

Bassett Creek Watershed Management Commission

Minutes of the Meeting of August 19, 2010

1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:35 a.m., Thursday, August 19, 2010, at Golden Valley City Hall by Chair Loomis. Ms. Herbert conducted roll call.

Roll Call

<i>Crystal</i>	Commissioner Pauline Langsdorf, Secretary	<i>Administrator</i>	Geoff Nash
<i>Golden Valley</i>	Commissioner Linda Loomis, Chair	<i>Counsel</i>	Charlie LeFevere
<i>Medicine Lake</i>	Commissioner Ted Hoshal	<i>Engineer</i>	Len Kremer
<i>Minneapolis</i>	Alternate Commissioner Lisa Goddard	<i>Recorder</i>	Amy Herbert
<i>Minnetonka</i>	Commissioner Bonnie Harper-Lore		
<i>New Hope</i>	Alternate Commissioner Al Sarvi		
<i>Plymouth</i>	Commissioner Ginny Black, Vice Chair		
<i>Robbinsdale</i>	Commissioner Wayne Sicora		
<i>St. Louis Park</i>	Commissioner Jim deLambert		

Arrived after roll call: New Hope Commissioner John Elder

Also present: Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park
Pat Byrne, BCWMC Technical Advisory Committee, City of Minneapolis
Jeannine Clancy, BCWMC Technical Advisory Committee, City of Golden Valley
Kari Geurts, Golden Valley Resident
Dave Hanson, Alternate Commissioner, City of Golden Valley
Tom Mathisen, BCWMC Technical Advisory Committee, City of Crystal
Justin Riss, Alternate Commissioner, City of St. Louis Park
Kevin Springob, Plymouth
Stu Stockhaus, Alternate Commissioner, City of Crystal
Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka
Liz Thornton, Alternate Commissioner, City of Plymouth
Jeff Weiss, Barr Engineering Company

2. Approval of Agenda and Consent Agenda

Commissioner Black moved to approve the Agenda and Consent Agenda. Alternate Commissioner Goddard seconded the motion. The motion carried unanimously with nine votes in favor.

3. Citizen Input on Non-Agenda Items

Ms. Kari Geurts, on behalf of the Caroline's Kids Foundation and the Hidden Lakes Neighborhood in Golden Valley, asked the Commission to entertain a motion to suspend the use of aerators on Sweeney Lake until the TMDL study recommendations have been finalized. Ms. Geurts explained that the rationale for the request is lack of evidence or proof that the aerators are the best mitigating process to address the water quality issues on the lake and that those resources being used for the aerators could be used for an alternate solution.

Chair Loomis said that the Commission can consider the request but typically the Commission would add the issue to a future agenda for any action. She pointed out that there are no Commission resources being used for the aerators and added that the aerators are being handled privately. Chair Loomis explained

that if the use of the aerators was suspended it would not mean that there would be BCWMC money for other action. Commissioner Black commented that the BCWMC likely doesn't have authority over the aerators and that instead the authorizing body is likely the Minnesota Department of Natural Resources (DNR).

Mr. Kremer confirmed that aeration systems are regulated by the DNR. Chair Loomis stated that the Commission would not be able to take action over the use of the aerators. Mr. Kremer commented that the Commission would not be able to take action but there would be a possibility of an MS4 taking action in the future since testing of the lake will be required in the future, such as for the 2011 MS4 permit. He said that testing can't occur when the aerators are operating.

Ms. Loomis stated that when the Commission adds the topic to a future meeting agenda the Commission will notify Ms. Geurts and the Caroline's Kids Foundation and a contact for the Hidden Lakes neighborhood.

4. Administration

- A. Presentation of the July 15, 2010, BCWMC meeting minutes. Approved under the Consent Agenda.
- B. Presentation of the Financial Statement. Approved under the Consent Agenda.

The general and construction account balances as reported in the August 2010 Financial Report:

Checking Account Balance	552,788.44
TOTAL GENERAL FUND BALANCE	552,788.44
Construction Account Cash Balance	2,971,562.95
Investment due 10/18/2010	533,957.50
TOTAL CONSTRUCTION ACCOUNT BALANCE	3,505,520.45
-Less: Reserved for CIP projects	2,712,691.88
Construction cash/ investments available for projects	792,828.57

- C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services through June 30, 2010 - invoice for the amount of \$1,751.22.
- ii. Barr Engineering Company – Engineering Services through July 30, 2010 - invoice for the amount of \$57,731.27.
- iii. Watershed Consulting, LLC – Administrator Services through July 31, 2010 – invoice for the amount of \$2,627.09.
- iv. Amy Herbert – July Administrative Services - invoice for the amount of \$1,775.38.
- v. D'amico Catering – August 2010 meeting catering – invoice for the amount of \$384.74.
- vi. Shingle Creek – Joint Sponsorship of Metro Blooms Rain Garden Workshops – invoice for the amount of \$2,000.00.

Commissioner Black requested a separate breakout of Barr Engineering's cost per feasibility study and said the information can be e-mailed to her. Mr. Kremer said he can get that information to the Commission. Commissioner Black moved to approve payment of the invoices. Commissioner Hoshal seconded the motion. The motion carried unanimously.

5. Public Hearing

Chair Loomis explained that today's public hearing was being held in order to receive public testimony and comments of member cities regarding the proposed major plan amendment to the BCWMC's *Watershed Management Plan*, which comprised the following proposed Capital Improvement (CIP) projects:

- Restore the Main Stem of Bassett Creek in the City of Golden Valley from Wisconsin Avenue to Rhode Island Avenue and from Duluth Street to the Golden Valley – Crystal boundary.
- Restore the channel of the North Branch of Bassett Creek in the City of Crystal from 32nd Avenue North to Douglas Drive North.

[Commissioner Elder arrived].

Mr. Jeff Weiss gave a presentation that summarized the draft feasibility report for the Main Stem restoration project. He noted that the project's cost estimate of \$610,800 as documented in the feasibility study, is lower than the estimate in the current CIP because the project scope was revised to not include the restoration of reach two of the Main Stem. This reach was not included because the City communicated that it is not ready to implement the project on that reach of the Creek. He added that the cost estimate includes design and construction costs and factors in costs related to some right-of-way acquisition from commercial properties, costs related to testing of excavated materials and a conservative estimate of 50% of excavated materials needing to be handled as hazardous materials, costs related to an archeological investigation, and the identification of four additional restoration sites along the Main Stem.

Mr. Weiss stated that he recommends that the Commission take action to move the project forward and to modify the Commission's CIP to reflect the change in the project cost estimate.

Commissioner Black noted that there were discrepancies between the text and tables one and two regarding the tree loss number. She commented that the text of the report and the appendix do not address whether there would be any wetland mitigation necessary and if there would be a project cost associated with mitigation. Mr. Kremer responded that for both projects being discussed today the Engineer anticipates that the stream restoration will self mitigate the wetland loss and that there will be no mitigation costs. He said that the information can be included in the report. Commissioner Black asked if the City agrees with the additional sites included in the project. Ms. Clancy replied that the City has not had time to review the information in detail and would like the opportunity to do so. Commissioner Black added that the text of the report doesn't delineate which sites are the four new ones and she would like the report to include that information.

Commissioner Black commented on the report's assumption that 50% of the soils would be found to be contaminated and asked what contaminates the soils. Mr. Kremer responded that the assumption was based on the history of projects in Golden Valley and what the City has encountered in the past regarding the amount of contaminated soils it has had to deal with in projects such as street reconstruction and pond excavation. He said the typical contamination found in soil samples has been PAH compounds. Ms. Clancy asked how many soil samples were budgeted for the project. Mr. Weiss responded that the cost did not assume a certain number of samples. Ms. Clancy asked that the Engineer consider the number of sites that should be sampled.

Commissioner Hoshal asked about the life expectancy of the restoration projects. Mr. Weiss responded that it should be 25 years or more with the use of the rock vanes and the rip rap and that the biologists last five years and by then vegetation should be established. Commissioner deLambert remarked that it would be helpful if the report included information explaining the yardage of contaminated soil that would need to be disposed of as a hazardous material. Mr. Kremer stated that Barr Engineering can add the requested information to the feasibility study report prior to the BCWMC's September 23rd public hearing on the projects.

Mr. LeFevere remarked that in the past for CIP projects the Commission has entered into a contract with the City, which then acts as the implementing agency on the project. He added that the City, as part of its contract, does the design and prepares the plans and specs. Mr. LeFevere said that if the Commission wants to take upon itself the responsibility for creating a design at the level of detail being discussed by the Commission, which has typically been the responsibility of the cities, then the Commission should clarify its role right away. Mr. Kremer said that as Commission Engineer he would not recommend the Commission take on that role and would instead recommend that the Commission follow the process it has followed in the past and designate a City to complete the project. Mr. LeFevere commented that the Commission doesn't typically see the final design, specs, and bidding documents.

Commissioner Black requested that clarification on the contaminated soils be added to the report and to add information on whether the costs for the cultural and historical investigation are included in the cost estimate and that more information be added about the wetland mitigation and the assumptions made regarding those costs. Chair Loomis commented that there is a reference in the report to the North Branch and asked that the data and labels be reviewed for accuracy.

Chair Loomis opened the public hearing and asked for comments. Chair Loomis hearing no comments closed the public hearing.

Chair Loomis raised the issue of City of Golden Valley policy issues and Commission policy issues regarding inequities of the Commission paying the cost for Creek restoration when some cities have cost share programs and some don't. She said there is also a potential issue given that some residents have participated in channel restoration through the cost share program in Golden Valley and now the Commission is considering restoring the creek without resident participation in the cost. Chair Loomis also raised the issue of maintenance of the restoration projects. She said she doesn't have a problem with having the projects in the BCWMC's CIP but she isn't sure that the City of Golden Valley is willing to move forward with the projects without City Council discussion of the policy issues. Commissioner Black remarked that she is willing to put the projects on the Commission's CIP and to try to have the City and the Commission work out the policy issues.

Commissioner Black moved to approve this project as part of the proposed major plan amendment and to forward the project as part of the amendment to the Minnesota Board of Water and Soil Resources (BWSR) for final approval. Alternate Commissioner Goddard seconded the motion. The motion carried unanimously with nine votes in favor.

[Commissioner Elder replaced Alternate Commissioner Sarvi as the voting member for the City of New Hope for the remainder of the meeting].

Mr. Weiss gave a presentation that summarized the North Branch restoration project. He reported that the cost estimate is \$896,900, which is larger than the estimate in the BCWMC's current CIP for the reasons that the new estimate includes four additional sites compared to the number of sites included in the City's streambank inventory and that there is a contingency built in to ensure that there is enough money to complete the project. He said that this project also assumed that 50% of the soils would have to be disposed of off site. Mr. Weiss explained that the cost estimate includes construction easement costs of \$20,000, or \$1,000 per site. He said that Barr Engineering recommends that the Commission take action to move forward with the project and to revise the Commission's CIP to reflect the

increased cost estimate.

Mr. Mathisen commented that the assumption that 50% of the soils would be contaminated and would have to be disposed of off site seems very conservative and asked that Barr Engineering take a hard look to see if that assumption could be reduced to 30%. Mr. Kremer said that 50% is based on input from the City of Golden Valley and therefore he thinks that 50% is a good assumption.

Commissioner Black asked the Commission Engineer to provide for the September meeting information on how much money the BCWMC will be receiving in grant funds and how much money is in the Commission's CIP Reserve since these projects will be partially funded by the reserve and grant funds.

Commissioner Hoshal commented on a detail on page 14 of the report that discusses the Local Governmental Unit (LGU) of the project. He stated that the LGU should be identified as the City of Crystal. He also made a recommendation that the Commission budget 2% of a project's cost to educate the public on how to manage property in riparian zones. Chair Loomis remarked that a problem the City of Golden Valley has encountered with education programs is that property owners move. Commissioner Black requested that the feasibility report be updated to reflect consistency with the tree loss data, to include more details about the assumptions about wetland mitigation, and to identify the four additional sites and all the costs included in the cost estimate. Commissioner Hoshal commented that he would like to see the report discuss the project's tree replacement program. Mr. Weiss remarked that he assumed a two-to-one tree replacement for the project.

Chair Loomis opened the public hearing and asked for comments. Hearing no comments, Chair Loomis closed the public hearing.

Commissioner deLambert moved to approve the project as part of the proposed major plan amendment and to add the project to the Commission's CIP and to forward the project as part of the amendment to BWSR for final approval. Commissioner Elder seconded the motion. The motion carried unanimously with nine votes in favor.

6. New Business

No New Business

7. Old Business

- A. **Update on 2011 Clean Water Grant Fund Application.** Mr. Kremer reported that the Commission Engineer investigated whether BWSR awarded points to grant applications based on the percentage of local participation in the project cost and found out that no points are awarded on that basis. He said his recommendation is that the Commission apply for no more than one-third of the projects' costs based on the total amount of funds available, which is 2.7 million for the entire state of Minnesota. He reminded the Commission that the grant application deadline is September 15.

Mr. Kremer stated that at the July BCWMC meeting the Commission Engineer recommended that the Commission not apply for grant funding for the Wirth Lake outlet structure project because at that time it was uncertain whether the TMDL implementation plan would be approved in time to be eligible for grant funding. Mr. Kremer said he has spoken with Ms. Brooke Asleson of the MPCA who said the implementation plan would likely be approved in time for the project to be eligible for the grant. Mr. Kremer recommended that the BCWMC include the Wirth project in the grant application in addition to the Main Stem and North Branch projects recently discussed in the public hearing. Commissioner Black moved to approve staff to apply for grant

funding for the Wirth Lake outlet structure project in addition to the two restoration projects. Commissioner Harper-Lore seconded the motion. The motion carried unanimously with nine votes in favor.

- B. **Medicine Lake Outlet.** Mr. Kremer reported that he attended the August 2nd Medicine Lake City Council meeting to discuss the City's request that the Commission investigate whether the Medicine Lake Dam releases water too quickly. Mr. Kremer said that the concerns expressed included that some people were having a hard time accessing parts of the lake requiring some residents to build out their docks to reach deeper water. Mr. Kremer said that the structure was designed and built so that for all flows less than the ten-year level the water levels are about the same as prior to the construction, meaning that modification has not affected water flow. Mr. Kremer explained that the issues with modifying the outlet structure are detailed in the memo in the meeting packet. He said that one of the most significant problems with modifying the ten-year flood level is the easement issue and that action to modify the level would require the securing of an easement from each property owner.

He said the Commission Engineer's recommendation is for the Commission to forward the issue to the TAC to review and develop recommended strategies responding to the technical issues.

Commissioner Elder reported that he also attended the council meeting and that there was a strong push from those people in attendance that the Commission dredge Medicine Lake. Mr. Kremer commented that the Commission did investigate adding to its CIP a project to dredge Medicine Lake that would improve water quality and provide better access to the lake. He said that the Commission asked the TAC to get more information from a contractor and ultimately the TAC recommended that the project not be considered by the Commission. Commissioner Black commented that the data clearly indicates that the times in which the residents are experiencing problems with the water levels are the times of drought and that she would be hesitant to change the outlet due to the potential issues for flooding. Chair Loomis said she feels it would be irresponsible for the Commission to raise the flood level of the lake.

Commissioner Harper-Lore moved to not forward the issue to the TAC. Commissioner Black seconded the motion and added the friendly amendment for the Administrator to draft a response letter to the City of Medicine Lake to communicate the Commission's findings. The motion carries with eight votes in favor and one vote against [City of Medicine Lake].

- C. **Sweeney Lake Outlet.** Mr. Kremer reported that at the July meeting the Commission requested additional information about right of way for the structure and Commission responsibility for replacement of the structure. He indicated that the City of Golden Valley owns the property that the current structure is on and the area is big enough to accommodate the new structure that would be built and no additional easements would be needed. He stated that the detailed information regarding Commission responsibility for the structure was in the memo from the Engineer included in the meeting packet. He also reported that the Commission Engineer contacted the DNR to find out what it would want in a letter requesting funding for the project from the Dam Safety Program. Commissioner Black moved to approve staff's recommendation that the TAC review the project, its prioritization, and project schedule as part of the annual CIP review and to authorize staff to prepare a letter to the Minnesota DNR requesting funding assistance from the Minnesota Dam Safety Program for construction of a new Sweeney Lake outlet structure. Commissioner Langsdorf seconded the motion. The motion carried unanimously with nine votes in favor.
- D. **E. Coli Monitoring.** Mr. Kremer stated that the Commission received a memo in the meeting packet summarizing the E. coli monitoring done cooperatively with the MPCA from 2008 to June 2010. He said there were six sites sampled along Bassett Creek, including four sites on the Main

Stem, one on Plymouth Creek, and one on the North Branch. He said the data will be used by the MPCA in its Mississippi River E. coli study currently underway, which was the MPCA's purpose for the joint data collection.

E. TMDL Updates:

- i. **Wirth Lake TMDL.** Administrator Nash remarked that earlier in the meeting the BCWMC discussed adding the Wirth Lake outlet structure to the grant application and that there was no other news to report on this TMDL.
- ii. **Sweeney Lake TMDL.** Administrator Nash reported that the MPCA would like more public involvement in the technical stakeholder meeting but the meeting hasn't been scheduled yet. Chair Loomis said she didn't understand the change in the purpose of the meeting from being a technical stakeholder meeting for the MS4s to discuss the MPCA's numbers for the external and internal load reductions to being a public meeting. Administrator Nash stated that he has sent an agenda to the MPCA regarding what the Commission wants to get out of the meeting and structured the agenda so it would be light on introductory information and would focus on the wasteload allocation issue and the differences between the MPCA's and the BCWMC's load allocations and would also focus on implementation issues.

F. Discuss Commissioners' Roles in Watershed Management Plan Revision. Item tabled until the September BCWMC meeting since no immediate action was necessary and to allow for the participation of Commissioner Welch.

G. Set Agenda for the September BCWMC TAC Meeting. Administrator Nash reported the TAC issues include the Sweeney Lake outlet for the TAC's review when it reviews the CIP and a discussion of standardization of monitoring methods and procedures. Chair Loomis said the TAC had also created a list of issues from the Next Generation Plan process and that the TAC had planned to tackle the issues one or two at a time at each meeting. Administrator Nash remarked that he would start that process by getting a memo out to the cities on the issues. Commissioner Elder said that Mr. Jason Quisberg or Mr. Guy Johnson would be bringing an issue that the City of New Hope would like the TAC to discuss. Chair Loomis asked Administrator Nash to make sure the City of New Hope gets the issue on the TAC meeting agenda.

H. Education Committee Report. Commissioner Langsdorf reported that Commissioner Harper-Lore is heading up the Bassett Creek / BCWMC history project. Commissioner Harper-Lore reported that the Committee met with Deacon Warner and discussed his project and the Commission's project. She said that a history project subcommittee has been formed and will be co-chaired by herself and Commissioner Hoshal and also includes Commissioner Langsdorf, Alternate Commissioners Stockhaus and Thornton and Education Committee members Mary Karius and Margie Virgoren.

Commissioner Black reported that the Commission received an education grant application for the creation of a rain garden on private, residential property. The Commission discussed the issue of funding projects on private property and discussed the BCWMC's education grant criteria. Commissioner Black moved to deny the application for grant funding due. Commissioner Elder seconded the motion. The motion carried with eight votes in favor and one vote against [City of Medicine Lake]. Alternate Commissioner Goddard asked if the Commission will change its criteria so that it is clear that these types of projects are not eligible for grant funding. Commissioner Black responded yes.

I. Merging the CIP and the TMDL Project Lists. Administrator Nash reported that there is a memo on the issue in the meeting packet and that the item should be deferred until after the TAC has a

chance to take it up.

- J. Hennepin County's Consideration of Alternate Funding Methods for the CIP.** Administrator Nash reported that the Commission received a memo dated August 4th signed by Carl Michaud, Director of the Hennepin County Department of Environmental Services. He said that the issue is that some of the Hennepin County commissioners are sensitive to raising taxes for somebody else and asked County Staff to look at alternate funding mechanisms of Watershed Management Organizations. Administrator Nash said the memo describes some alternatives that could be investigated further. Administrator Nash explained that Joel Settles of Hennepin County would like feedback from the Commission. Mr. LeFevere commented that if the County is pushing restructuring and if the Commission is interested in restructuring, then now may be the time for the Commission to pursue the issue. Commissioner Elder stated that he would be willing to sit down with County Commissioner Opat to discuss the BCWMC with him.

Commissioner Black commented that she is open to a discussion of a potential change in structure and she would want the Commission to be part of that discussion. She suggested that the Commission communicate to the County that the BCWMC appreciates the memo and would be interested in talking further and would be willing to participate in a County-led forum of Watershed Management Organizations (WMOs) to discuss the issue. Commissioner Hoshal suggested that the BCWMC contact the Minnesota Association of Watershed Districts (MAWD) and the League of Minnesota Cities to see if they have positions on the issue. Commissioner Elder asked if the issue has to be handled right away or if the Commission could take action after the election season.

Chair Loomis recommended that the BCWMC respond to the County stating that the BCWMC appreciates the memo and would be willing to discuss the ideas further and would be willing to participate in a joint discussion with other WMOs. Mr. LeFevere stated that it would be nice for the Commission to have a one-page working paper on the issue for commissioners to use in communication with their city councils. Chair Loomis directed Administrator Nash to put together the working memo and the letter to the County.

7. Communications

- A. Chair:**
- i. Chair Loomis reported that there was an article in the Pioneer Press recently about what Ramsey Conservation District is doing with a couple of lakes and that she would hand around copies.**
- B. Administrator:** Administrator Nash reviewed his Administrator's Report with the Commission
- C. Commissioners:**
- i. Commissioner Black stated that Alternate Commissioner Hanson did not receive a response to his comments on the Sweeney Lake TMDL and would like a copy of how the comments were responded to. Chair Loomis said the Commission has authorized that the draft Sweeney Lake TMDL go to the MPCA and that the comments can be addressed during the public comment period. Commissioner Black requested that the Commission send a letter to Alternate Commissioner Hanson.**
 - ii. Commissioner Hoshal reported that he was appointed as the BCWMC Commissioner for Medicine Lake on August 2nd.**

- iii. Commissioner Langsdorf announced that the next Education Committee meeting will be held on September 10th at 9:00 a.m. at Plymouth City Hall and the next WMWA meeting will be held on September 14th at 8:30 a.m. in Plymouth City Hall.
- iv. Commissioner Langsdorf stated that she will forward a brochure to Ms. Herbert about program for Environmental Education for Urban Youth through a grant received by Hennepin County Environmental Services. She said that a number of schools in the watershed would be able to take part and she will ask Ms. Herbert to forward the information on to the Commission.
- v. Commissioner Langsdorf discussed the upcoming training program by the Freshwater Society and the Friends of the Minnesota Valley regarding organizing clean ups for water quality and said the Education Committee would consider adding next year as a project.
- vi. Alternate Commissioner Thornton announced that Ginny Black was recently given an award by the National Environmental Hall of Fame.
- vii. Alternate Commissioner Goddard reported on behalf of Commissioner Welch that a body had been found in the creek.

D. Committees: No communications

E. Counsel: No communications

F. Engineer:

- i. Mr. Kremer reported that the Commission was sent a copy of BWSR's comments on the April 26, 2010, major plan amendment and that the comments were minor and that BWSR will be considering the amendment request in September.
- ii. Mr. Kremer reported that the City of Minneapolis sent the BCWMC a request for comments on its comprehensive plan. He recommended that the Commission authorize its Administrator to send the Commission's standard letter to the City of Minneapolis. Chair Loomis moved to direct staff to send the letter. Alternate Commissioner Goddard seconded the motion. The motion carried unanimously with nine votes in favor.

9. Adjournment

Chair Loomis adjourned the meeting at 2:50 p.m.

Linda Loomis, Chair

Date

Amy Herbert, Recorder

Date

Pauline Langsdorf, Secretary

Date