

## **Bassett Creek Watershed Management Commission Minutes of the Meeting of September 20, 2012**

### **Commissioners and Staff Present:**

<b>Crystal</b>	<b>Commissioner Dan Johnson</b>	<b>Robbinsdale</b>	<b>Commissioner Wayne Sicora</b>
<b>Golden Valley</b>	<b>Commissioner Stacy Hoschka, Treasurer</b>	<b>St. Louis Park</b>	<b>Commissioner Jim de Lambert, Vice Chair</b>
<b>Medicine Lake</b>	<b>Commissioner Ted Hoshal, Secretary</b>	<b>Counsel</b>	<b>Charlie LeFevere</b>
<b>Minneapolis</b>	<b>Commissioner Michael Welch</b>	<b>Engineer</b>	<b>Karen Chandler</b>
<b>Minnetonka</b>	<b>Commissioner Jacob Millner</b>	<b>Recorder</b>	<b>Amy Herbert</b>
<b>New Hope</b>	<b>Alternate Commissioner Pat Crough</b>	<i>Note:</i>	<i>City of Plymouth was not represented</i>

### **Technical Advisory Committee Members and other Attendees Present:**

<b>Laura Adler, BCWMC TAC, City of St. Louis Park</b>	<b>Guy Johnson, TAC, New Hope</b>
<b>Derek Asche, TAC, City of Plymouth</b>	<b>Linda Loomis, Golden Valley resident</b>
<b>Jeannine Clancy, TAC, Golden Valley</b>	<b>Guy Mueller, Crystal resident</b>
<b>Christopher Gise, Golden Valley Resident</b>	<b>Jeff Oliver, TAC, City of Golden Valley</b>
<b>Darryl Gulstad, University of Minnesota</b>	<b>John O'Toole, TAC, Medicine Lake</b>
<b>Dave Hanson, Alternate Commissioner, City of Golden Valley</b>	<b>Liz Stout, TAC, City of Minnetonka</b>

### **1. CALL TO ORDER AND ROLL CALL**

**On Thursday, September 20, at 11:35 a.m., Acting Chair de Lambert called to order the meeting of the Bassett Creek Watershed Management Commission (BCWMC) and asked for roll call to be taken. He also introduced Guy Mueller, who will be appointed by the Crystal City Council as the BCWMC's Alternate Commissioner for the City.**

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

**No citizen input.**

### **3. AGENDA**

**Commissioner Welch asked if item 8C – Request for mediation services from the cities of Golden Valley and New Hope – was going to be discussed today or delayed due to a recently scheduled meeting of the cities. Acting Chair de Lambert said that the cities are planning to meet so the item does not need to be**

discussed at today’s meeting. Commissioner Welch moved to approve the agenda as amended with item 8C removed. Commissioner Johnson seconded the motion. The motion carried unanimously with seven votes in favor [Cities of Plymouth and Robbinsdale absent from vote].

**4. CONSENT AGENDA**

Commissioner Welch requested the removal of item 4A – Presentation of the August 16<sup>th</sup> Meeting Minutes - from the Consent Agenda. He moved to approve the Consent Agenda as amended. Commissioner Johnson seconded the motion. The motion carried unanimously with seven votes in favor [Cities of Plymouth and Robbinsdale absent from vote]. [The following items were approved as part of the Consent Agenda: the September Financial Report, Legal Counsel Communications, Resolution 12-07 Approving Revisions to the BCWMC’s Bylaws, and Authorization to the Recording Secretary to send notice to Member Cities regarding Channel Maintenance Fund applications.]

4A. Presentation of the August 16, 2012, Meeting Minutes. Commissioner Welch asked for a minor reformatting of the structure of the meeting minutes going forward to better reflect who attended the meeting. The Commission agreed and directed staff to make the change. Commissioner Johnson moved to accept and file the minutes from the BCWMC’s August 16, 2012, meeting. Commissioner Hoshal seconded the motion. The motion carried unanimously with seven votes in favor [Cities of Plymouth and Robbinsdale absent from vote].

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**5. ADMINISTRATION**

**5A. Presentation of Invoices for Payment Approval.**

- i. Kennedy & Graven – Legal Services through August 30, 2012 – invoice for the amount of \$2,235.91.
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Commissioner Millner moved the approval of payment of all invoices. Commissioner Hoshal seconded the motion. The motion carried unanimously with seven votes in favor [Cities of Plymouth and Robbinsdale absent from vote].

## 6./ 7. PUBLIC MEETING AND PUBLIC HEARING

Acting Chair de Lambert reconvened the public meeting of July 19, 2012, on the Commission’s minor plan amendment and opened the public hearing on BCWMC CIP Project NL-2: Four Seasons Mall Area Water Quality Project in Plymouth and ML-8: Lakeview Park Pond Project in Golden Valley. He called for comments or questions on the Plan Amendment or the two proposed CIP projects. Hearing no comments or questions, Acting Chair de Lambert closed the meeting.

## 8. NEW BUSINESS

- A. **Resolution 12-08 Approving Watershed Plan Amendment.** Ms. Chandler said that the Commission had been waiting for Hennepin County Board approval of the BCWMC’s proposed addition to its CIP and that the Commission received that approval on August 21<sup>st</sup>. She said that she, Chair Black, Derek Ashe, Guy Johnson, the New Hope City Engineer, and members of the Northwood Lake Association attended a meeting of one of the Board’s Committees on August 14<sup>th</sup> and Chair Black spoke to the Committee and answered their questions. She said that the Committee recommended approval to the Board.

*[Robbinsdale Commissioner Wayne Sicora arrives].*

Commissioner Welch moved to approve Resolution 12-08. Commissioner Johnson seconded the motion. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

- B. **Resolution 12-09 Ordering 2013 Improvements (incorporates Cooperative Agreement with the City of Plymouth for the Four Seasons Mall Area Water Quality Project and Cooperative Agreement with the City of Golden Valley for the Lakeview Park Pond Project).** Commissioner Welch moved to approve Resolution 12-09 with changes to the resolution in paragraph 7 by adding in language about “applicable requirements of law” in order to make it very clear that there is watershed district law in addition to city contract law. Commissioner Welch and the Commission’s Legal Counsel, Mr. LeFevere, had a detailed conversation about the construct of the language in Resolution 12-09. Commissioner Welch withdrew his motion.

Mr. LeFevere said that Resolution 12-09 approves the two contracts in the meeting packet and said that Commissioner Welch has raised issues with some of those contracts, such as should the Commission have more control and understanding of what change orders are and what the contract says and should the Commission look at plans and specs instead of just looking at the feasibility report. He said that the contracts being approved by Resolution 12-09 follow the format that the Commission has followed in the past, and Commissioner Welch has brought up in the past the idea of the Commission having more authority. Mr. LeFevere said that before the Commission moves forward on Resolution 12-09 he wanted to make sure there was understanding that the Resolution approves the contracts in front of the

Commission today. Commissioner Welch said that he is fine with the contracts.

Commissioner Hoshal requested a change to future Commission resolutions so that the references to the Commission are consistent within and amongst resolutions. Acting Chair de Lambert agreed that they should be consistent and suggested using “Bassett Creek Watershed Management Commission” and “Adopted by the Bassett Creek Watershed Management Commission.” The Commission agreed.

Commissioner Hoschka moved to adopt Resolution 12-09. Commissioner Johnson seconded the motion. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

- C. [Item removed from agenda. See description in minutes under Agenda item 3]
- D. BCWMC Water Quality Improvement Project BC-7-City of Golden Valley: Commission authorization for the City of Golden Valley to draft the feasibility report for the BC-7 project/ Commission authorization for counsel to draft the agreement between the Commission and the City of Golden Valley to reimburse the City for the costs of the feasibility study

Ms. Chandler stated that the Commission needs a feasibility report for project BC-7, which is slated for 2014. Acting Chair de Lambert said that his understanding is that the City is asking for Commission action and is requesting that the Commission direct its Legal Counsel to prepare the draft agreement between the City of Golden Valley and the Bassett Creek Watershed Management Commission for the City to prepare the feasibility report. He said that the Commission would review the agreement at its next meeting.

Mr. LeFevere said that in the past the Commission has done its own feasibility studies but that sometimes the Commission has made agreements with cities for the cities to do the feasibility reports. He said that if it were routine for cities to do feasibility reports with engineers of their choice then this item wouldn't be on the agenda, but it isn't routine. Mr. LeFevere said that if the Commission is comfortable with entertaining the City's request to allow the City to prepare the feasibility report, then it makes sense to authorize Legal Counsel to prepare the draft agreement.

Ms. Chandler said that the location of the project is indicated on the displayed map board. Mr. Oliver said the project is a pedestrian bridge over Highway 100. Commissioner Welch asked about the anticipated cost of the project. Mr. Oliver said the cost is approximately \$200,000 and so it is a relatively small project that the City thinks it can expedite. He noted that the City of Golden Valley did the feasibility reports for the Sweeney Lake Outlet structure and the Lakeview Park Pond project.

Commissioner Welch asked if Golden Valley City staff plans to do the feasibility study internally. Mr. Oliver said no, the City has asked WSB, which is part of the Commission's Engineer Pool, to do a proposal. He said that the City would bring the proposal back to the Commission next month. Commissioner Welch said that the Commission took action to set up an Engineer Pool because it felt that it had been getting backed into a corner and was not being presented with options. He said that it is disappointing that again instead of seeing options one choice is being picked. He said he doesn't think this practice is responsible even though he understands people are trying to get projects done. Commissioner Welch said he does not support this method of conducting feasibility studies and that it would be very helpful for the Commission to see some proposals.

Acting Chair de Lambert asked if there is a way to get other proposals for the feasibility study or if WSB is uniquely qualified for this work. Mr. Oliver said that the City has a long track record of working with WSB on water resource projects. He said that the City has been very happy with WSB's work, WSB has always been competitive and cost effective, and the City is very comfortable with WSB.

Mr. Oliver said that going out for multiple proposals is time consuming. He said that the City's approach of asking WSB for a proposal is an efficient use of City and Commission resources. Commissioner Welch said that the City has provided the Commission with helpful details on how it would proceed but he doesn't think it is the best way to proceed.

Acting Chair de Lambert said that the Commission Engineer mentioned that the reason this issue is in front of the Commission is to expedite the process and he asked Ms. Chandler to provide more detail. Ms. Chandler said that in April the Commission decided which projects to add to the 2014 CIP. She noted that this is the first year that the Commission began the CIP review process so early. She said that the reworking of the rest of the CIP process is happening now and in fact the Commission will be discussing the process today as part of the TAC agenda item. Ms. Chandler said that the Commission should be getting going on this project so that a draft feasibility study is ready to go out as part of the Commission's plan amendment. She said the Commission does have a little time and could take another month, but she added that the Commission is trying to prevent the plan amendment process from getting crunched. She added that she thinks this project will be part of a major plan amendment because one of the 2014 projects is not in the Commission's CIP at all and it is easier for the Commission to do the amendment process for all three projects at the same time. She said that the major plan amendment process is lengthier than the minor plan amendment process.

Ms. Clancy said that she thought the reason the Engineer Pool was established was so that there wouldn't be a need to go out for multiple proposals. She said she thinks that for cities with projects this size if the City has a relationship with a consultant then it is unusual for the City to go out for more bids. Ms. Clancy said that if the Commission would like to go out for multiple bids then the Commission's best course of action would be to move forward with the feasibility process on its own and then turn the project back to the City.

Acting Chair de Lambert said that perhaps at a future time the Commission could construct a procedure for feasibility studies and, for example, look at which projects are more appropriate for the cities to expedite and which ones the Commission should handle. Mr. Oliver said that in general if the City is hiring a company to do the design then there are cost savings across the board to have the same design firm prepare the feasibility report. He said that process is the way he would prefer to handle the projects for the City of Golden Valley.

Commissioner Hoschka asked if the Commission could request other proposals and then give those to the City to review along with the proposal it has already requested from WSB. She said that she agrees with using the same engineer for the feasibility project and the project itself and if it is the City of Golden Valley's project then she understands the City's desire for consistency. Commissioner Welch pointed out that this project isn't a city project but instead is a watershed project for which all of the citizens in the watershed are being levied. Mr. Asche said that he thinks one unresolved issue is how much involvement the Commission wants in projects and until that is decided these decisions will be hard.

The Commission discussed whether this project has any particular pieces to it that makes it suited to any particular engineering firm in the pool. No comments were made to indicate the project is more suited to the expertise to any specific one of the engineering firms in the pool. Mr. Oliver said that WSB has done some very successful, way outside of the box, creative solutions for complex projects.

Commissioner Welch moved that the Commission Engineer draft an RFP for the feasibility report for project BC-7 and issue it including offering to WSB to have its already requested bid to be added into the mix. Commissioner Hoshal seconded the motion. Commissioner Welch clarified that the RFP

would be issued to firms including those in the Commission's engineer pool. Commissioner Sicora said that he is opposed to the motion. He said that he understands that a policy discussion is important but he would like to move forward in a timely manner and the Commission could come back to the policy discussion at a different time. Commissioner Hoshal said the heart of the argument is competitive bidding and getting several proposals in front of the Commission to review.

Ms. Clancy clarified that the competitive bidding statute applies to retaining construction contractors not professional consultants.

Mr. LeFevere commented that the Commission's procedure may look different after it has an administrator in place so perhaps the policy discussion should take place after the administrator is in place.

Upon a roll call vote, the motion did not carry with two votes in favor [Cities of Minneapolis and New Hope], and six votes against [Cities of Crystal, Golden Valley, Medicine Lake, Minnetonka, Robbinsdale, and St. Louis Park] [City of Plymouth absent from vote].

Commissioner Sicora moved to authorize Legal Counsel to draft an agreement between the Commission and the City of Golden Valley for the cost of the feasibility study. Commissioner Johnson seconded the motion. The motion carried with seven votes in favor [Cities of Crystal, Golden Valley, Medicine Lake, Minnetonka, New Hope, Robbinsdale, and St. Louis Park] and one vote against [City of Minneapolis] [City of Plymouth absent from vote].

## 9. OLD BUSINESS

### A. TAC Recommendations:

#### i. Capital Improvement Program Chart/ CIP Project Flow Chart

**Capital Improvement Program Chart:** Mr. Asche explained that the chart shows the process for getting projects into the Commission's CIP. Mr. Asche noted that the items in red indicate the Commission's involvement in the process. He said that this chart is in draft form and is open to comments and edits. He walked the Commission through the five-step process: Project initiation, TAC development of the draft 5-year CIP, Commission review of the draft 5-year CIP, TAC review of the draft 5-year CIP, and Commission approval of the 5-year CIP. Mr. Asche said that the TAC thinks the CIP process would be improved if the Commission would develop its CIP the ways the cities develop theirs. He noted that the packet includes documents from the City of Golden Valley's CIP as examples. He said that the software that Golden Valley and Plymouth use provides an overview of the projects for the year as well as details on the projects, providing the necessary information about the projects.

**CIP Project Flow Chart:** Ms. Chandler explained the steps of the CIP project flow chart. She explained that some of the dates indicated are hard deadlines and some are guidelines. Commissioner Johnson asked if the dates that are inflexible could be indicated in bold font. Mr. Oliver suggested using this chart as a template to make a separate flow chart per project indicating the specific dates for that project. Ms. Chandler pointed out the place in the process where the Commission could weigh in on the plans and specs. She said this is a new process and that previously the plans and specs did not come in front of the Commission but were reviewed by the Commission Engineer.

Commissioner Welch said that the Commission will need to allow for a certain amount of flexibility on the fly. He said that the Commission should have a discussion on how it wants to do its feasibility studies and then make a decision about a structure that fits within this flowchart and becomes the Commission's baseline operation.

Mr. Ashe said that he would like the Commission to make sure it is comfortable with its level of involvement as indicated by this draft flow chart.

Mr. O'Toole said that the Commission needs to consider how much involvement it wants to take on in project administration compared to planning and policy issues. He said that historically project administration was delegated to the Commission Engineer and the cities but now the Commission has a much more aggressive CIP. Mr. O'Toole said that the growth of the CIP suggests that some of the Commission's time, energy, and attention ought to be directed toward project administration. He said that it would mean that on a monthly basis the Commission would direct some energy to project administration and would spend some time on it at its monthly meetings. Mr. O'Toole said it would be a change of policy and procedures and said it is a question of whether the Commission wants to undertake the task.

Commissioner Hoshal said that the Commission doesn't have a practice of post-project assessment to evaluate whether it met the project's goals. He said the benefit of the assessment is gaining information on whether anything could be done better in a future project.

Commissioner Hoshal said that this may be something for the Commission to look into doing.

Commissioner Welch said that he would like to move the two recommendations in the TAC Memo:

1. The TAC recommends that the Commission approve the two CIP flow charts – “Capital Improvement Program (CIP) Flow Chart” and “CIP Project Flow Chart;” and,
2. Upon approval of the two flow charts, the Commission subsequently approve the revisions to Section 3.2.2 of the draft policy manual.

Commissioner Millner seconded the motion. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

- ii. Revision of Current CIP Table, Development of New CIP Summary Table, and Map of CIP Projects. Mr. Ashe provided an overview of the different tables and described the proposed changes to the tables as well as new information to be included. Acting Chair de Lambert said that these are fantastic suggestions. He said he thinks that the Commission should proceed with implementation of the recommendations and that the TAC and the Commission Engineer should work together to do so. The Commission indicated its approval.

- B. Administrator Services – Review and Approval of Revised RFP and Review of Administrator Services Role Fulfillment Timeline. Acting Chair de Lambert provided background on the development of the two draft RFPs in the packet, one RFP by Golden Valley and the other by Commissioner Welch. Commissioner Welch discussed his revisions to the RFP. Acting Chair de Lambert said that the Administrative Services Committee is looking for Commission approval of Commissioner Welch's version of the RFP. Commissioner Sicora moved to approve the RFP as amended by Commissioner Welch. Commissioner Johnson seconded the motion. The Commission talked about whether education and outreach tasks would be part of the Administrator's tasks. Commissioner Welch said that on his part, leaving out the education tasks was intentional. Commissioner Hoshal agreed that the education

tasks should be left out and that the RFP states that other duties or activities may be directed by the Commission in the case that the Commission gets to a point where the Administrator would have time for other duties. The Commission discussed the criteria “Human resource support” that was added to the RFP by Commissioner Welch.

Acting Chair de Lambert reiterated the motion on the table: To approve the RFP as amended by Commissioner Welch, follow the proposed timeline, and approve the City of Golden Valley carrying out the work with the RFP. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

*[Commissioner Millner departs the meeting.]*

### C. Next Generation Watershed Management Plan

- i. **Status of Planning Process.** Acting Chair de Lambert said that the last meeting of the Plan Steering Committee was not well attended and he thinks that the Commission needs to firm up the membership of this committee and select a Chair for it. He noted that Alternate Commissioner Justin Riss could not be at today’s meeting but indicated that he wants to participate on the committee but is not interested in being the Chair. He said that he asked Commission Chair Ginny Black if she wanted to chair the Committee and she had responded that she would accept an appointment but that she is not actively seeking it. Acting Chair de Lambert said that the Commission needs to get moving on its Plan process. He said the Commission also should get moving on its gaps analysis as well as its public participation process. He stated that the gaps analysis proposal from Barr Engineering was in the meeting packet for Commission review. He suggested that if the Commission and Ms. Loomis both feel it is appropriate then the Commission request Linda Loomis to submit a proposal for developing and implementing a public participation process

The commissioners discussed the time requirements of participating on the Committee and chairing the Committee. Mr. LeFevere commented that when the Commission went through its previous plan process it had more committees and there were chairs of each committee so it was probably less burdensome on those chairs. He said that last time the Commission used Barr Engineering for its administrative services and for this planning process the burden on the committee members will be determined in part by how much the Commission will let the Committee and its Chair use the Commission’s consultants. He suggested the Commission have a discussion on that issue. Mr. LeFevere said that even watershed districts and watershed management organizations with a large number of staff have heavy involvement from consultants in the preparation of their plans. He said that consultants still write the plans even when organizations have full-time administrators. He commented that even when the Commission has an Administrator that person isn’t going to be doing the plan.

The Commission appointed to the Plan Steering Committee Commissioners Sicora, de Lambert, Black, Welch, and Hoshal, and Alternate Commissioners Goddard, O’Toole, and Riss, and TAC members Jeannine Clancy and Derek Asche. Mr. Asche noted that he wouldn’t be able to participate in meetings until December. Commissioner Hoschka volunteered to help with graphics and noted that she can’t use company software but if others have the software available then she could help.

- ii. **Gaps Analysis**

Ms. Chandler went through the gaps analysis proposal, including the proposed work scope,

timeline and budget of \$14,700.

Commissioner Hoshal moved to direct the Commission Engineer to do the gaps analysis. Commissioner Johnson seconded the motion. The motion carried with six votes in favor [City of Minneapolis abstained from the vote; Cities of Minnetonka and Plymouth absent from vote;]

Acting Chair de Lambert said that the next item the Commission should discuss is the public participation process. The Commission discussed the possibility of having Linda Loomis prepare a proposal for the Commission about developing and implementing the front-end public participation process. Ms. Loomis said that she had volunteered to do it and that she proposed the City of Golden Valley's Envision process because it was a volunteer-run process, but if the Commission wanted a proposal from her then she would be willing to put one together.

Commissioner Sicora moved that the Commission make a request for Linda Loomis to prepare a proposal for the public input process. Commissioner Hoschka seconded the motion. The motion carried with six votes in favor [City of Minneapolis opposed the vote; Cities of Minnetonka and Plymouth absent from vote;]

## 10. COMMUNICATIONS

**Chair: No Chair Communications.**

**Commissioners:**

1. Commissioner Welch reported that he and Chair Black met with Hennepin County Commissioner Mike Opat and discussed his ideas about consolidating water organizations and his goals behind those ideas.
2. Commissioner Hoshal reported a recent close encounter with zebra mussels almost being introduced into Medicine Lake via a new lakeshore homeowner's boat lift, which had been purchased used and moved to the homeowner's property without inspection for aquatic invasive species. He said that an alert neighbor noticed the zebra mussels and the boatlift was not put into the lake.

**Committees: No Committee Communications.**

**Counsel Communications: No Counsel Communications.**

**Engineer Communications:**

1. Ms. Chandler said that the Commission received from the City of Golden Valley a final reimbursement request for costs of the Bassett Creek Reach II Restoration Project and asked for Commission direction to review the request. The Commission directed the Commission Engineer to review the request.

## 9. ADJOURNMENT

**The meeting adjourned at 2:35 p.m.**

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<b>Chair</b>	<b>Date</b>	<b>Amy Herbert, Recorder</b>	<b>Date</b>
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<b>Secretary</b>	<b>Date</b>
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*[Robbinsdale Commissioner Wayne Sicora arrives].*

Commissioner Welch moved to approve Resolution 12-08. Commissioner Johnson seconded the motion. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

- B. **Resolution 12-09 Ordering 2013 Improvements (incorporates Cooperative Agreement with the City of Plymouth for the Four Seasons Mall Area Water Quality Project and Cooperative Agreement with the City of Golden Valley for the Lakeview Park Pond Project).** Commissioner Welch moved to approve Resolution 12-09 with changes to the resolution in paragraph 7 by adding in language about “applicable requirements of law” in order to make it very clear that there is watershed district law in addition to city contract law. Commissioner Welch and the Commission’s Legal Counsel, Mr. LeFevere, had a detailed conversation about the construct of the language in Resolution 12-09. Commissioner Welch withdrew his motion.

Mr. LeFevere said that Resolution 12-09 approves the two contracts in the meeting packet and said that Commissioner Welch has raised issues with some of those contracts, such as should the Commission have more control and understanding of what change orders are and what the contract says and should the Commission look at plans and specs instead of just looking at the feasibility report. He said that the contracts being approved by Resolution 12-09 follow the format that the Commission has followed in the past, and Commissioner Welch has brought up in the past the idea of the Commission having more authority. Mr. LeFevere said that before the Commission moves forward on Resolution 12-09 he wanted to make sure there was understanding that the Resolution approves the contracts in front of the

Commission today. Commissioner Welch said that he is fine with the contracts.

Commissioner Hoshal requested a change to future Commission resolutions so that the references to the Commission are consistent within and amongst resolutions. Acting Chair de Lambert agreed that they should be consistent and suggested using “Bassett Creek Watershed Management Commission” and “Adopted by the Bassett Creek Watershed Management Commission.” The Commission agreed.

Commissioner Hoschka moved to adopt Resolution 12-09. Commissioner Johnson seconded the motion. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

- C. [Item removed from agenda. See description in minutes under Agenda item 3]
- D. BCWMC Water Quality Improvement Project BC-7-City of Golden Valley: Commission authorization for the City of Golden Valley to draft the feasibility report for the BC-7 project/ Commission authorization for counsel to draft the agreement between the Commission and the City of Golden Valley to reimburse the City for the costs of the feasibility study

Ms. Chandler stated that the Commission needs a feasibility report for project BC-7, which is slated for 2014. Acting Chair de Lambert said that his understanding is that the City is asking for Commission action and is requesting that the Commission direct its Legal Counsel to prepare the draft agreement between the City of Golden Valley and the Bassett Creek Watershed Management Commission for the City to prepare the feasibility report. He said that the Commission would review the agreement at its next meeting.

Mr. LeFevere said that in the past the Commission has done its own feasibility studies but that sometimes the Commission has made agreements with cities for the cities to do the feasibility reports. He said that if it were routine for cities to do feasibility reports with engineers of their choice then this item wouldn't be on the agenda, but it isn't routine. Mr. LeFevere said that if the Commission is comfortable with entertaining the City's request to allow the City to prepare the feasibility report, then it makes sense to authorize Legal Counsel to prepare the draft agreement.

Ms. Chandler said that the location of the project is indicated on the displayed map board. Mr. Oliver said the project is a pedestrian bridge over Highway 100. Commissioner Welch asked about the anticipated cost of the project. Mr. Oliver said the cost is approximately \$200,000 and so it is a relatively small project that the City thinks it can expedite. He noted that the City of Golden Valley did the feasibility reports for the Sweeney Lake Outlet structure and the Lakeview Park Pond project.

Commissioner Welch asked if Golden Valley City staff plans to do the feasibility study internally. Mr. Oliver said no, the City has asked WSB, which is part of the Commission's Engineer Pool, to do a proposal. He said that the City would bring the proposal back to the Commission next month. Commissioner Welch said that the Commission took action to set up an Engineer Pool because it felt that it had been getting backed into a corner and was not being presented with options. He said that it is disappointing that again instead of seeing options one choice is being picked. He said he doesn't think this practice is responsible even though he understands people are trying to get projects done. Commissioner Welch said he does not support this method of conducting feasibility studies and that it would be very helpful for the Commission to see some proposals.

Acting Chair de Lambert asked if there is a way to get other proposals for the feasibility study or if WSB is uniquely qualified for this work. Mr. Oliver said that the City has a long track record of working with WSB on water resource projects. He said that the City has been very happy with WSB's work, WSB has always been competitive and cost effective, and the City is very comfortable with WSB.

Mr. Oliver said that going out for multiple proposals is time consuming. He said that the City's approach of asking WSB for a proposal is an efficient use of City and Commission resources. Commissioner Welch said that the City has provided the Commission with helpful details on how it would proceed but he doesn't think it is the best way to proceed.

Acting Chair de Lambert said that the Commission Engineer mentioned that the reason this issue is in front of the Commission is to expedite the process and he asked Ms. Chandler to provide more detail. Ms. Chandler said that in April the Commission decided which projects to add to the 2014 CIP. She noted that this is the first year that the Commission began the CIP review process so early. She said that the reworking of the rest of the CIP process is happening now and in fact the Commission will be discussing the process today as part of the TAC agenda item. Ms. Chandler said that the Commission should be getting going on this project so that a draft feasibility study is ready to go out as part of the Commission's plan amendment. She said the Commission does have a little time and could take another month, but she added that the Commission is trying to prevent the plan amendment process from getting crunched. She added that she thinks this project will be part of a major plan amendment because one of the 2014 projects is not in the Commission's CIP at all and it is easier for the Commission to do the amendment process for all three projects at the same time. She said that the major plan amendment process is lengthier than the minor plan amendment process.

Ms. Clancy said that she thought the reason the Engineer Pool was established was so that there wouldn't be a need to go out for multiple proposals. She said she thinks that for cities with projects this size if the City has a relationship with a consultant then it is unusual for the City to go out for more bids. Ms. Clancy said that if the Commission would like to go out for multiple bids then the Commission's best course of action would be to move forward with the feasibility process on its own and then turn the project back to the City.

Acting Chair de Lambert said that perhaps at a future time the Commission could construct a procedure for feasibility studies and, for example, look at which projects are more appropriate for the cities to expedite and which ones the Commission should handle. Mr. Oliver said that in general if the City is hiring a company to do the design then there are cost savings across the board to have the same design firm prepare the feasibility report. He said that process is the way he would prefer to handle the projects for the City of Golden Valley.

Commissioner Hoschka asked if the Commission could request other proposals and then give those to the City to review along with the proposal it has already requested from WSB. She said that she agrees with using the same engineer for the feasibility project and the project itself and if it is the City of Golden Valley's project then she understands the City's desire for consistency. Commissioner Welch pointed out that this project isn't a city project but instead is a watershed project for which all of the citizens in the watershed are being levied. Mr. Asche said that he thinks one unresolved issue is how much involvement the Commission wants in projects and until that is decided these decisions will be hard.

The Commission discussed whether this project has any particular pieces to it that makes it suited to any particular engineering firm in the pool. No comments were made to indicate the project is more suited to the expertise to any specific one of the engineering firms in the pool. Mr. Oliver said that WSB has done some very successful, way outside of the box, creative solutions for complex projects.

Commissioner Welch moved that the Commission Engineer draft an RFP for the feasibility report for project BC-7 and issue it including offering to WSB to have its already requested bid to be added into the mix. Commissioner Hoshal seconded the motion. Commissioner Welch clarified that the RFP

would be issued to firms including those in the Commission's engineer pool. Commissioner Sicora said that he is opposed to the motion. He said that he understands that a policy discussion is important but he would like to move forward in a timely manner and the Commission could come back to the policy discussion at a different time. Commissioner Hoshal said the heart of the argument is competitive bidding and getting several proposals in front of the Commission to review.

Ms. Clancy clarified that the competitive bidding statute applies to retaining construction contractors not professional consultants.

Mr. LeFevere commented that the Commission's procedure may look different after it has an administrator in place so perhaps the policy discussion should take place after the administrator is in place.

Upon a roll call vote, the motion did not carry with two votes in favor [Cities of Minneapolis and New Hope], and six votes against [Cities of Crystal, Golden Valley, Medicine Lake, Minnetonka, Robbinsdale, and St. Louis Park] [City of Plymouth absent from vote].

Commissioner Sicora moved to authorize Legal Counsel to draft an agreement between the Commission and the City of Golden Valley for the cost of the feasibility study. Commissioner Johnson seconded the motion. The motion carried with seven votes in favor [Cities of Crystal, Golden Valley, Medicine Lake, Minnetonka, New Hope, Robbinsdale, and St. Louis Park] and one vote against [City of Minneapolis] [City of Plymouth absent from vote].

## 9. OLD BUSINESS

### A. TAC Recommendations:

#### i. Capital Improvement Program Chart/ CIP Project Flow Chart

**Capital Improvement Program Chart:** Mr. Asche explained that the chart shows the process for getting projects into the Commission's CIP. Mr. Asche noted that the items in red indicate the Commission's involvement in the process. He said that this chart is in draft form and is open to comments and edits. He walked the Commission through the five-step process: Project initiation, TAC development of the draft 5-year CIP, Commission review of the draft 5-year CIP, TAC review of the draft 5-year CIP, and Commission approval of the 5-year CIP. Mr. Asche said that the TAC thinks the CIP process would be improved if the Commission would develop its CIP the ways the cities develop theirs. He noted that the packet includes documents from the City of Golden Valley's CIP as examples. He said that the software that Golden Valley and Plymouth use provides an overview of the projects for the year as well as details on the projects, providing the necessary information about the projects.

**CIP Project Flow Chart:** Ms. Chandler explained the steps of the CIP project flow chart. She explained that some of the dates indicated are hard deadlines and some are guidelines. Commissioner Johnson asked if the dates that are inflexible could be indicated in bold font. Mr. Oliver suggested using this chart as a template to make a separate flow chart per project indicating the specific dates for that project. Ms. Chandler pointed out the place in the process where the Commission could weigh in on the plans and specs. She said this is a new process and that previously the plans and specs did not come in front of the Commission but were reviewed by the Commission Engineer.

Commissioner Welch said that the Commission will need to allow for a certain amount of flexibility on the fly. He said that the Commission should have a discussion on how it wants to do its feasibility studies and then make a decision about a structure that fits within this flowchart and becomes the Commission's baseline operation.

Mr. Ashe said that he would like the Commission to make sure it is comfortable with its level of involvement as indicated by this draft flow chart.

Mr. O'Toole said that the Commission needs to consider how much involvement it wants to take on in project administration compared to planning and policy issues. He said that historically project administration was delegated to the Commission Engineer and the cities but now the Commission has a much more aggressive CIP. Mr. O'Toole said that the growth of the CIP suggests that some of the Commission's time, energy, and attention ought to be directed toward project administration. He said that it would mean that on a monthly basis the Commission would direct some energy to project administration and would spend some time on it at its monthly meetings. Mr. O'Toole said it would be a change of policy and procedures and said it is a question of whether the Commission wants to undertake the task.

Commissioner Hoshal said that the Commission doesn't have a practice of post-project assessment to evaluate whether it met the project's goals. He said the benefit of the assessment is gaining information on whether anything could be done better in a future project.

Commissioner Hoshal said that this may be something for the Commission to look into doing.

Commissioner Welch said that he would like to move the two recommendations in the TAC Memo:

1. The TAC recommends that the Commission approve the two CIP flow charts – "Capital Improvement Program (CIP) Flow Chart" and "CIP Project Flow Chart;" and,
2. Upon approval of the two flow charts, the Commission subsequently approve the revisions to Section 3.2.2 of the draft policy manual.

Commissioner Millner seconded the motion. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

- ii. Revision of Current CIP Table, Development of New CIP Summary Table, and Map of CIP Projects. Mr. Ashe provided an overview of the different tables and described the proposed changes to the tables as well as new information to be included. Acting Chair de Lambert said that these are fantastic suggestions. He said he thinks that the Commission should proceed with implementation of the recommendations and that the TAC and the Commission Engineer should work together to do so. The Commission indicated its approval.

- B. Administrator Services – Review and Approval of Revised RFP and Review of Administrator Services Role Fulfillment Timeline. Acting Chair de Lambert provided background on the development of the two draft RFPs in the packet, one RFP by Golden Valley and the other by Commissioner Welch. Commissioner Welch discussed his revisions to the RFP. Acting Chair de Lambert said that the Administrative Services Committee is looking for Commission approval of Commissioner Welch's version of the RFP. Commissioner Sicora moved to approve the RFP as amended by Commissioner Welch. Commissioner Johnson seconded the motion. The Commission talked about whether education and outreach tasks would be part of the Administrator's tasks. Commissioner Welch said that on his part, leaving out the education tasks was intentional. Commissioner Hoshal agreed that the education

tasks should be left out and that the RFP states that other duties or activities may be directed by the Commission in the case that the Commission gets to a point where the Administrator would have time for other duties. The Commission discussed the criteria “Human resource support” that was added to the RFP by Commissioner Welch.

Acting Chair de Lambert reiterated the motion on the table: To approve the RFP as amended by Commissioner Welch, follow the proposed timeline, and approve the City of Golden Valley carrying out the work with the RFP. The motion carried unanimously with eight votes in favor [City of Plymouth absent from vote].

*[Commissioner Millner departs the meeting.]*

### C. Next Generation Watershed Management Plan

- i. **Status of Planning Process.** Acting Chair de Lambert said that the last meeting of the Plan Steering Committee was not well attended and he thinks that the Commission needs to firm up the membership of this committee and select a Chair for it. He noted that Alternate Commissioner Justin Riss could not be at today’s meeting but indicated that he wants to participate on the committee but is not interested in being the Chair. He said that he asked Commission Chair Ginny Black if she wanted to chair the Committee and she had responded that she would accept an appointment but that she is not actively seeking it. Acting Chair de Lambert said that the Commission needs to get moving on its Plan process. He said the Commission also should get moving on its gaps analysis as well as its public participation process. He stated that the gaps analysis proposal from Barr Engineering was in the meeting packet for Commission review. He suggested that if the Commission and Ms. Loomis both feel it is appropriate then the Commission request Linda Loomis to submit a proposal for developing and implementing a public participation process

The commissioners discussed the time requirements of participating on the Committee and chairing the Committee. Mr. LeFevere commented that when the Commission went through its previous plan process it had more committees and there were chairs of each committee so it was probably less burdensome on those chairs. He said that last time the Commission used Barr Engineering for its administrative services and for this planning process the burden on the committee members will be determined in part by how much the Commission will let the Committee and its Chair use the Commission’s consultants. He suggested the Commission have a discussion on that issue. Mr. LeFevere said that even watershed districts and watershed management organizations with a large number of staff have heavy involvement from consultants in the preparation of their plans. He said that consultants still write the plans even when organizations have full-time administrators. He commented that even when the Commission has an Administrator that person isn’t going to be doing the plan.

The Commission appointed to the Plan Steering Committee Commissioners Sicora, de Lambert, Black, Welch, and Hoshal, and Alternate Commissioners Goddard, O’Toole, and Riss, and TAC members Jeannine Clancy and Derek Asche. Mr. Asche noted that he wouldn’t be able to participate in meetings until December. Commissioner Hoschka volunteered to help with graphics and noted that she can’t use company software but if others have the software available then she could help.

- ii. **Gaps Analysis**

Ms. Chandler went through the gaps analysis proposal, including the proposed work scope,

timeline and budget of \$14,700.

Commissioner Hoshal moved to direct the Commission Engineer to do the gaps analysis. Commissioner Johnson seconded the motion. The motion carried with six votes in favor [City of Minneapolis abstained from the vote; Cities of Minnetonka and Plymouth absent from vote;]

Acting Chair de Lambert said that the next item the Commission should discuss is the public participation process. The Commission discussed the possibility of having Linda Loomis prepare a proposal for the Commission about developing and implementing the front-end public participation process. Ms. Loomis said that she had volunteered to do it and that she proposed the City of Golden Valley's Envision process because it was a volunteer-run process, but if the Commission wanted a proposal from her then she would be willing to put one together.

Commissioner Sicora moved that the Commission make a request for Linda Loomis to prepare a proposal for the public input process. Commissioner Hoschka seconded the motion. The motion carried with six votes in favor [City of Minneapolis opposed the vote; Cities of Minnetonka and Plymouth absent from vote;]

## 10. COMMUNICATIONS

**Chair: No Chair Communications.**

**Commissioners:**

1. Commissioner Welch reported that he and Chair Black met with Hennepin County Commissioner Mike Opat and discussed his ideas about consolidating water organizations and his goals behind those ideas.
2. Commissioner Hoshal reported a recent close encounter with zebra mussels almost being introduced into Medicine Lake via a new lakeshore homeowner's boat lift, which had been purchased used and moved to the homeowner's property without inspection for aquatic invasive species. He said that an alert neighbor noticed the zebra mussels and the boatlift was not put into the lake.

**Committees: No Committee Communications.**

**Counsel Communications: No Counsel Communications.**

**Engineer Communications:**

1. Ms. Chandler said that the Commission received from the City of Golden Valley a final reimbursement request for costs of the Bassett Creek Reach II Restoration Project and asked for Commission direction to review the request. The Commission directed the Commission Engineer to review the request.

## 9. ADJOURNMENT

**The meeting adjourned at 2:35 p.m.**

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<b>Chair</b>	<b>Date</b>	<b>Amy Herbert, Recorder</b>	<b>Date</b>
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<b>Secretary</b>	<b>Date</b>
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