He explained that going forward there may be projects brought to the Commission that are on the current CIP, are projects coming out of a TMDL study, or are other projects. Mr. Gustafson said the TAC discussed how would it evaluate and present recommendations to the Commission regarding those three general categories of projects. He said the TAC recognized that there could be some dilemmas for the TAC in evaluating proposed capital projects that are not on the current CIP. Mr. Gustafson announced that the TAC recommends that the Commission prepare and adopt a process to incorporate projects identified in the TMDL studies into the CIP and to prioritize them with respect to the other projects in the CIP and that this process should be developed before the end of 2010. Mr. Gustafson said the TAC would like to hear from the Commission on whether it wants all the projects prioritized against each other or does it want a different system set up that would set aside a certain amount of money for CIP projects and another amount of money for projects derived from the TMDL studies. He said an additional question for the Commission is if it wants to keep its current CIP budget of \$1,000,000 or if it wants to raise or lower it. Mr. Gustafson said the Commission's comments on those three questions would provide the TAC with the guidance it needs to continue its discussions.

Acting Chair Black directed the Commission Engineer to work with the TAC to prepare a memo outlining those three questions as an agenda item for a future BCWMC meeting such as the March meeting.

- ii. **Maintenance of BCWMC Projects.** Mr. Gustafson reported that the TAC did discuss maintenance of Commission projects but that the TAC did not have enough time to fully discuss the issue. He stated that the TAC recommends that the Commission ask the cities to provide comments back and Commission staff compile the different categories of responses and send the compiled information to the TAC so the TAC members can efficiently review the information. Ms. Chandler recommended the cities could also comment on the idea of using channel maintenance funds for maintaining the channel restoration CIP projects. Mr. Gustafson said the TAC is asking the Commission to approve the cost for staff to send out the questions to the cities and to compile the information and distribute to the TAC. Mr. Gustafson recommended a motion for Ms. Herbert to work with the Commission Engineer to send out the questions, receive the comments, tabulate them, and send the results out to the TAC. Alternate Commissioner Hoshal moved to approve the action described by Mr. Gustafson. Commissioner Langsdorf seconded the motion. The motion carried unanimously.

Mr. Stauner commented that Shingle Creek has proposed to the Minnesota Board of

Water and Soil Resources an alternative process for adding projects to its CIP that wouldn't require a major plan amendment. Mr. LeFevere said BWSR seems to be open to the Shingle Creek's proposed process, which would cut out the agency by agency review of adding projects to a CIP, but that it is still a work in progress. Mr. Stauner remarked that the Commission may want to consider the Shingle Creek proposal as it reviews its CIP process.

E. TMDL Updates

- i. Wirth Lake TMDL.** Ms. Chandler reported that the draft TMDL should be done by the end of this week. She said the Minnesota Pollution Control Agency (MPCA) would then review it and then may send it on to the U.S. Environmental Protection Agency (EPA) for an informal review. Ms. Chandler said the TMDL also needs to go to the stakeholders and that a public meeting will need to be scheduled.
- ii. Sweeney Lake TMDL.** Acting Chair Black reported that Ron Leaf of SEH, Inc. is reviewing comments received about the TMDL by the MPCA and the DNR. Ms. Chandler said the MPCA had one significant comment on the TMDL. She said the MPCA took issue with how much treatment is required by the TMDL for watershed reduction versus the in-lake reduction. She said the MPCA did not think it was justified that there was so much reduction placed on the in-lake load compared to the watershed load. She said one suggestion is that Ron Leaf meet with the MPCA and invite the MS4s and Hennepin County to attend the meeting to reach a resolution about what are reasonable reduction allocations. Acting Chair Black directed staff to coordinate with Ron Leaf to conduct such a meeting.
- iii. Medicine Lake TMDL.** Acting Chair Black reported that the implementation plan is still with the consultant, who has not gotten it back to the MPCA, so the Commission is still waiting to see the TMDL.

F. Bassett Creek E. Coli Monitoring 2009. Ms. Chandler reported that sampling was done in June, July, August, and September 2009 and that one more sampling month will occur in June 2010. She reminded the Commission that the Commission is paying for the collection of the samples and the MPCA is paying for the laboratory costs. She said that all the samples taken had E. coli present. Ms. Chandler discussed the results and the color graph handed out at the meeting. She said there still needs to be a meeting with the Commission, staff, and MPCA to discuss how the Bassett Creek E. coli TMDL could be part of the Mississippi River Bacteria TMDL. Alternate Commissioner Hoshal asked Barr Engineering to add to the graph the MPCA's 1260 baseline onto the graph. Acting Commissioner Black asked if Barr would clarify whether sampling would need to be done after the June 2010 sampling.

G. Education and Public Outreach Committee

- i. Education Grant Application for MinnAqua Teacher Training.** Acting Chair Black explained that the Commission received a grant application from Birchview Elementary in the Wayzata School District for grant funds of \$1,000 to fund MinnAqua Training for teachers in the Bassett Creek Watershed at a cost of \$150- \$175 per teacher. She said the BCWMC's Education and Public Outreach Committee reviewed the application and recommend approval. Commissioner Stauner moved to approve the education grant in the amount of \$1,000. Commissioner Langsdorf seconded the motion. The motion carried unanimously [City of Minnetonka absent from vote].
- ii. BCWMC Participation in Plymouth's 2010 Yard and Garden Expo.** Commissioner Langsdorf announced that the cost to the Commission to participate by having a booth at

the Expo is \$60. Alternate Commissioner Goddard moved to approve the BCWMC's participation in the Expo at the cost of \$60. Commissioner Langsdorf seconded the motion. The motion carried unanimously [City of Minnetonka absent from vote].

- iii. **Education Grant Reimbursement Request from Crystal Environmental Quality Commission.** Acting Chair Black reported that the Crystal Environmental Quality Commission submitted their final report and are requesting the reimbursement in the amount of \$600. Commissioner Langsdorf moved approval of the reimbursement. Commissioner Stauner seconded the motion. The motion carried unanimously [City of Minnetonka absent from vote].
- iv. **Update on Teacher Focus Group.** Acting Chair Black reported that the focus group took place last week. Commissioner Langsdorf reported that seven teachers participated: three from high schools, two from middle schools, and two from elementary schools within the watershed and representing three school districts and one private school. She said the Committee was pleased with how involved the teachers were in the discussions and she presented the Committee's report on the focus group

- H. **Administrative Services Committee Update on Request for Proposals for Admin Services.** Acting Chair Black reported that the Commission received five proposals including one from the Mississippi Watershed, one from Barr Engineering, and three individuals. She said the Committee had a lengthy discussion on whether five were enough responses and if the Commission should try to get more responses but that the Committee decided that quantity doesn't mean quality and that the three individuals may be very high quality. She stated that the Committee decided to go forward to interview the three individuals. Ms. Black said although the Mississippi application was intriguing, the Committee was concerned about identity and getting lost in the Mississippi Watershed identity. She said the Committee decided not to go with the Barr proposal because one of the things the Committee is really looking for is independence so that whoever it is can oversee the consultants and not have any conflicts because if they actually work for the consultant they are overseeing it would present an awkward situation. Mr. LeFevere reminded the Commission that the information on the candidates is not public information and if anyone asks the Commission for information, direct the question to Ms. Herbert who can work with Mr. LeFevere.
- I. **Resolution 10-03 Designating Depositories for BCWMC Funds.** Commissioner Loomis moved to approve Resolution 10-03 naming the BCWMC's official depositories for 2010. Commissioner Stauner seconded the motion. The motion carried unanimously [City of Minnetonka absent from the vote.]

7. Communications

A. Chair: No Communications

B. Commissioners:

- i. **Commissioner Langsdorf that Chair Welch received a request from BWSR regarding BWSR training workshops to help develop outreach and education programs. She recommended that the Commission approve Margie Vigoren and Karen Chandler to represent the BCWMC at the workshops. The Commission approved the recommendation and Acting Chair Black stated that she would contact Brad Wozney to let him know who will be representing the Commission.**
- ii. **Commissioner Stauner reported that he went to the Northern Green Expo put on by the Minnesota Landscape Nursery Association. He said the legislative forum was interesting and part of the discussion was the use of Clean Water Legacy Act money and whether the wildlife**

