

Bassett Creek Watershed Management Commission

Minutes of the Meeting of December 18, 2008

1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:35 a.m., Thursday, December 18, 2008, at Golden Valley City Hall by Chair Welch. 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>	<i>Not represented</i>	<i>Recorder</i>	Amy Herbert
<i>Minneapolis</i>	Commissioner Michael Welch, Chair		
<i>Minnetonka</i>	Commissioner Kris Sundberg		
<i>New Hope</i>	Commissioner Daniel Stauner		
<i>Plymouth</i>	Commissioner Ginny Black, Vice Chair		
<i>Robbinsdale</i>	<i>Not represented</i>		
<i>St. Louis Park</i>	<i>Not represented</i>		

Also present: Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park
Jeannine Clancy, BCWMC Technical Advisory Committee, City of Golden Valley
Dave Hanson, Alternate Commissioner, City of Golden Valley
Tom Mathisen, BCWMC Technical Advisory Committee, City of Crystal
Bob Moberg, BCWMC Technical Advisory Committee, City of Plymouth
Jeff Oliver, BCWMC Technical Advisory Committee, City of Golden Valley
Thomas Parker, Golden Valley Resident
Diane Stauner, New Hope Resident
Stu Stockhaus, Alternate Commissioner, City of Crystal
Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka
Elizabeth Thornton, Alternate Commissioner, City of Plymouth

Chair Welch commented on the lack of attendance by commissioners at the BCWMC meetings and reminded the commissioners that if they cannot attend the meeting it is their responsibility to contact their alternate to represent their city at the Commission meeting. Chair Welch suggested he draft a letter to the commissioners regarding the importance of their attendance at meetings. The Commission agreed he should write and distribute the letter so that all commissioners and alternate commissioners are clear about the attendance practices and policies.

2. Approval of Agenda and Consent Agenda

Chair Welch announced the addition of item 4F – Request for Reimbursement from the MPCA for Sweeney Lake TMDL study costs. Ms. Loomis moved to approve the agenda as amended. Ms. Black seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote]. Ms. Loomis moved to approve the Consent Agenda. Ms. Black seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].

3. Citizen Input on Non-Agenda Items

No citizen input.

4. Administration

- A. Presentation of the November 19, 2008, BCWMC meeting minutes. Minutes were approved as part of the Consent Agenda.
- B. Presentation of the Financial Statement.

The general and construction account balances reported in the December 2008 Financial Report are as follows:

<u>Checking Account Balance</u>	418,736.57
<u>TOTAL GENERAL FUND BALANCE</u>	418,736.57
Construction Account Balance (cash)	2,937,779.56
Investment Balance	0.00
<u>TOTAL CONSTRUCTION ACCOUNT BALANCE</u>	2,937,779.56
<u>-Less: Reserved for CIP projects</u>	3,715,370.22
<i>Construction cash/ investments available for projects</i>	<i>(777,590.66)</i>

C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services through October 31, 2008 - invoice for the amount of \$722.70.
- ii. Barr Engineering Company – Engineering Services through November 28, 2008 - invoice for the amount of \$14,589.70.
- iii. Barr Engineering Company – Sweeney Lake TMDL Services November 1 – November 28, 2008 - invoice for the amount of \$1,035.00.
- iv. Amy Herbert – November Recording Administrator Services - invoice for the amount of \$3,123.48.
- v. SEH, Inc. – Sweeney Lake TMDL Study Phase 2 Services through October 31, 2008 – invoice for the amount of \$2,550.00.
- vi. Hennepin County Environmental Services – River Watch 2008 – invoice for the amount of \$2,000.
- vii. Metro Watershed Partners – 2008 Metro Media Campaign Support – invoice for the amount of \$5,000.

viii. Rice Creek Watershed District – 2008 Blue Thumb Membership – invoice for the amount of \$1,000.

Ms. Black moved to approve payment of all invoices. Ms. Loomis seconded the motion. By call of roll, the motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].

- D. Resolution No. 08-10 Approving the Transfer of Bassett Creek Watershed Management Commission Funds from the Administrative Account to the Erosion/ Sediment (Channel Maintenance) Account, Long-Term Maintenance Account, and TMDL Studies Account. Ms. Black moved to approve Resolution 08-10 to transfer \$25,000 to the Erosion/Sediment (Channel Maintenance) Account, \$25,000 to the Long-Term Maintenance Account, and \$10,000 to the TMDL Studies Account. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].
- E. Comprehensive Plan Review Requests from the Cities of Golden Valley and Minnetonka. Ms. Black moved to send to the Cities of Golden Valley and Minnetonka the BCWMC response letter that Mr. LeFevere drafted and that has been sent to other cities that have requested the BCWMC's comments on their proposed comprehensive plan amendments. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].
- F. Request for Reimbursement from the MPCA for Sweeney Lake TMDL Study costs October 1 – October 31, 2008. Ms. Black moved to approve sending the request to the MPCA. Ms. Sundberg seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote]. The Commission decided the reimbursement requests can be handled administratively. Chair Welch directed Ms. Herbert to let Deputy Treasurer Sue Virnig know that the Sweeney Lake TMDL Study reimbursement requests can be sent on to the MPCA as soon as the Commission receives them.

5. New Business

- A. West Medicine Lake Park Water Quality Ponds: Plymouth. Ms. Chandler displayed a map of the project. She said the project includes the construction of two water quality ponds that are part of the Medicine Lake Water Quality improvement program designed to remove 366 pounds of phosphorus per year from Plymouth Creek prior to discharging into Medicine Lake. She said the project entails about 8.5 acres of grading and the same number of acres of wetland excavation. Ms. Chandler said the excavated material will be disposed of offsite. Ms. Chandler stated that the City will need to purchase 6.9 acres of wetland credits. Ms. Chandler said the Commission Engineer is confident the project will meet the proposed water quality treatment for the site. Ms. Chandler said there is no action in front of the Commission regarding this project and that it is just a project update.

Mr. Moberg commented that the City of Plymouth is hopeful that construction will start in winter of 2009. Chair Welch asked if there are site photos for the project and Ms. Chandler said Barr would send them to him electronically. Chair Welch directed Ms. Herbert to put a site visit to this project on the BCWMC's 2009 watershed tour itinerary. Ms. Loomis asked if there will be a lot of tree removal with this project. Ms. Black answered that a lot of tree and scrub brush vegetation will be removed from the site of the north pond. Ms. Black asked about upland excavation. Mr. Moberg said there are no upland areas being excavated.

- B. Golden Valley Resident's Letter Concerning Local Construction Project. Ms. Chandler stated that Golden Valley resident Mr. Thomas Parker forwarded to the BCWMC a letter and copies of photos that he had sent to the City of Golden Valley regarding his concerns about silt and soil entering

Bassett Creek due to construction practices at 6725 Medicine Lake Road.

Chair Welch commented that the property owner is not present and that the BCWMC would not want to take action on the matter, if it is the role of the Commission to take action on the matter, without the property owner present. Chair Welch stated that this project did not require BCWMC approval or a NPDES permit and that the role of the Commission in such a case would be to notify the City about the concern.

Mr. Parker asked if the construction permit contained a plan for a construction entrance. Mr. Oliver, City of Golden Valley, replied that the City does not typically require a construction entrance. He commented that the site in question has been inactive for approximately two years. Mr. Oliver noted that the property owner hasn't called to schedule the final inspection although the property owner did pull a permit in the spring for driveway paving although the paving has not been done. He said the City was made aware of Mr. Parker's concerns about the site on December 1 and the City has since gone out to inspect the site. Ms. Clancy said the City's policy is that if a nuisance is being caused due to construction site soil in the street, the City will sweep the street at its own expense one time and then the property owner will be billed for any future sweeping that is necessary. Ms. Stauner asked if there are trucks going in and out of the site. Mr. Oliver replied that there are commercial vehicles owned by the property owner entering and leaving the site. Chair Welch asked the City if it will follow up with the property owner regarding the soil leaving the site. Mr. Oliver said the City will continue to follow up with the property owner.

6. Old Business

- A. **BCWMC Organizational Analysis.** Ms. Black said the Administrator Services Committee was happy with how the analysis was carried out and with the information the study provided to the BCWMC. She reminded the Commission that the study clearly recommended that the BCWMC consider bringing on an administrator. Ms. Black said that unfortunately due to the economy at this time, the Committee can't recommend adding an administrator in the next year or two. She said the Committee does recommend following the study's recommendations on good governance such as setting annual goals, creating a mission statement, developing job descriptions, roles and responsibilities and consulting staff performance reviews, and developing stronger ties to the member-cities. Ms. Black said commissioners will need to step up to work on those items and that perhaps the Commission could contract pieces out.

Chair Welch said for him one of the most alarming findings of the study is that commissioners don't feel prepared enough to make decisions. He emphasized that commissioners need to feel able to call the consultants for more information or clarification on issues. Chair Welch stated he would like a commissioner to be the TAC liaison to attend the TAC meetings to keep up with the technical issues. Ms. Sundberg suggested commissioners rotate attending the TAC meetings. Mr. Stauner agreed to check his calendar to see if he is able to attend the January 7th TAC meeting.

Chair Welch said the Administrator Services Committee needs to meet again and that the Commission needs to think about what other committees the Commission needs. Chair Welch directed Ms. Herbert to add to the February BCWMC agenda a discussion of the BCWMC's missions and goals. Ms. Black encouraged the commissioners to think about what information they might need in order to prepare for the mission and goals discussion so staff can distribute the information prior to the meeting.

- B. **Permit Review Fees for Public Agency Projects.** Chair Welch noted that the meeting packet contained information about the permit fees the BCWMC has received in the last three years for

public agency projects. He said the BCWMC is considering whether it should eliminate fees for public agency projects. Ms. Clancy stated that she is against the BCWMC charging the member-cities permit review fees. Mr. LeFevere said the fees are a method of recovering costs incurred by the Commission and the Commission needs to decide if the costs are to be paid by the member-city assessment formula or by the cities doing the projects. Ms. Loomis moved that the BCWMC exempt public agency projects from the permit review fees. She modified her motion and moved that BCWMC member-cities are exempt from permit review fees. Ms. Black seconded the motion. Mr. Stauner suggested the BCWMC have the cities pay the actual cost of the review up to a ceiling per project type. Ms. Herbert reminded the Commission it had considered that idea previously but due to the difficulty in finalizing an actual cost due to ongoing review and inspection work, the Commission decided to charge a set permit review fee up front. Ms. Black commented that she will not support the motion for 2009 but she would like the Commission to look at the issue again when it is considering its 2010 budget. The motion failed with one vote in favor [City of Golden Valley] and five votes against [Cities of Crystal, Minneapolis, Minnetonka, New Hope, and Plymouth] [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].

Ms. Black moved that the BCWMC review its policy on permit review fees for member-cities during its 2010 budget discussion. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].

- C. **BCWMC Representative on Medicine Lake TMDL Steering Committee.** Chair Welch reported that Commissioner Peterson has let him know she will not be able to be the Steering Committee representative as originally anticipated. Chair Welch said the BCWMC would like a commissioner from a city that is not an MS4 for this TMDL to be the BCWMC's Steering Committee representative. The Commission requested Ms. Herbert ask Commissioner Jordan, St. Louis Park, and Commissioner Sicora, Robbinsdale, if either of them would be able to be the representative. Chair Welch directed Ms. Herbert to put this issue on the BCWMC's January meeting agenda.
- D. **Letters of Interest Proposals for Consultant Positions.** Chair Welch said the BCWMC received letters of interest for the engineering services from Barr, EOR, Wenck, and Mead & Hunt, for the legal services from Kennedy & Graven and from FLFV (Felhaber Larson Fenlon & Vogt), and for the administrative services from Business Resource Management, Richardson, Richter & Associates, and Amy Herbert. Chair Welch said the Administrative Services Committee recommends having Amy Herbert continue to provide the administrative services and having Kennedy & Graven continue to provide the legal services. He reported that all of the letters of interest for engineering services were well done. Chair Welch stated that the Committee's suggestion is to have Barr continue as the principal consulting Commission Engineer but for the Commission to conduct additional interviews with the other three engineering firms to examine their strengths and to see if in the future the Commission can contract with them on other work. Ms. Loomis moved that the BCWMC offer professional services contracts to Kennedy & Graven, Barr Engineering, and Amy Herbert and to contact the other engineering firms to set up interviews. Ms. Black seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].
- E. **St. David's Child Development and Family Services Education Grant Extension.** Ms. Black reported that the deadline for the grant is December 31, 2008, and moved to extend the deadline to January 31, 2009, to provide St. David's with more time to submit its final report and reimbursement request. Ms. Loomis seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote]. Mr. LeFevere said there is no need to re-do the contract and said the BCWMC just needs to convey the extension and new deadline to the grant holder.

- F. **2008 Fisheries and E. Coli Data.** Ms. Chandler referred to the December 11, 2008, memo 2008 Bassett Creek Fish Index of Biological Integrity (IBI) that was included in the meeting packet. She said that of the four sites sampled in Bassett Creek and its tributaries, two sites do not meet the MPCA standard, which means Bassett Creek is considered impaired. She reported that the North Branch site was the worst with zero fish found. She said perhaps that site had no flow. Ms. Chandler suggested the BCWMC could consider conducting continuous dissolved oxygen monitoring at the impaired sites. She said the BCWMC could also consider ways to increase creek flows such as by infiltration. She said another improvement would be sealing sanitary sewers but commented that it should already be happening. Chair Welch said he isn't hearing capital project ideas for improving the fish population and asked Barr to report the results when they are ready and to provide the Commission with an allocation map and a description of the next steps. He requested the December 11th memo be included in the meeting packet when the topic is brought up again. Ms. Chandler stated she would follow up with the MPCA about the water flow at the sample sites.

The E. Coli data discussion was deferred to the January meeting to give the Commission the opportunity to review the memo. Chair Welch asked Ms. Chandler to follow up on DNA fingerprinting.

- G. **2008 Annual Flood Control Project Inspection.** Ms. Chandler directed the Commission's attention to Barr's December 1, 2008, memo Bassett Creek 2008 Flood Control Project Inspection. Chair Welch moved the Commission Engineer's recommendation that:
- i. Letters get sent to communities, DNR, and the Army Corps of Engineers regarding the results of the inspection and recommended actions;
 - ii. A letter gets sent to Mn/DOT regarding the inspection of the Highway 100 culvert; and,
 - iii. Reports and recommendations from Mn/DOT, the Army Corps of Engineers, and the City of Minneapolis regarding deep tunnel inspection get collected and reviewed.

Ms. Black seconded the motion. The motion carried unanimously [Cities of Medicine Lake, Robbinsdale, and St. Louis Park absent from the vote].

7. Communications

A. Chair:

- i. Chair Welch announced he will not be at the January BCWMC meeting.
- ii. Chair Welch announced that 2008 is the 40th anniversary of the Bassett Creek Watershed Management Commission, which originated in 1968 as the Bassett Creek Flood Control Commission.

B. Commissioners:

- i. Ms. Black reminded the Commission of the December 19th listening session being hosted by the MN Board of Water and Soil Resources regarding ideas of how to use the clean water portion of the money that will be available from the constitutional amendment passed in November. The session will be held from 9:30 a.m. to noon at the Capitol Region Watershed District [1410 Energy Park Drive, Suite 4, Saint Paul].

C. Committees:

Chair Welch proposed the BCWMC adopt a policy of scheduling committee meetings at Commission meetings so that everyone is aware of the meetings and so the meetings can get noticed on a timely basis. He recommended everyone bring their calendars to the Commission meetings to accommodate setting future committee meetings.

i. **Administrator Services/ Administrative Services.** Chair Welch said the BCWMC has created two committees over the last few years to look at different aspects of the Commission administration. He recommended the Commission combine these two committees into the Administrative Services Committee. The Commission agreed. Chair Welch, Ms. Black, Ms. Loomis, and Ms. Sundberg indicated they would like to serve on the Administrative Services Committee.

ii. **Education and Public Outreach Committee:** Ms. Langsdorf announced that the next Education and Public Outreach Committee (EPOC) meeting will be on January 5th at 9:00 a.m. at Golden Valley City Hall and the next Joint EPOC meeting will be on February 13th at 10:30 a.m. at a location to be determined.

Ms. Black reported that the Blake School should be submitting its final report for the education grant shortly and that the Education Committee will be discussing a grant request from the City of Crystal Environmental Quality Commission.

D. Counsel*

E. Engineer:

i. Ms. Chandler reported that the Commission needs to schedule a public hearing in March for a minor plan amendment. The minor plan amendment would cover all of the Plymouth Creek projects and would include the Crane Lake flood level adjustment and the Parker's Lake water quality goal adjustment.

8. Adjournment

Ms. Black moved to adjourn the meeting. Ms. Loomis seconded the motion. The meeting adjourned at 2:00 p.m.

Michael Welch, Chair

Date

Amy Herbert, Recorder

Date

Pauline Langsdorf, Secretary

Date