



## Bassett Creek Watershed Management Commission

### Minutes of Regular Meeting Thursday, August 18, 2022 8:30 a.m.

#### Westwood Hills Nature Center

8300 W Franklin Ave, St Louis Park, MN 55426

#### 1. CALL TO ORDER and ROLL CALL

On Thursday, August 18, 2022 at 8:34 a.m. Chair Cesnik brought the Bassett Creek Watershed Management Commission (Commission) to order.

#### Commissioners, city staff, and others present

City	Commissioner	Alternate Commissioner	Technical Advisory Committee Members (City Staff)
Crystal	<i>Absent</i>	Joan Hauer	Mark Ray
Golden Valley	Stacy Harwell	Jane McDonald Black	Drew Chirpich
Medicine Lake	Clint Carlson	Shaun Kennedy	<i>Absent</i>
Minneapolis	Michael Welch	<i>Absent</i>	<i>Absent</i>
Minnnetonka	<i>Absent</i>	<i>Vacant Position</i>	Leslie Yetka
New Hope	Jere Gwin-Lenth	<i>Absent</i>	Nick Macklem
Plymouth	Catherine Cesnik	<i>Absent</i>	Ben Scharenbroich
Robbinsdale	<i>Absent</i>	<i>Vacant Position</i>	Mike Sorenson, Richard McCoy
St. Louis Park	<i>Vacant Position</i>	<i>Absent</i>	Erick Francis
<b>Administrator</b>	Laura Jester, Keystone Waters		
<b>Engineers</b>	Karen Chandler and Stephanie Johnson, Barr Engineering		
<b>Recording Secretary</b>	<i>Absent</i>		
<b>Legal Counsel</b>	Dave Anderson, Kennedy & Graven		
<b>Presenters/ Guests/Public</b>	Steve Christopher, MN Board of Water and Soil Resources; Juan Del Valle Lopez, BCWMC intern		

#### 2. PUBLIC FORUM ON NON-AGENDA ITEMS

No comments from the public were made.

**3. APPROVAL OF AGENDA**

Administrator Jester requested to move Item 5C to the first item of business.

**MOTION:** Commissioner Gwin-Lenth moved to approve the agenda with the change. Alternate Commissioner McDonald Black seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka, absent from the vote.

**4. CONSENT AGENDA**

The following items were approved as part of the consent agenda.

- Approval of Minutes – July 21, 2022 Commission Meeting
- Acceptance of August 2022 Financial Report
- Approval of Payment of Invoices
  - Keystone Waters, LLC – July 2022 Administrative Services
  - Keystone Waters, LLC – July 2022 Meeting Expenses
  - Barr Engineering – July 2022 Engineering Services
  - Kennedy & Graven – June 2022 Legal Services
  - Redpath – July 2022 Accounting Services
  - Stantec – WOMP Services
  - Triple D Espresso – Meeting Catering
  - Jan Voit – July Meeting Minutes
  - Metro Blooms – Local Match for Northside Outreach
  - Juan Del Valle Lopez – BCWMC Intern
- Approval to Support Renewal of Chloride Limited Liability Legislation Resolution for MAWD

**MOTION:** Alternate Commissioner McDonald Black moved to approve the consent agenda. Commissioner Gwin-Lenth seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

**5. BUSINESS**

Before moving into business, Administrator Jester noted that the agenda includes several requests for approval of funding for several different activities. She gave an overview of the general fund (gathered from assessments on member cities) vs. the Capital Improvement Program funds (gathered from taxes levied on properties in the watershed through Hennepin County). She noted that except for the Bryn Mawr Meadows Water Quality Improvement Project, funding was included in existing budgets.

[Commissioner Harwell arrives.]

**C. Consider Approval to Construct Bryn Mawr Meadows Water Quality Improvement Project and Increase Budget for Engineering Services Related to Project**

Administrator Jester reminded commissioners about the project location in Bryn Mawr Meadows Park and the partnership with the Minneapolis Park and Recreation Board (MPRB) and the City of Minneapolis to design and construct the project in conjunction with a MPRB project to redevelop the park.

Commission Engineer Johnson described the construction bids received; indicated that Minger Construction was the low bidder, and reviewed the items the bid did not include, such as construction contingency of 10%, work in the city's right of way to be completed by city crews, additional seeding that was erroneously left out of the bid documents, and environmental contingency. She reported that the lowest bid plus the estimated cost of the additional items were \$162,000 over the approved \$1,593,000 BCWMC construction budget. Commissioner Welch wondered if the multiple outstanding questions posed in the memo would better be discussed at a special meeting. After discussion about process and timing, the Commission agreed to continue working toward a decision at this meeting rather than holding a special meeting.

Commission Engineer Johnson noted that \$30,000 of the \$162,000 accounted for inclusion of a different type of access structure, and associated engineering and necessary piles to support the structure, recently requested by the City of Minneapolis. During the discussion, Commission Engineer Johnson received a message from Minneapolis staff

indicating the structure wasn't needed after all. This resulted in lowering the budget shortfall from \$162,00 to \$132,000.

Attorney Anderson reviewed the reimbursement agreement between the Commission, MPRB, and the City of Minneapolis noting that three options existed in the event were costs higher than \$1,593,000: i) direct the parties to proceed and elect to reimburse the MPRB and/or the City of Minneapolis for any additional costs, as relevant to the cause of the overage; ii) direct that the scope of the Project be reduced such that the costs will not exceed the amounts allocated above; or (iii) eliminate the BCWMC project from the scope of the overall MPRB project altogether. He noted that options (ii) and (iii) aren't likely prudent at this time. Changing the scope of the project would cost even more engineering time and likely require the project to be re-bid. Cancelling the project altogether would result in the MPRB also cancelling their park redevelopment project as the MPRB's approval to award the construction contract was contingent on the BCWMC approving their water quality project.

Commission Engineer Johnson reviewed the uncertainties in geotechnical conditions and total amount of material to be hauled. She noted that the depth of piles is estimated in the design. The construction bid includes a unit cost for pile driving. Exact pile depths (and thus appropriate billing by construction firm) will be closely monitored by MPRB and Commission staff. This is one unknown where a budget "contingency" is needed. Environmental "contingency" funding is needed because it is possible that contaminated groundwater may be encountered requiring discharge to the sanitary sewer. Commissioner Welch noted these items should be classified as ongoing unknown costs rather than "contingencies."

There was discussion and acknowledgement that Minger Construction was the lowest bidder for the overall project (including park redevelopment and BCWMC water quality project), but not the lowest bidder if only looking at water quality project components. It was noted that the MPRB is awarding the construction contract and they are legally obligated to accept the lowest responsible bidder. There were comments that Minger Construction has a good reputation for this type of work. It was also noted that the partnership with MPRB is an overall cost savings; the water quality project would cost more if it wasn't combined with the park redevelopment project. Commission Attorney Anderson noted that negotiating specific construction line items was not allowed.

Commissioners asked if a contingency cap is needed. It was noted that the agreement with MPRB and Minneapolis includes a 3% contingency along with instructions on handling major and minor change orders. There was discussion about the 12-inch pipe under the park that will be relocated with BCWMC project funds. Commission Engineer Johnson noted that it wasn't clear during much of the design process that the pipe would need to be moved and that it would be a Commission cost. That work is now built into the BCWMC project budget.

**MOTION: Commissioner Welch moved to authorize the Administrator to accept the proposal from the MPRB to award a contract for construction of the Commission's water quality improvement project in Bryn Mawr Meadows Park at a not to exceed construction budget of \$1,725,000 and to bring change order approval authority recommendations back to the Commission as deemed necessary. Commissioner Gwin-Lenth seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.**

[A 10-minute break was taken.]

[Commissioner Harwell departs the meeting.]

Commission Engineer Chandler then reviewed a request to increase the engineering services budget by \$77,000. (This total was lowered from the request for \$82,000 in the original memo due Minneapolis' removal of their request for a different type of access structure earlier in the meeting.) She reviewed several circumstances including a longer than expected design timeline, more complicated coordination with MPRB consultants, work related to the 12-inch pipe running under the park, and preparing alternative designs to lower costs – all of which required more time than originally budgeted. She also noted the need for additional environmental services related to the Response Action Plan and additional testing and additional time for overall project management.

There was discussion about lessons learned and ways to avoid similar scenarios in the future. Commission Engineer Chandler noted that in hindsight, funds should have been allocated for additional environmental and geotechnical

assessments. TAC member Scharenbroich noted that cities encounter these types of budget issues frequently; it's the nature of implementing large projects.

**MOTION:** Commissioner Welch moved to approve an additional \$77,000 for engineering services for a total not to exceed amount of \$260,000. Commissioner Carlson seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

[Commissioner Harwell returns to the meeting.]

**A. Consider Approval of 2023 Operating Budget and City Assessments**

Administrator Jester reported that the proposed 2023 operating budget and corresponding city assessments that were approved at the June meeting were submitted to all nine member cities for review and comment by August 1<sup>st</sup>. She reported that only one city provided comments: Minneapolis staff indicated they supported the budget and assessments. She recommended approval of the budget as approved in June and presented at this meeting.

**MOTION:** Commissioner Carlson moved to approve a total 2023 BCWMC Operating Budget of \$795,410 and city assessments as presented. Commissioner Gwin-Lenth seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

[Agenda items were taken out of order to make sure time sensitive items were addressed.]

**E. Consider Approval of Feasibility Study Scopes for 2024 Capital Improvement Projects**

- i. **Bassett Creek Main Stem Restoration Project - Regent Ave to Golden Valley Rd (2024-CRM)**
- ii. **Ponderosa Woods Stream Restoration Project (ML-22)**

Commission Engineer Chandler noted that the feasibility scopes and budgets included similar tasks but had very different budgets due to size of each project (section of Bassett Main Stem for potential restoration is 7,000 linear feet and is classified as a public water, while the Ponderosa Woods stream is not a public water and only measures 1,000 feet long). She noted that the scopes and budgets were reviewed by corresponding city staff (Golden Valley and Plymouth, respectively). TAC members Chirpich and Scharenbroich voiced support for the studies as presented. Engineer Chandler briefly walked through the elements of the studies.

Commissioner Welch asked Administrator Jester if she thought the Commission had the capacity to take on these CIP projects. Administrator Jester noted these projects are included in the approved CIP schedule and that the cities would be responsible for design and construction.

There was discussion about the private landownership in the project areas and the ability for the city to work within a utility easement or the possible need for easements from landowners.

**MOTION:** Commissioner Harwell moved to approve the scope and budget for the Bassett Creek Main Stem Restoration Project - Regent Ave to Golden Valley Rd (2024-CRM) feasibility study with not to exceed amount of \$85,500. Commissioner Welch seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

**MOTION:** Commissioner Gwin-Lenth moved to approve the scope and budget for the Ponderosa Woods Stream Restoration Project (ML-22) feasibility study with a not to exceed amount of \$43,800. Commissioner Carlson seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

**D. Consider Recommendation to Provide Financial Support for Educator Position Shared with Hennepin County**

Administrator Jester reported that the West Metro Water Alliance (WMWA) partners (which includes BCWMC) and the Watershed Based Implementation Funding convene partners have been working with Hennepin County to

create an outreach and education position at Hennepin County to be shared with WMWA and funded primarily through State grants through the Watershed Based Implementation Fund (WBIF) program. She noted that education programming is a consistent gap with the BCWMC and it has also been difficult to implement education programming in a timely manner through WMWA. WMWA uses only one part time educator (primarily for classroom visits); all other work is performed by watershed or city staff. She noted that she has long had the goal of replicating Washington County's successful East Metro Water Resources Education Program here in the west metro. She noted that ideally, the west metro educator would be an employee of a local government, rather than a contractor or consultant.

Administrator Jester reported that most of the funding for the shared position is already secured, including the use of \$44,000/year for two years in WBIF allocated to the BCWMC. She is requesting \$5,000/year for two years from the BCWMC's Education and Outreach fund. TAC member Ray indicated that Shingle Creek WMC is likely to provide more of their WBIF funds to the position which would remove the need for BCWMC funding.

There was discussion that an agreement of some type might be needed with the county. Steve Christopher with the MN Board of Water and Soil Resources confirmed that the county would hold the only grant agreement for WBIF funds.

Commissioner Welch indicated the shared position was a good idea but worried it might be difficult to direct the work of the county employee. Administrator Jester noted that WMWA partners would act as the advisory board to help direct their work and that an annual work plan would be developed and followed.

**MOTION:** Commissioner Welch moved to approve the use of up to \$5,000 per year for two years towards an educator position shared with Hennepin County. Commissioner Harwell seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

**MOTION:** Commissioner Carlson moved to table items 5B. (Consider Approval of Scope and Budget for Additional Analysis of Issues for Watershed Management Plan) and 5G (Receive Report on Salt Symposium and Awards to Minneapolis and Golden Valley) to the September BCWMC meeting. Commissioner Gwin-Lenth seconded the motion. The motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

#### **F. Review and Consider Submitting Comments on MAWD Draft Strategic Plan**

Administrator Jester reported that the Minnesota Association of Watershed Districts is seeking comments on its new draft strategic plan. Chair Cesnik indicated she would like to see more detail included in the document. Commissioner Welch, who participated on MAWD's Strategic Planning Committee, reported that there is ample time to submit comments and that the plan would be voted on at MAWD's annual meeting in December. He indicated support for the updated plan but reported that MAWD leadership is undergoing changes including the resignation of the executive director and MAWD Board chair. There was consensus that Administrator Jester should receive comments from commissioners and incorporate those with her own comments for inclusion on the September consent agenda.

### **6. COMMUNICATIONS**

#### **A. Administrative Report**

Administrator Jester reminded commissioners that a tour of the Westwood Hills Nature Center would be given immediately following this meeting. She also asked about locations for future Commission meetings, noting the Plymouth Community Center would cost about \$100/month. There was consensus to try the Council Conference Room at Golden Valley City Hall for the September meeting.

Administrator Jester noted that the Clean Water Fund grant agreement would need to be extended for the Bryn Mawr Project. That should be on the September meeting agenda.

#### **B. BCWMC Intern**

Juan Del Valle Lopez gave an overview of the feedback received so far through the public input survey. It was also noted that today is his last day with the Commission. He thanked the Commission for the opportunity to work for them and learn about local government.

**C. Chair**

No report

**D. Commissioners**

Commissioner Gwin-Lenth reported on the blue green algae bloom in Northwood Lake and the subsequent press in the local paper and heard on Minnesota Public Radio. He noted the Commission did a great job of identifying the problem and informing the city and Friends of Northwood Lake. Administrator Jester noted the city communications staff quickly wrote an informative press release.

Commissioner Welch noted the recent Minnesota Supreme Court decision regarding appointments to watershed districts does not impact the BCWMC.

**E. TAC Members**

September meeting likely to be cancelled; Alternate Commissioner Hauer to be liaison, if needed.

**F. Committees**

No reports were given.

**G. Legal Counsel**

Commission Attorney Anderson reported on a meeting with MPRB staff regarding permitting and bidding for the Main Stem Lagoon Dredging Project. He noted that bid awards are likely at the October BCWMC meeting.

**H. Engineer**

Commission Engineer Chandler reported Lagoon Dredging bid documents will be posted on September 9<sup>th</sup> and that bid documents for the Sweeney Lake alum treatment go out tomorrow. She also reported on a threatened aquatic plant species identified on Lost Lake and the upcoming 4-day dissolved oxygen monitoring in Plymouth Creek.

**7. INFORMATION ONLY (Information online only)**

- i. BCWMC Administrative Calendar
- ii. CIP Project Updates [www.bassettcreekwmo.org/projects](http://www.bassettcreekwmo.org/projects)
- iii. Grant Tracking Summary and Spreadsheet
- iv. WCA Notices – Golden Valley, Plymouth

**8. ADJOURNMENT**

The meeting adjourned at 11:15 a.m.