



## Bassett Creek Watershed Management Commission

**Minutes of Regular Meeting  
Thursday, February 21, 2019  
8:30 a.m.**

**Golden Valley City Hall, Golden Valley MN**

### 1. CALL TO ORDER and ROLL CALL

On Thursday, February 21, 2019 at 8:33 a.m. in the Council Conference Room at Golden Valley City Hall (7800 Golden Valley Rd.), Chair de Lambert called the meeting of the Bassett Creek Watershed Management Commission (BCWMC) to order.

#### Commissioners and city staff present:

City	Commissioner	Alternate Commissioner	Technical Advisory Committee Members (City Staff)
Crystal	Dave Anderson	<i>Vacant Position</i>	Mark Ray
Golden Valley	Stacy Harwell	<i>Absent</i>	Eric Eckman and Jeff Oliver
Medicine Lake	Clint Carlson	<i>Absent</i>	<i>Absent</i>
Minneapolis	Michael Welch	<i>Vacant Position</i>	Liz Stout
Minnetonka	Mike Fruen	<i>Absent</i>	Chris LaBounty
New Hope	<i>Absent</i>	<i>Absent</i>	Megan Hedstrom
Plymouth	Jim Prom	John Byrnes	Ben Scharenbroich
Robbinsdale	Michael Scanlan	<i>Absent</i>	Richard McCoy and Marta Roser
St. Louis Park	Jim de Lambert	<i>Absent</i>	Erick Francis
<b>Administrator</b>	Laura Jester, Keystone Waters		
<b>Engineer</b>	Karen Chandler, Jen Koehler, Patrick Brockamp, and Mary Sands with Barr Engineering		
<b>Recorder</b>	Dawn Pape, Lawn Chair Gardener Creative Services		
<b>Legal Counsel</b>	Dave Anderson, Kennedy & Graven		
<b>Presenters/ Guests/Public</b>	Chuck Schmidt, New Hope resident		

**2. CITIZEN FORUM ON NON-AGENDA ITEMS**

Mr. Schmidt asked if the water level in Winnetka Pond will be the same after the dredging project as before the project. Commission Engineer Chandler confirmed that it would be the same.

**3. APPROVAL OF AGENDA**

**MOTION:** Commissioner Scanlan moved to approve the agenda. Commissioner Prom seconded the motion. Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]

**4. CONSENT AGENDA**

The following items were approved as part of the consent agenda: January 21, 2019 Commission meeting minutes, acceptance of the 2018 fiscal year-end (January 2019) financial report and the February 2019 financial report, payment of invoices, approval to resolution 19-03 designating depositories for BCWMC Funds, approval to designate Finance and Commerce as the Official News Publication of the BCWMC, approval of agreement with Three Rivers Park District for curly-leaf pondweed control and financial contribution for inspections at Medicine Lake, approval of County State Aid Highway (CSAH) 9 (Rockford Road) and I-494 Interchange Project, approval to Reimburse Commissioner Fruen for MAWD Conference registration.

The general and construction account balances reported in the FY2018 Year-end Financial Report (January 2019) are as follows:

Checking Account Balance	\$ 586,572.33
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TOTAL GENERAL FUND BALANCE	\$ 586,572.33
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TOTAL CASH & INVESTMENTS ON-HAND (01/31/19)	\$3,729,542.76
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CIP Projects Levied – Budget Remaining	(\$3,874,557.20)
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Closed Projects Remaining Balance	(\$145,014.44)
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2012-2016 Anticipated Tax Levy Revenue	\$ 3,896.47
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2017 Anticipated Tax Levy Revenue	\$ 3,148.89
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2018 Anticipated Tax Levy Revenue	\$ 10,316.57
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Anticipated Closed Project Balance	(\$127,652.51)
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**MOTION:** Commissioner Carlson moved to approve the consent agenda. Commissioner Scanlan seconded the motion. Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]

**5. ORGANIZATIONAL MEETING**

**A. Elect Officers**

Chair de Lambert noted that he is not seeking nomination for the chair again this year. However, Commissioner Scanlan is willing to continue as secretary and Commissioner Harwell is willing to continue as treasurer. Commissioner Prom expressed interest in becoming chair. Commissioner Scanlan nominated Commissioner Welch as vice chair. Commissioner Welch explained that typically the position of vice chair is a stepping stone to being chair and that he is willing to serve if no one else steps forward, but he is not willing to serve as chair in the future. Commissioner Welch

nominated Commissioner Prom as chair, himself as vice chair, Commissioner Scanlan as secretary, and Commissioner Harwell as treasurer.

**MOTION:** Commissioner Carlson moved to elect the full slate of nominees. Commissioner Fruen seconded the motion. Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]

Commissioner Welch recognized Chair de Lambert's contributions noting that he has been very fair and even handed. Commissioner de Lambert said it had been a pleasure to serve and that he would remain an active participant.

Commissioner Prom chaired the remainder of the meeting.

#### **B. Review 2019 Commission Calendar and Areas of Work**

Administrator Jester highlighted important dates that should be on the commissioners' calendars for the upcoming year as well as the work of committees. Commissioners indicated the calendar/areas of work document should remain a living document to be updated and included in the monthly meeting materials.

#### **C. Appoint Committee Members**

The following appointments were made to Commission committees:

- i. Administrative Services Committee: Commissioners Scanlan, Prom, Harwell, Welch, de Lambert
- ii. Budget Committee: Commissioners Scanlan, Anderson, Prom, and Alternate Commissioners Byrnes and McDonald Black
- iii. Education Committee: Commissioners Scanlan, Harwell, Fruen, and de Lambert; and Alternate Commissioners Byrnes and Noon
- iv. Technical Advisory Committee Liaison: Commissioner Scanlan

#### **D. Review Open Meeting Law**

Administrator Jester reminded commissioners that Commission business should not be discussed if there is less than a quorum and that includes discussions via email. She noted that one easy way to comply with the law is to never "reply all" to a Commission email. Commissioner Harwell asked if she could Skype into a committee meeting. There was a brief discussion on the complexities of that practice and the instances where it is allowed.

#### **E. Review Year End Financial Report (Feb 1, 2018 - Jan 31, 2019)**

Administrator Jester reported that the Commission ended the year in the black. She noted that although some line items were over budget, the overall budget was \$41,000 under budget. There were no questions from the Commission.

### **6. BUSINESS**

#### **A. Review 50% Design Plans for DeCola Ponds B & C Improvement Project**

Engineer Koehler reviewed the 50% design plans on behalf of the City of Golden Valley. She reminded the Commission that the primary goal of this project is flood mitigation and that additional benefits include water quality improvements and habitat restoration. Engineer Koehler gave a detailed timeline of the steps in the design process. At the May 2018 meeting, the Commission approved the final feasibility study for this project. In August of 2018, the Commission ordered the project and approved an agreement with the City of Golden Valley to implement the project.

The 50% designs include 24 acre-feet of additional flood storage, 2 acres of open water expansion, 8.5 lbs/yr of phosphorus removal, 3 acres of restored wetland and upland habitat, Medicine Lake Road 100-year flood depth reduced by approximately 2 ft, and reduction of flood level on ponds from 0.1'-0.5'. Engineer Koehler noted the

EAW process is complete and that a dewatering permit will be needed along with (possibly) a Phase I archeological study.

Engineer Koehler noted the estimated cost of the whole project is \$4.1 million with multiple funding sources including Minnesota DNR, Hennepin County, City of Golden Valley, and BCWMC. She reported on the public engagement activities, including an open house held on February 6<sup>th</sup>.

There was a brief discussion about the new trails. Engineer Koehler noted the trails will be impervious because ADA compliance and accessibility is important to daily users. Commissioner Welch offered that there are alternatives to bituminous that still meet ADA requirements. Mr. Eckman added that a lot of imperviousness has already been removed in that area, but that he would explore alternatives. There was some discussion on project permitting, draw down and tree removal. The restoration plan will be more complete with the 90% design, which will likely be presented at the April meeting.

**MOTION:** Commissioner Scanlan moved to approve the 50% design plans as presented. Commissioner Prom seconded the motion.

Discussion: Commissioner Welch inquired about the cost vulnerability if the project gets delayed a year. Mr. Eckman responded that there is not a timing issue with the DNR grant. Commissioner Scanlan asked if there are potential funding changes. Engineer Koehler said based on current planning and funding secured, she feels comfortable with the budget.

Commissioner Welch noted that Administrator Jester may need to be involved with public relations because it's going to be a large project with much disruption to a popular park. Administrator Jester answered that she is happy to fulfill this role, but also noted that the City of Golden Valley has been handling communications with the public and local residents very well up to this point. Commissioner Harwell asked if there will be educational signage. Commissioner Prom agreed that this would be a good opportunity for education.

Upon a vote, the motion carried 8-0, with the City of New Hope absent from the vote.

**B. Consider Providing Additional Funds for Winnetka Pond Dredging Project**

TAC member Mark Ray explained that during the construction of this project, contaminated sediment was unexpectedly found in Winnetka Pond that will require expensive disposal. He reported the City of Crystal can contribute \$25,000 toward the extra costs, but is still requesting additional funds for this project so that it can be built as originally designed. He noted the city is requesting an additional \$114,301 for the project from the BCWMC and the ability to use the city's \$9,050 in Channel Maintenance Funds toward the project.

Commission Engineer Chandler introduced the project manager (Patrick Brockamp) and brownfields expert (Mary Sands). Engineer Chandler explained that MPCA-recommended sediment testing was done during the feasibility study but the contamination was not discovered and the project was bid as the sediment being "unregulated fill." She reported that after the project started, diesel range organics (DRO) were found, so considerably more testing was performed. It was finally determined that the upper two feet of sediment for a significant portion of the pond was contaminated and that after negotiating with the contractor, the additional costs would be \$148,351.

Administrator Jester reported that the Commission's Closed Project Account should have approximately \$215,000 available after the 2015 Main Stem Restoration Project is closed within the next 30 – 60 days.

Commissioner Carlson asked that if the contamination was discovered during the feasibility study, would its disposal have been less expensive. Engineer Chandler replied no. Commissioner Carlson asked if there could have been more testing beforehand. Engineer Chandler explained that testing isn't very expensive but there are so many contaminants to test for it's impossible to test for them all. There was further discussion about what level of testing might be warranted for future projects.

Mr. Scharenbroich estimated that it is \$56/cubic yard to dispose of contaminated soil. He found this cost to reasonable because it can easily be \$100/cubic yard.

**MOTION: Commissioner de Lambert moved to approve providing additional funds for the Winnetka Pond Dredging Project based on the contingency that the closed project account has funds available. Commissioner Scanlan seconded the motion.**

Discussion: Commissioner Carlson wondered if the contamination could be left in place. Engineers Chandler and Sands explained that since it's now known to be there, it should be removed.

Commissioner Welch asked what the plan is for the future. Mark Ray said they will try to determine the source of the contamination, but it likely happened prior to the 1960s. Commissioner Welch asked if the MPCA will require further investigation. Engineer Sands responded that DRO is ubiquitous and not highly toxic. She noted it's likely that the city will only be required to determine the extent (boundaries) for remediation. There was some discussion about whether the city can put additional funding toward disposal.

Upon a vote, the motion carried 8-0, with the City of New Hope absent from the vote.

**C. Consider Agreements with Wenck and City of Minneapolis for Bassett Creek Valley Study**

- i. Contract with Wenck Associates
- ii. Bassett Creek Valley Study Proposal
- iii. Agreement with City of Minneapolis

Administrator Jester reminded Commissioners that the City of Minneapolis, the Commission engineers and herself, the MPRB, and other partners have been discussing the complicated nature of the Bassett Creek Valley and the likely redevelopment for the area. She noted the City wishes to have Wenck Associates, Inc. perform a Floodplain and Stormwater Management Study for the Bassett Creek Valley Development area to evaluate options to unlock the potential in natural resources, recreation, and redevelopment by integrating floodplain and stormwater management into a regional solution for the area. She noted the City wishes for the Commission to hire Wenck to complete this study and then the City will reimburse the Commission for the total cost of the study along with other Commission expenses related to the study (less \$2,000). She reported the contract with Wenck and agreement with the City were reviewed by Commission legal counsel and the study proposal was reviewed by Commission Engineers.

TAC member Liz Stout reiterated that it is not appropriate to look at this area parcel by parcel because there are significant floodplain issues. Commissioner Harwell asked about the models that will be used. Ms. Stout and Engineer Chandler explained the Commission's model, the City's model and the P8 model will all be used.

Commissioner Welch noted that the holistic approach to the redevelopment is warranted, but expressed concern about how Wenck can avoid conflict of interest with their other clients, i.e. Wellington. Chris Meehan with Wenck responded that a regional solution is important, even for the current client. He said it's good to have many partners working together. Commissioner Anderson suggested conditional approval of the contract with Wenck, with the condition that the agreement between the Commission and Minneapolis is fully executed..

**MOTION: Commissioner Welch moved to approve the contract with Wenck on condition that the reimbursement agreement with Minneapolis is fully executed. Commissioner Prom seconded the motion. Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]**

**D. Consider Applying for 319 Grant for Sweeney Lake Alum Treatment & Carp Management**

Administrator Jester explained that the Commission has the rare opportunity to apply for 319 grant funds for up to \$700,000 for an alum treatment in Sweeney Lake and carp management in Schaper Pond. She noted the City of Golden Valley and the TAC agreed the grant application was a good idea.

**MOTION:** Commissioner Scanlan moved to authorize staff to apply for the 319 Grant. Commissioner Welch seconded the motion. Upon a vote, the motion carried 8-0 [City of New Hope absent from the vote]

**E. Consider Recommendations from CIP Prioritization Committee and Technical Advisory Committee**

Commission Engineer Chandler explained that starting last April, the CIP Prioritization Committee met 6 times to determine if and how capital projects in the watershed can be prioritized for implementation. She reported the committee recommends the use of a scoring matrix to help rank potential CIP projects against each other when developing the 5-year CIP. She reported the TAC discussed and considered the committee's recommendations and added a few recommendations of their own. She then walked through the TAC and CIP Committee's detailed notes and process. She noted the TAC requested that the scoring matrix be revisited within the next three years.

Commissioners Prom and Welch explained that this matrix is a useful tool that the committee worked hard to develop. Commissioner Welch noted that a committee or workgroup might also be useful, along with more involvement from the administrator, in identifying possible CIP projects. He noted that opportunities to collaborate with redevelopment projects might still fall through the cracks due to the timing.

**MOTION:** Commissioner Welch moved to adopt the matrix as a tool to develop the 5-year CIP and to accept recommendations of CIP Committee and the Technical Advisory Committee. Commissioner Scanlan seconded. Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]

**F. Consider Resolution 19-04 to Approve Robbinsdale Local Surface Water Management Plan**

Commission Engineer Chandler reported that the Robbinsdale Local Surface Water Management Plan was reviewed and is consistent with the Bassett Creek Watershed Management Plan and requirements. Staff recommended approval of the resolution.

Commissioner Welch asked if Robbinsdale City Council will adopt their local controls so the city's ordinances are consistent with the watershed plan. Mr. McCoy responded that it is up to the elected officials. Commissioner Welch further inquired whether the city plan has a schedule for ordinances to be adopted. Engineer Chandler confirmed that it does and that it is in the resolution.

**MOTION:** Commissioner Scanlan moved to approve the Robbinsdale Local Surface Water Management Plan. Commissioner Anderson seconded the motion. Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]

**G. Consider Resolution 19-05 to Approve Medicine Lake Local Water Management Plan 2018 Update**

Commission Engineer Chandler reported that the Medicine Lake Local Water Management Plan Update was reviewed and is consistent with the Bassett Creek Watershed Management Plan and requirements. Staff recommended approval of the resolution.

**MOTION:** Commissioner Anderson motioned to Approve Medicine Lake Local Water Management Plan 2018 Update. Commissioner Scanlan seconded the motion. Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]

Commissioner Welch requested that the agenda of a future Commission meeting include an update on the adoption of local ordinances as required by the BCWMC Plan.

**H. Identify Date and Format for 50th Anniversary Event**

Administrator Jester reported that last year the Education Committee developed various ideas for commemorating the Commission's 50th Anniversary and that one favorite idea was to hold an event including a light meal,

presentation, display of historical documents, and optional watershed tour for elected and appointed officials. She asked for recommendations on a date and format for the event so that planning can begin.

After some discussion there was consensus that June 27<sup>th</sup> is the preferred date with a late afternoon tour followed by an evening reception.

**I. Review Letters of Interest Proposals from Legal and Engineering Firms**

Administrator Jester reminded commissioners that in January, the Commission submitted a solicitation for proposals for legal and technical engineering services in order to comply with State Law. She reported the Commission received one proposal (from Kennedy & Graven) for legal services and three proposals for engineering services from Barr Engineering, RESPEC, and ProSource. She noted that since the proposals are not public documents, they were not included with meeting materials but were emailed to commissioners. Staff recommended that the Commission continue to use their current consultants.

There was some discussion about whether or not the TAC should provide a recommendation on the engineering proposals. There was consensus that TAC review wasn't needed in this case; that the Commission wasn't seriously considering interviewing other engineering firms.

**MOTION:** Commissioner Harwell moved that upon appropriate solicitation, the Commission continue to contract with Barr Engineering Co., and Kennedy & Graven for their engineering and legal consulting, respectively. Commissioner de Lambert seconded the motion.

Discussion: Commissioner Scanlan mentioned that he knows of a competitor that speaks highly of Barr Engineering. Commissioner Carlson noted that the Commission should be careful not to "bury its head in the sand" and to keep looking closely at expenses. Many other Commission members spoke in favor of Barr and noted excellent work.

Upon a vote, the motion carried 8-0. [City of New Hope absent from the vote]

**J. Consider Approval of Resolution 19-06 Consenting to Representation from Kennedy & Graven and Acknowledging Potential Conflicts**

Administrator Jester noted that at the December meeting, the Commission discussed the possible need for a resolution acknowledging there to be potential conflicts of interest regarding legal representation and consenting to continued representation by Kennedy & Graven.

Commissioner Welch said this is not how conflicts of interest should be handled. Commission Attorney Dave Anderson weighed in by saying they have a legal obligation to notify their clients if conflicts of interest arise and that to date there aren't any conflicts of interest. He noted this resolution is a way to acknowledge the possibility of a conflict of interest and that Attorney Gilchrist was going to suggest the other cities adopt similar resolutions. It was noted that the current resolution opens the Commission to liability. Attorney Anderson said that Commissioner Welch raised a good point and that the resolution is not necessary, but was a good faith approach to show transparency. Commissioner Anderson stated that he is not sure that this is the best way to proceed.

[Harwell departed.]

**MOTION:** Commissioner Scanlan moved to approve Resolution 19-06 Consenting to Representation from Kennedy & Graven and Acknowledging Potential Conflicts. There was no second. Motion failed.

**K. Consider Approval of Resolution 19-07 of Support for Chloride Limited Liability Legislation**

Administrator Jester said she learned from the Stop Over Salting group while attending the Road Salt Symposium that a few local governments and organizations have passed resolutions supporting the chloride limited liability legislation. She noted that given that this is such an important topic in the watershed, she thought the attached

