



Bassett Creek Watershed Management Commission

Minutes of Regular Meeting

Thursday, May 17, 2022

8:30 a.m.

Brookview, Golden Valley, Bassett Creek North Room

1. CALL TO ORDER and ROLL CALL

On Thursday, May 17, 2022 at 8:31 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	Dave Anderson	Joan Hauer	Mark Ray
Golden Valley	Stacy Harwell	Jane McDonald Black	Eric Eckman
Medicine Lake	<i>Absent</i>	Shaun Kennedy	<i>Absent</i>
Minneapolis	Michael Welch	Jodi Polzin	Katie Kowalczyk
Minnetonka	<i>Vacant Position</i>	<i>Vacant Position</i>	Leslie Yetka
New Hope	<i>Absent</i>	Jennifer Leonardson	Nick Macklem
Plymouth	Catherine Cesnik	Monika Vadali	Ben Scharenbroich
Robbinsdale	<i>Absent</i>	<i>Vacant Position</i>	Mike Sorensen
St. Louis Park	<i>Vacant Position</i>	<i>Absent</i>	Erick Francis
Administrator	Laura Jester, Keystone Waters		
Engineers	Karen Chandler and Katie Turpin-Nagel, Barr Engineering		
Recording Secretary	<i>Absent</i>		
Legal Counsel	Dave Anderson, Kennedy & Graven		
Presenters/ Guests/Public	John Elholm, City of Crystal		

Introductions were made around the room.

2. PUBLIC FORUM ON NON-AGENDA ITEMS

No comments from the public were made.

3. APPROVAL OF AGENDA

MOTION: Commissioner Welch moved to approve the agenda. Alternate Commissioner Leonardson seconded the motion. The motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

4. CONSENT AGENDA

The consent agenda was amended to remove items 4G, 4Cix, and 4E. The following items were approved as part of the consent agenda.

- Approval of April 21, 2022 Meeting Minutes
- Acceptance of May Financial Report
- Approval of Payment of Invoices
 - i. Keystone Waters, LLC – April 2022 Administrative Services
 - ii. Keystone Waters, LLC – April 2022 Meeting Expenses
 - iii. Barr Engineering – April 2022 Engineering Services
 - iv. Kennedy & Graven – March 2022 Legal Services
 - v. Redpath – April 2022 Accounting Services
 - vi. Jan Voit – April 2022 Administrative Services
 - vii. Stantec – WOMP Services
 - viii. Three-One-Six Bar and Grill – Meeting Catering
- Approval of Resolution 22-06 to Not Waive Monetary Limits on Municipal Tort Liability
- Approval of Agreement with Three Rivers Park District for Medicine Lake Collaboration
- Conditional Approval of Meadowbrook Elementary School Parking Lot Improvements, Golden Valley

MOTION: Commissioner Welch moved to approve the consent agenda as amended. Commissioner Cesnik seconded the motion. The motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

5. BUSINESS

Moved off consent: 4Cix. Metro Conservation Districts – Children's Water Festival Sponsorship

Commissioner Welch requested discussion of this item to provide information on the record regarding the goals and benefits of the Children's Water Festival to the BCWMC. Administrator Jester explained that the event is sponsored by the Metro Soil and Water Conservation Districts. The event provides free education to 4th grade students throughout the metro. Each year for the past nine years, the Commission has contributed \$350 to this event. It is a benefit to the Commission in the goal of education.

MOTION: Commissioner Welch moved to approve \$350 for the Metro Conservation Districts Children's Water Festival. Commissioner Anderson seconded the motion. The motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

Moved off consent: 4E. Approval of BCWMC Annual Report

Commissioner Welch stated that this report is extensive and thorough. Other watershed reports are five or six pages in length. Administrator Jester agreed that it is extensive. It is easier to cut and paste information into the existing format than to revamp and make it more concise. The time commitment remains the same each year.

MOTION: Commissioner Welch moved to accept the BCWMC Annual Report and submit it to the Board of Water and Soil Resources (BWSR). Commissioner Harwell seconded the motion. Upon a roll call vote, the motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

Moved off consent: 4G. Approval of Contract with Met Council for Watershed Outlet Monitoring Program (WOMP)

Administrator Jester explained the minor changes made to the contract. She is waiting to hear back from the Met Council regarding these changes.

MOTION: Commissioner Welch made a motion to authorize Chair Cesnik to execute the contract with Met Council for the Watershed Outlet Monitoring Program as amended. Alternate Commissioner Kennedy seconded the motion. The motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

A. Consider Approval of 90% Design Plans for Medley Park Stormwater Treatment Facility (ML-12)

Katie Turpin-Nagel With Barr Engineering explained that the Commission ordered this project and entered into an agreement with the City of Golden Valley to design and construct the project for stormwater management, water quality treatment, and habitat improvement. The 50% design plans were approved in February.

Primary benefits of this project include water quality improvement for Medicine Lake and flood mitigation. There has been stormwater damage to the park and the adjacent residential area in the past due to flooding. Secondary benefits include wildlife habitat restoration, interactive park features, and overlook areas. There are three funding sources: \$1.2M from BCWMC Capital Improvement Project (CIP) funds, \$500,000 from the City of Golden Valley, and \$300,000 from a Board of Water and Soil Resources (BWSR) Clean Water Fund grant. The BCWMC CIP funds are allocated over 2022 and 2023.

The timeline was explained. Following this meeting, a second public engagement event will be held in an online format. Comments received will be incorporated into the final design. Bidding for construction will be done in the summer, with construction anticipated this fall or early winter.

Engineer Turpin-Nagel described the 90% design elements including expansion of Medley Pond, creation of new ponds with wetland fringe, and realignment of an existing stream. The estimated project cost is \$1.95M for construction and engineering.

Engineer Turpin-Nagel explained changes since 50% design, including two additional ADA benches and pads because of concerns raised during the open house and moving from electrical to solar lighting. One additional tree needs to be removed, totaling 10 trees. The trees will be replaced at a 1:1 ratio. A detailed restoration plan has been completed, which includes stream channel restoration, granite riprap, native upland plants, shrubs, and pollinator plants. Hydrologic models are used to determine peak flood elevations and how long plants will be underwater, as well as frequency of flooding. This information is used to determine seeding types.

The metrics of the 50% design to the 90% design were compared. The numbers for 90% matched or improved upon the 50% figures. The flood mitigation volume remains the same, as does the reduction in flood elevation. The same number of at-risk structures are being removed. The phosphorus removal remains consistent, as do the restored wetland and upland habitat areas. Permitting and public engagement were also described.

The cost per pound of phosphorus removal was described. The anticipated life of the project is considered in the removal estimate. The annualized cost is considered to be 30 years and is based on the cost specifically for features that improve water quality.

Administrator Jester clarified that the costs for new and improved park elements will be paid by the city. Discussion was held regarding the possibility of costs for existing trails and lighting that are impacted by project construction being paid with CIP funds. The feasibility study includes information on which features can be paid with CIP funds. In the contract administration, the invoices will be reviewed before payment is made. It was suggested to direct Commission Attorney Anderson to review the agreement to make sure reimbursements are appropriate.

Engineer Turpin-Nagel confirmed that there are no wetland impacts and that stream velocities were evaluated to determine rock size needed for stabilization.

MOTION: Alternate Commissioner Kennedy made a motion to approve the 90% plans and direct the Commission Engineer to proceed with 100% design and bidding. Commissioner Welch seconded the motion. The motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

B. Review Recommendations on 2023 Operating Budget from Budget Committee

Committee Chair McDonald Black presented the draft 2023 operating budget. The proposed budget reflects the increased costs for updating the Watershed Management Plan (WMP), leaving the Minnesota Association of Watershed Districts (MAWD) in 2023, and incorporates a recommended increase in Commission development review fees. It also assumes higher administration costs and higher Flood Control Project maintenance costs. The proposed budget increase is 11.5%, with the city assessments increasing by an average of 8.4%.

Discussion was held regarding the recommendation to leave MAWD. The committee believes that MAWD is very focused on issues outside the Metro area. It was noted the Commission could still participate in some MAWD events.

Commissioner Welch stated that he has participated in Metro MAWD and MAWD events. Other commissioners have not participated. He clarified that if the Commission is no longer a member, they cannot participate, they can only attend events. He has been active in the Strategic Plan, which influences MAWD direction. He noted that if the Commission wants MAWD to go in a different direction, they need to participate. He noted the Commission could direct the Administrator to tell MAWD we are disgruntled and ask for a reduced dues rate. There was discussion about how the State's new One Watershed One Plan has impacted other metro watersheds and how the MAWD

Annual Meeting was challenging to understand and follow. It was noted that the \$7,500 dues are just one cost and that commissioner and staff time also impacts the budget. Some commissioners noted it is difficult to see the benefit of membership. It may be better to have a bigger investment in education and outreach than paying MAWD dues.

There was discussion regarding legislative priorities of MAWD, including supporting flood hazard mitigation. Administrator Jester said that it seems most of their energy goes to outstate issues and it's difficult for her to see the benefits of membership. She noted commissioners and staff could still attend Metro MAWD meetings but wouldn't be able to participate in the business meeting or put forth resolutions for legislative priorities. She also noted multiple MAWD meetings regarding watershed-based implementation funding (WBIF). It was a good policy discussion to have but MAWD may have burned bridges with state agencies that wasn't necessary.

Commissioners noted the Commission works with state agencies a lot and wondered if we are a member of MAWD, does that reflect poorly on our cities or the Commission? There was further discussion on relationships and cooperation.

It was noted that the recommendation to leave MAWD was discussed at length by the Budget Committee and was not made lightly. The dues are a lot of money and we need to ensure we are representing our taxpayers wisely. Chair Cesnik is open to reconsidering the recommendation. There is no need to decide today.

Commissioner Welch asked that in order to get to a place where the Commission is comfortable making a decision in June, is it possible to have our administrator raise concerns with the MAWD Executive Director? If Administrator Jester gets feedback from MAWD, that would help with the decision-making process in June.

Chair Cesnik suggested making a pros and cons document. Having MAWD as a legislative watchdog is good. She likes MAWD, but the outstate focus is difficult. Having a focused discussion would be helpful. The dues are a significant portion of our operating budget.

Commissioner Harwell said that we do need to discuss where we are spending money. The increase in the development review fees should be discussed at the next meeting.

Administrator Jester asked for input from the cities on the potential increases in city assessments. The City of Plymouth noted a concern with the 8.4% increase, but was not sure where the budget could be cut. Cities also noted concern with the potential increase to municipal project review fees.

There was further discussion about project review fees that have not been updated since 2017. It was noted that there is a wide range of single-family homeowner projects, some of which take a lot of time to review as homeowners do not always understand the technical aspects. It was noted that cities often work with the homeowners before the Commission sees the application.

Alternate Commissioner Polzin explained that a big driver of the budget change is the Watershed Management Plan update. They are looking at opportunities to offset that cost. MAWD represents one percent of our budget. We want to make sure the costs for reviews pay for themselves. Commission policy decisions need to fit into the larger context of our budget.

Budget Committee Chair McDonald Black noted that city assessments have been kept low for many years and that cities were told that a larger increase would be needed in the future.

Administrator Jester reminded commissioners that there is no need for a decision today. She indicated that before the June meeting she will touch base with the MAWD Executive Director. She will check with engineers about municipal project fees and that the TAC can discuss the proposed review fee schedule at their June 1st meeting. It was noted the proposed budget will be presented with different scenarios in June including with and without MAWD dues.

[Alternate Commissioner McDonald Black leaves meeting. A five-minute break was taken.]

C. Review New Information on Crystal Dog Park Project

Chair Cesnik thanked the City of Crystal for considering a partnership with BCWMC on this project to incorporate protections to the stream from potential dog waste pollution. Administrator Jester gave an overview of the dog park. The proposed project includes a small section in the 100-year floodplain. She noted the revised drawings show an existing swale between the bulk of the dog park and the stream; the city plans to expand the swale. She also noted the city will partner with the Commission on improved educational signage. She noted that because of these

new elements and after a site visit with the engineers, Chair Cesnik, and city staff, she is more comfortable with the project.

Alternate Commissioner Hauer expressed concerns with dog waste. In the current dog park, pet owners don't pick up waste. She doesn't know how the new park will bring about a change. She noted concerns with a reduction of wooded habitat. She also noted that Commissioner Anderson is on the Crystal Park and Recreation Commission.

Crystal Recreation Director John Elholm stated that there hasn't been an effort to get grass to grow in the current dog park so it's often muddy. He commented that the future dog park area is a public park, not meant as a wildlife preserve. Chair Cesnik explained that the city is willing to partner on signage in an effort to teach pet owners the importance of removing dog waste. Having an adequate number of trash cans is also important, as well as policing by other pet owners.

Commissioner Harwell expressed concerns that if the current park users are not picking up dog waste, they are not going to suddenly change behavior. She believed Alternate Commissioner Hauer had valid concerns. This is a serious problem for water quality because the project is located in the floodway.

Mr. Elholm responded that the goals of the project were to stay out of the water, wetlands, and floodplain. With the addition of the ADA accessible trail and without adding considerable site grading, there will be a small portion of the project in the floodplain.

Crystal TAC Member Ray confirmed that the project is in the floodplain, not the floodway. He did not know if the boundary would change with the updated watershed XP SWMM model.

Alternate Commissioner Hauer and Commissioner Harwell expressed concerns about the current dog park, dog waste issues, the need for the new park rather than enhancing the current park, and water quality issues. Mr. Elholm explained that the Park Master Plan process was used as a basis for changes in the park. There was a year-long input process. The city is aware that the signage needs improvement. They are not aware that dog waste is a problem in the current dog park; that issue has not been raised with city staff in the past.

Chair Cesnik stated that it may be prudent to have a comment in the Commission's approval letter regarding the need to improve the dog waste removal process.

MOTION: Commissioner Anderson moved conditional approval of the Crystal Dog Park Project. Commission Attorney Anderson addressed the Commission regarding whether Commissioner Anderson has a conflict of interest because he serves on the Crystal Parks and Recreation Commission. He noted that this is similar to many projects with which the Commission is involved. City council members on the Commission participate in the decision-making process. He stated he believes no conflict of interest exists and there is no need for Commissioner Anderson to recuse himself from the vote. Chair Cesnik seconded the motion.

Commissioner Harwell stated that until she is satisfied that the pet waste issue is addressed, she will not be voting to approve the project. Commissioner Anderson explained his involvement on the city's Park and Recreation Commission began after approval of the city's Park Master Plan, and noted that at the last Commission meeting, Commission Attorney Anderson informed the commissioners that unless the project is failing to meet Commission requirements, the Commission cannot deny approval.

Commission Attorney Anderson explained that the Commission identifies water quality goals as part of its policy documents. Design review standards are based on those policy documents. According to the review, the standards seem to be satisfied. Denying the permit could be viewed as arbitrary and capricious given that he could not see from the review standards where denial would be based. The Commission relies on cities to implement policies. In this case, the Commission can work with the city and hope that they will implement more protection for the stream.

Chair Cesnik summarized that if the project meets the floodplain and water quality requirements, the Commission is required to approve. The Commission could have recommendations, but not requirements, on the dog waste issue. Commission Attorney Anderson responded that the Commission can always make recommendations.

Commissioner Harwell expressed concerns about the floodplain, rain events, and the impact of dog waste to water quality. Alternate Commissioner Kennedy asked if there was a pollution mitigation plan in place. Mr. Elholm said that they would be willing to draft such a plan.

Upon a roll call vote, the motion carried 5-1, with the cities of Crystal, Medicine Lake, Minneapolis, New Hope, and Plymouth voting in favor, the city of Golden Valley voting against, and the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

D. Consider Approval of Internship Agreement

Administrator Jester, Commissioner Harwell, and Golden Valley staff member Chirpich interviewed Juan Del Valle Lopez for the internship position through Dougherty Family College. The agreement between the city, Commission, and Mr. Lopez was drafted by Commission Attorney Anderson and approved by the City of Crystal last week.

MOTION: Commissioner Welch moved to approve the internship agreement. Alternate Commissioner Kennedy seconded the motion. The intern will work 18 hours a week for eight to twelve weeks. A report will be given to the Commission regarding the internship. This will be a time commitment for the Administrator, but it will be worthwhile. The motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

[Commissioner Harwell leaves the meeting.]

E. Receive Report on Equity in Watershed Management Workshop

Administrator Jester gave a report on the Equity in Watershed Management Workshop. The great facilitation by Hennepin County Commissioner Fernando was recognized. Seven BCWMC Commissioners, seven BCWMC TAC members, and three BCWMC staff were in attendance and there were 35 attendees in all. The PowerPoint presentations will be posted on a new website for the Watershed Management Plan update. Takeaways include the Commission's need to have an honest discussion about priorities, plan to address equity throughout programs and projects, and form better communication within all communities. This topic could become a subcommittee for Watershed Management Plan development.

F. Consider Commission Meeting Location and Catering Options

Chair Cesnik noted that the meeting room was better for today's meeting than it was in April but that it was still difficult to hear everyone. It was noted the group in the room next door meets every Thursday. The disappointment with the meeting room and catering costs were conveyed to the city.

There were no objections to meeting in other locations as long as it is within the BCWMC jurisdictional boundary. There was consensus that the current location does not work well. The Plymouth Maintenance Facility may work. The Plymouth Community Center reconstruction will be done in August. Commissioners were asked to watch emails for meeting locations over the next few months until a long-term solution is found.

6. COMMUNICATIONS

A. Administrative Report

i. July Plan Workshop Planning

Administrator Jester is in the process of setting up the meeting for the Plan Steering Committee of the whole in late July. There was consensus that a late afternoon meeting would work well. Staff was asked to avoid Wednesday meetings.

ii. Update on Convene Meeting Discussions

Administrator Jester reported that the first convene meeting for Watershed Based Implementation Funding (WBIF) was held. The purpose was to determine how to partner with Hennepin County and other WMOs in the area. They considered creating an educator position that would be partially funded with WBIF and housed in Hennepin County.

iii. Haha Wakpadan Community Celebration

On June 4, there will be a Celebration of the Haha Wakpadan Oral History Project. They are hoping the Commission can be represented at this event. Chair Cesnik and Commissioner Welch will plan to attend.

B. Chair

No report was given.

C. Commissioners

Commissioner Anderson expressed concern about three cities not having representation at meetings. Administrator Jester explained that it is up to the cities to find and appoint their representatives. She helps them as they request. She will contact the cities about vacancies on the Commission.

D. TAC Members

- i. May 4 Meeting Report
The TAC met on May 4 and discussed XPSWMM modeling. More information will be gathered. The TAC will discuss fees at their next meeting on June 1.
- ii. Next Meeting June 1 – Need Liaison commissioner
Chair Cesnik will attend.

E. Committees

Commissioners heard from the Budget Committee earlier in the meeting. No other reports were given.

F. Legal Counsel

No report was given.

G. Engineer

- i. Update on Proposed Impaired and Delisted Waters
Commission Engineer Chandler reported that the Minnesota Pollution Control Agency (MPCA) held a Professional Judgment Group meeting at the end of April. They made their recommendations for the draft 2024 impaired waters list. MPCA is considering five new impairments and one delisting in the watershed. Medicine Lake will not be listed for chloride, although it is close to the impairment threshold. She noted it was good that the engineers were in attendance to provide MPCA with missing data.

7. INFORMATION ONLY (Information online only)

- A. BCWMC Administrative Calendar
- B. CIP Project Updates <http://www.bassettcreekwmo.org/projects>
- C. Grant Tracking Summary and Spreadsheet
- D. Wetland Conservation Act Notices
- E. Stormwater Summit www.wef.org/StormwaterSummit
- F. Salt Symposium Early Registration bolton-menk.regfox.com/salt-symposium-2022

8. ADJOURNMENT

The meeting adjourned at 11:25 a.m.