



## Bassett Creek Watershed Management Commission

### Minutes of Regular Meeting May 19, 2016 Golden Valley City Hall, 8:30 a.m.

#### Commissioners and Staff Present:

Crystal	Commissioner Guy Mueller, Vice Chair	Plymouth	Alternate Commissioner David Tobelmann
Golden Valley	Alternate Commissioner Jane McDonald Black	Robbinsdale	Alternate Commissioner Michael Scanlan
Medicine Lake	Commissioner Clint Carlson	St. Louis Park	Commissioner Jim de Lambert, Chair
Minneapolis	Commissioner Michael Welch	Administrator	Laura Jester
Minnetonka	Commissioner Michael Fruen	Attorney	Troy Gilchrist, Kennedy & Graven
New Hope	<i>Absent</i>	Engineer	Karen Chandler, Barr Engineering

#### *Technical Advisory Committee (TAC) Members/ Other Attendees Present:*

Derek Asche, TAC, City of Plymouth	Bob Paschke, TAC, City of New Hope
Erick Francis, TAC, City of St. Louis Park	Joe Bischoff, Wenck Associates
Jeff Oliver, TAC, City of Golden Valley	Patrick Noon, Alternate Commissioner, St. Louis Park
Richard McCoy, TAC, City of Robbinsdale	Jim Herbert, Barr Engineering
Tom Dietrich, TAC, City of Minnetonka	Susan Wiese, Resident, City of Medicine Lake
Mark Ray, TAC, City of Crystal	

### 1. CALL TO ORDER AND ROLL CALL

On Thursday, May 19, 2016, at 8:35 a.m. in the Council Conference Room at Golden Valley City Hall (7800 Golden Valley Rd.), Chair de Lambert called to order the meeting of the Bassett Creek Watershed Management Commission (BCWMC) and asked for roll call to be taken. [The cities of Minneapolis and New Hope were absent from roll call].

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

No comments.

### 3. AGENDA

**MOTION:** Alt. Commissioner McDonald Black moved to approve the agenda. Alt. Commissioner Tobelmann seconded the motion. Upon a vote, the motion carried 7-0. [The cities of Minneapolis and New Hope were absent from the vote.]

#### 4. CONSENT AGENDA

**MOTION:** Commissioner Mueller moved to approve the consent agenda. Alt. Commissioner McDonald Black seconded the motion. Upon a vote, the motion carried 7-0. [The cities of Minneapolis and New Hope were absent from the vote.]

[The following items were approved as part of the consent agenda: the April 21, 2016, Commission Meeting Minutes, the May 2016 Financial Report, the payment of invoices, agreement with Metropolitan Council for participation in Citizen Assisted Monitoring Program, accept and authorize distribution of Fiscal Year 2015 Financial Audit, and set summer Technical Advisory Committee meeting.]

The general and construction account balances reported in the May 2016 Financial Report are as follows:

Checking Account Balance	\$714,512.60
<hr/>	
TOTAL GENERAL FUND BALANCE	\$714,512.60
<hr/>	
TOTAL CASH & INVESTMENTS ON-HAND (5/11/16)	\$3,205,492.12
<hr/>	
CIP Projects Levied – Budget Remaining	(\$4,312,906.12)
<hr/>	
Closed Projects Remaining Balance	(\$1,107,414.00)
<hr/>	
2012-2015 Anticipated Tax Levy Revenue	\$10,213.74
<hr/>	
2016 Anticipated Tax Levy Revenue	\$1,222,000.00
<hr/>	
Anticipated Closed Project Balance	(\$124,799.74)
<hr/>	

#### 5. BUSINESS

[Commissioner Welch arrives.]

##### **A. Consider Approval of Recommendations from Technical Advisory Committee on Responsibilities and Funding Mechanisms for Rehabilitation and Replacement of Flood Control Project Features**

Commission Engineer Chandler provided background information on the Flood Control Project (FCP) and reported that the TAC recently developed recommended policies regarding the future funding mechanisms and responsible parties for the long term maintenance, repair, and possible replacement of project components. She reported that the FCP is a series of structures that were constructed between 1987 and 1996 (except for the tunnel which was constructed in 1979). She noted the FCP components include the Bassett Creek tunnel, control structures, and road crossings, all regularly inspected by the Commission. Engineer Chandler then walked through the recommendations from the TAC.

Commission Engineer Chandler noted (under recommendation 1), that the TAC recommends more frequent tunnel inspections. There was discussion about the frequency of the inspections and if the City of Minneapolis or the Commission would pay for additional inspections. It was noted the TAC didn't discuss funding of the inspections, which are currently a Commission expense. Administrator Jester wondered if the Commission could

negotiate with the City to fund added inspections at the point at which the additional inspection is requested or planned. After discussion, this item was sent back to the TAC and/or staff to refine.

There was consensus on the Commission to accept TAC recommendations 2 – 6 of the memo including the following: cities formally report maintenance and repair actions on FCP features; the Commission rely on inspection and maintenance program to identify when major repairs, rehabilitation, or replacement will be needed; the Commission add major FCP repair, rehabilitation, and replacement projects to the CIP (which may require a plan amendment); the Commission maintain the FCP Emergency Repair Fund and Long-Term Maintenance Fund as two separate funds; and the Commission require member cities to perform initial response to emergencies concerning FCP features.

Regarding funding of major work, there was discussion about possible grant funding and the fact that the Commission should discuss with Hennepin County staff the possibility of major rehabilitation or replacement projects being part of future CIP projects.

There was discussion on recommendation 7 regarding who will maintain FCP components at road crossings. Mr. Asche wondered if current FCP agreements between the cities would need to be revised to incorporate the recommended policy requiring cities to maintain all FCP road crossings and their conveyance structures unless the Commission directed a reconstruction of a road crossing. After discussion, the Commission directed staff to investigate the recommendation's impact on existing agreements and to consider using a subcommittee that includes the Commission's Legal Counsel, Administrator, Engineer, and Minneapolis TAC and Commission members.

There was discussion on recommendation 8 which aimed to clarify the meaning of the terms "routine" and "major" maintenance in policies 20 and 24 in the Watershed Management Plan. There was a question about whether past maintenance costs could inform future funding needs in order to plan for future costs. Engineer Chandler noted the TAC did not consider that question and agreed the spending and replacement levels of the Long Term Maintenance Fund should be analyzed. There was also concern, from Commissioner Welch, that dramatically expanding the use of the capital improvement program funds through an annual levy may become unsustainable. There were enough concerns among Commissioners about the future funding needs that staff and TAC were asked to provide further detail and bring a revised recommendation and/or more detail to a future Commission meeting.

**MOTION:** Alt. Commissioner Scanlan moved to approve recommendations 2 – 6 in the TAC memo on "Responsibilities and Funding Mechanisms for Rehabilitation and replacement of Flood Control Project Features" dated May 11, 2016. Alt. Commissioner McDonald Black seconded the motion.

Discussion: Chair de Lambert noted that consideration should be given to the impact of Atlas 14 on stormwater management and flood levels. Commissioner Welch noted that climate change resiliency can and should be studied by the Commission and Mr. Oliver noted that climate change resiliency is an optional chapter in the city's comprehensive plan. Chair de Lambert also expressed concern that future levy requests may be denied by the County.

Upon a vote the motion carried 7-1 with a nay vote from Minneapolis and all others voting aye. [City of New Hope was absent from the vote.]

[Commissioner Carlson departs.]

**B. Consider Allowing Major Maintenance of Ponds Along Trunk System to be Included in Capital Improvement Program (Winnetka Pond on North Branch as Example)**

Administrator Jester reminded the Commission that on two occasions a Crystal resident had attended a

Commission meeting and expressed concern about sedimentation in Winnetka Pond. She reported that because the CIP project slated for 2018 includes dredging another pond in Crystal, Bassett Creek Park Pond, staff wondered if it would be appropriate to add dredging Winnetka Pond (which is part of the BCWMC Trunk System) to that project. She noted that while dredging ponds along the Trunk System meets the “gatekeeper” questions for CIP projects such as 1) being on the trunk system; and 2) improving water quality of a priority waterbody, that adding Winnetka Pond to the 2018 project would set a precedent. Administrator Jester that Winnetka Pond be added to the feasibility study proposal to be submitted by the Commission Engineer (at the City of Crystal’s request) at the next meeting.

Commissioners asked about the added cost to the feasibility study. Engineer Chandler indicated it would depend on the initial sediment analyses and would be similar to the cost of the study for Bassett Creek Park Pond. Mr. Asche commented that in his experience, ponds in Plymouth Creek need dredging about every 5 years due to the amount of sediment coming from upstream.

Administrator Jester noted the proposal for the feasibility study development could include Winnetka Pond as an alternate with costs shown separately so the Commission could make a decision at that time about whether or not to study the pond along with Bassett Creek Park Pond.

**MOTION:** Alt. Commissioner Scanlan moved to include the dredging of Winnetka Pond in the feasibility study proposal for the 2018 CIP project. Commissioner Mueller seconded the motion.

Discussion: The Commission reviewed the map showing several other ponds in the Trunk System and there was discussion about possible contaminants that could be found in ponds. There was concern about expanding the CIP that may either increase the level of the levy or force the Commission to set aside other potential projects. Commission Engineer Chandler noted that it’s all about prioritization – all the projects have merit but it’s a matter of deciding where best to put funds.

Upon a vote the motion carried 6-1 with a nay vote from Minneapolis and all others voting aye. [Cities of New Hope and Medicine Lake were absent from the vote.]

[Commissioner Carlson returns.]

### **C. Set Maximum Levy Amount for 2017 Capital Improvement Projects**

Administrator Jester reviewed her recommendation to set the maximum levy for 2017 at \$1,303,600 as shown on the approved 5-year CIP list. She noted that amount includes the second portion of the Northwood Lake Improvement Project and the first half of the Main Stem Erosion Repair Project and the Plymouth Creek Restoration Project. She noted that when the Commission sets the final levy amount in September, it could be lower but not higher than the amount set today.

**MOTION:** Alt. Commissioner Scanlan moved to set the 2017 maximum levy at \$1,303,600. Alt. Commissioner Tobelmann seconded the motion. Upon a vote the motion carried 8-0. [City of New Hope was absent from the vote.]

### **D. Consider Recommendations from Budget Committee**

#### **i. 2017 Proposed Operating Budget and City Assessments**

As chair of the Budget Committee, Alt. Commissioner McDonald Black presented the proposed 2017 operating budget. She walked through several lines of the “engineering and monitoring” portion of the budget, noting that was where the proposed budget was higher than this year’s budget. She noted this included new funding for work in the area of aquatic plant management and/or aquatic invasive species and updates to the XP-SWMM model.

Alt. Commissioner McDonald Black then noted that there are several water monitoring tasks proposed for 2017 and that the Budget Committee decided to request proposals from firms in the BCWMC Engineering Pool. She noted the committee recommends using Wenck Associates to perform routine lake monitoring in 2017 and for performing effectiveness monitoring on Schaper Pond. She noted the committee recommended (and Commission Legal Counsel agreed it was not inappropriate) that the Schaper Pond effectiveness monitoring be paid with funds remaining in that CIP project budget. She also noted that the committee originally requested proposals to include a study of Sweeney Lake aeration, but another option was presented in the proposal from Wenck to study the lake for a future alum treatment.

There was some discussion about whether or not the proposal from Barr Engineering and the proposal from Wenck for lake monitoring were quoting the exact same work. Administrator Jester noted the BCWMC monitoring plan is very prescriptive and that the firms based their estimates off that plan. Mr. Bischoff with Wenck indicated the number of samples slated for collection in their proposal was the same as outlined in the monitoring plan.

Commission Engineer Herbert noted that Barr Engineering has been performing water quality monitoring for the Commission for over 40 years, that Barr understands the issues and probably allocated more time for data analysis and reporting in their proposal. He requested that the Commission reconsider using a different firm for monitoring in 2017.

Mr. Oliver noted that there was value in the institutional knowledge of the Commission Engineer and also reminded the Commission that during the Sweeney Lake TMDL development, the Commission made a commitment to study the effects of aeration on the lake. Alt. Commissioner Scanlan noted his concern about using different contractors for different tasks that could result in non-uniform data being collected. Commissioner Welch expressed concern about the possible need for more data analysis if correct/complete analyses aren't performed during the initial study. He also expressed concern about using CIP funds to study Schaper Pond. He noted this probably wasn't an appropriate use of CIP funds; Administrator Jester agreed it was a "stretch" even though the Commission's Closed Project Account Policy language seemed to allow it.

There was further discussion about the use of firms other than the Commission Engineer including comments that that other qualified firms should be able to perform these functions, that other partners including Three Rivers Park District and the Minneapolis Park and Rec Board do some monitoring for the Commission, and the fact that professional services are not part of the "best value purchasing" law.

MOTION: Commissioner Welch moved to approve a proposed operating budget of \$645,600 plus an additional \$32,000 in the water quality monitoring line item for a total proposed budget of \$677,600 and to submit the proposed budget to cities for comment. Alt. Commissioner Scanlan seconded the motion.

Discussion: It was noted that the original committee-recommended budget included a 2% increase in city assessments. There was discussion about whether cities are likely to support a 4% increase in city assessments (which would be the approximate increase with the addition of \$32,000 to the operating budget.) TAC members and Commissioners with some cities including Golden Valley, New Hope, and Minneapolis indicated general support of a 4% increase. TAC members and Commissioners from other cities expressed concern about a 4% increase but acknowledged a 2% increase was appropriate.

Upon a vote the motion carried 5-3 with Minneapolis, Golden Valley, Medicine Lake, Robbinsdale, and Minnetonka voting aye and St. Louis Park, Crystal and Plymouth voting nay. [City of New Hope was absent from the vote.]

## ii. 2017 Proposed Water Monitoring Activities and Consultants

There was further discussion about the use of different firms for various monitoring tasks in 2017. Chair de

Lambert indicated that the use of other vendors was not without precedent, noting that Wenck Associates performs the field work for the Commission on the Bassett Creek WOMP station. It was also noted that the routine lake monitoring is straightforward work.

MOTION: Commissioner Welch moved to approve the Budget Committee's recommendation on the 2017 water monitoring activities with the exception of using operating budget rather than CIP funds for the Schaper Pond effectiveness monitoring. Commissioner Mueller seconded the motion.

Discussion: There was discussion about the uncertainty that remains regarding what kind of study to perform on Sweeney Lake. There was consensus that the TAC should consider the 2017 water monitoring projects, budgets, and consultants at its next meeting on June 28<sup>th</sup> and bring a recommendation to the Commission.

Commissioner Welch withdrew his motion. Commissioner Mueller concurred. Motion withdrawn.

#### **E. Consider Acceptance of Restoration Plan for Unpermitted Wetland Fill at 1143 South Shore Drive, Medicine Lake**

Commission Engineer Chandler briefly described the situation with unpermitted wetland fill on a property in the City of Medicine Lake. She reminded Commissioners that the BCWMC is the Local Government Unit (LGU) for administering the Wetland Conservation Act in Medicine Lake. She reported that the landowner is cooperating and agreed to restore the wetland area. She recommended conditional approval of the wetland restoration plan as presented. Commissioner Carlson further described the situation at the property and thanked Mr. Asche for his help with the logistics of determining a course of action, initially. There was a question about which entity should collect funds to cover WCA administration costs from the landowner. Administrator Jester noted she was planning to invoice the City of Medicine Lake for the Commission's WCA work. Commission Legal Counsel and Commissioner Welch agreed that the LGU (the BCWMC in this case) should collect the funds directly from the landowner.

MOTION: Commissioner Welch moved to require the landowner to apply for a wetland replacement plan and to comply with all associated processes including filing a declaration of restrictions and covenants and to cover costs as allowed by the Wetland Conservation Act. Alt. Commissioner Scanlan seconded the motion.

Discussion: Engineer Chandler noted that actual enforcement action was not being sought because the landowner was cooperating, hired a professional wetland firm and provided a wetland delineation and restoration plan. Commissioner Welch indicated that the proper legal framework should be used. There was brief discussion on how the Commission could recoup WCA-related expenses from the landowner.

Upon a vote the motion passed 7-0 with Robbinsdale abstaining from the vote. [City of New Hope was absent from the vote.]

#### **F. Receive Update on Plans for Watershed Tour**

Administrator Jester reported that the tour, which is scheduled for the afternoon of June 21<sup>st</sup>, will leave from Golden Valley City Hall. She noted that the tour is likely to include the following stops: current Main Stem Restoration Project in Golden Valley, the Fruen Mill site, 2017 Plymouth Creek Restoration Project area, Northwood Lake Improvement Project site, and a demonstration of the macroinvertebrate and habitat monitoring. She noted invitations will go out in the next week.

## **7. COMMUNICATIONS**

### **A. Administrator's Report**

Administrator Jester reported that the APM/AIS Committee will hold their first meeting on June 28<sup>th</sup> at 8:30

a.m. and that the TAC will also meet on June 28<sup>th</sup>, at 1:30 p.m. – both meetings at Golden Valley City Hall. She also reported that the BWSR was asked by Met Council staff to include the BCWMC as one of two case studies to be highlighted in the Nonpoint Priority Funding Plan. Commissioners asked to see the final product once it’s available.

**B. Chair** – No comments

**C. Commissioners** - No comments

**D. TAC Members**

- i. **Report on May 5<sup>th</sup> TAC Meeting** – Mr. Francis reported that the TAC met on May 5<sup>th</sup> and received presentations from staff with the Ramsey Washington Metro Watershed District and the city of Maplewood on how MIDS is working for linear projects in their area. He noted the TAC will continue to discuss how to effectively implement MIDS in linear projects at future meetings. Mr. Francis also reported that the TAC received an update from the Commission Engineer on the P8 model and how model results can be used to identify pollutant loading hotspots within the watershed and how the model is being updated each year.

**E. Committees** - No comments

**F. Legal Counsel** – No comments

**G. Engineer**

- i. **Update on Blue Line LRT** – Engineer Chandler reported that she and the Administrator and staff with Golden Valley and Minneapolis recently attended a meeting to receive updates on the Blue Line LRT project including potential impacts, mitigation, stormwater management features, and places where a joint project might work.
- ii. **Update on Culvert Replacement Project in City of Medicine Lake** - Engineer Chandler reported on a possible project in the City of Medicine Lake to replace culverts at the end of several driveways. She noted the project which should come through the Commission for review due to working in the floodplain.

Engineer Chandler also reported that she and Commission Engineer Koehler presented information on the XP-SWMM model at the AMLAC meeting. She noted the good turnout and thoughtful questions.

**7. INFORMATION ONLY (Available at <http://www.bassettcreekwmo.org/document/meeting-materials-minu/meeting-materials/bcwmc-monthly-meeting> )**

- A. CIP Project Updates: Now Available Online <http://www.bassettcreekwmo.org/projects>**
- B. Grant Tracking Summary and Spreadsheet**
- C. Grant Application to Metropolitan Council for Metro Bloom's Harrison Neighborhood Project**
- D. WCA Notice of Decision, Plymouth**
- E. Mississippi River Forum: Environmental Justice in MN**  
<https://www.nps.gov/miss/learn/nature/riverforum.htm>

**8. ADJOURNMENT** - Chair de Lambert adjourned the meeting at 11:43 a.m.

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date