



Item 4A.  
BCWMC 10-19-17

## Bassett Creek Watershed Management Commission

**DRAFT Minutes of Regular Meeting**  
**Thursday, September 21, 2017**  
**8:30 a.m.**  
**Golden Valley City Hall, Golden Valley MN**

### Commissioners and city staff present:

City	Commissioner	Alternate Commissioner	Technical Advisory Committee Members (City Staff)
Crystal	Guy Mueller	<i>Absent</i>	Mark Ray
Golden Valley	Stacy Harwell <i>[voting member first half]</i>	Jane McDonald Black <i>[voting member second half]</i>	Eric Eckman
Medicine Lake	Clint Carlson	<i>Absent</i>	<i>Absent</i>
Minneapolis	Michael Welch	NA	<i>Absent</i>
Minnetonka	Mike Fruen	<i>Absent</i>	<i>Absent</i>
New Hope	<i>Absent</i>	Pat Crough	Megan Albert
Plymouth	Jim Prom <i>[voting member first half]</i>	John Byrnes <i>[voting member second half]</i>	Derek Asche
Robbinsdale	Michael Scanlan	<i>Absent</i>	Richard McCoy, Marta Roser
St. Louis Park	Jim De Lambert	<i>Absent</i>	Erick Francis
<b>Administrator</b>	Laura Jester, Keystone Waters		
<b>Engineer</b>	Karen Chandler, Barr Engineering		
<b>Recorder</b>	Dawn Pape, Lawn Chair Gardener		
<b>Legal Counsel</b>	Troy Gilchrist, Kennedy & Graven		
<b>Presenters/ Guests/Public</b>	Amy Thiel, Kuit Excavating and Mr. Chuck Schmidt, Crystal resident		

**1. CALL TO ORDER and ROLL CALL**

On Thursday, September 21, 2017 at 8:30 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.

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

Chair de Lambert reported that Alternative Commissioner Gary Holter suffered a heart attack and is recuperating. Administrator Jester distributed a card for Commissioners to sign.

**3. APPROVAL OF AGENDA**

**MOTION:** Commissioner Prom moved to approve the agenda. Commissioner Mueller seconded the motion. Upon a vote, the motion carried 9-0.

**4. CONSENT AGENDA**

The following items were approved as part of the consent agenda: the August 17, 2017 Commission Meeting Minutes, the September 2017 Financial Report, the payment of invoices, approval to Reimburse City of Golden Valley for Main Stem Restoration CIP Project.

The general and construction account balances reported in the September 2017 Financial Report are as follows:

Checking Account Balance	\$560,331.58
<b>TOTAL GENERAL FUND BALANCE</b>	<b>\$560,331.58</b>
<b>TOTAL CASH &amp; INVESTMENTS ON-HAND (9/12/17)</b>	<b>\$3,368,666.59</b>
CIP Projects Levied – Budget Remaining	(4,381,556.09)
Closed Projects Remaining Balance	(\$1,012,889.50)
2012-2016 Anticipated Tax Levy Revenue	\$10,014.74
2017 Anticipated Tax Levy Revenue	\$643,220.55
Anticipated Closed Project Balance	(\$359,654.21)

**MOTION:** Commissioner Prom moved to approve the consent agenda. Alternate Commissioner Crough seconded the motion. Upon a vote, the motion carried 9-0.

**5. PUBLIC HEARING**

**A. Receive Comments on Proposed 2018 CIP Project – Bassett Creek Park Pond Phase I Dredging Project: Winnetka Pond Dredging (BCP-2)**

The public hearing opened at 8:36 a.m. Commission Engineer Chandler gave a brief presentation with an overview of the Winnetka Pond (East) Dredging Project. She noted that reasons for the project include reducing sediment

loading, improving wildlife habitat, and maintaining flood control functions of the pond. The project is estimated to reduce total phosphorus loading to North Branch Bassett Creek by 7.1 lbs/yr (according to the P8 model) or 51.7 lbs/yr (according to professional judgment calculations). Total suspended solids loading reduction is estimated at 1,823 lbs/yr as per the P8 model. There will also be a reduction in bacterial loading. The 30-yr annualized cost based on the Commission Engineer's professional judgment loading reduction will be \$960/lb of phosphorus. Several stakeholder meetings have been held. Most of the cost of the project (\$913,000) is for the dredging.

Ms. Theil from an excavating company asked about construction timing. Engineer Chandler responded that the project construction is slated to happen in 2018. The city will prefer to work over the winter, but it depends on the preferred timing of the hired construction company.

Commissioner Harwell asked how dredging improves flood storage. Engineer Chandler explained that the sediment is accumulating and it is near the normal water level.

Mr. Schmidt brought up concerns about runoff from railroad property northeast of the pond. He noted that one reason why the pond needs to be dredged is because a large gully has formed along the railroad which continues to the pond. He noted that sand, sediment, branches and debris accumulate in the pond partially from the gully. Mr. Ray responded that the railroad has been notified of the gully and potential impacts to the tracks, but the city has no jurisdiction and cannot compel them to act. Mr. Schmidt responded that it would make sense to remedy this situation before pond dredging starts. Mr. Schmidt also told the Commission about another ditch that eventually drains into the North Branch of Bassett Creek and that sand and debris are washing down from that area as well.

Commissioner Harwell thanked Mr. Schmidt for coming and is wondering if there are creative solutions to take care of problems that are happening on railroad property. The response was that the city will keep trying to get the railroad to act and the city may look into different ways to design the project. Mr. Schmidt also remarked on the size of the grate spacing at the pond's outlet. Engineer Chandler agreed that a different outlet design could be considered in coordination with the city's project design.

The public hearing was closed at 9:02 a.m.

## **6. BUSINESS**

### **A. Consider Approval of Resolution 17-06 Ordering 2018 Improvement**

Administrator Jester described the various pieces of the resolution. She walked through a memo with her recommendation to request a final 2018 levy of \$1,346,815, the same as the maximum levy submitted to the County earlier in the year. She also noted that adoption of the resolution includes approval of an agreement with the City of Crystal to implement the project. She pointed out that the agreement includes language noting that although the city assumes responsibility for future maintenance of the project, it doesn't preclude the city from requesting CIP funds for a future dredging project. Administrator Jester indicated this language is slightly different from previous agreements with cities because it's the first CIP project that involves dredging a pond.

Mr. Asche noted that previous CIP projects have involved pond construction and dredging and that no similar language was included in agreements with those cities. He noted the City of Plymouth has already dredged West Medicine Lake Pond (which was installed as a BCWMC CIP project) at a cost of \$200,000 and that it needs to be dredged again. He wondered if this agreement sets a precedence and expectations of cities being responsible for on-going maintenance of CIP projects. Commission Engineer Chandler noted that ponds on the BCWMC trunk system such as Bassett Creek Park Pond, Winnetka Pond, and West Medicine Lake Pond are under BCWMC's purview.

Commissioner Welch noted that language in the agreement with Crystal simply indicates that this pond is not ineligible for future CIP funding. He noted that if dredging this pond or a pond in Plymouth on the trunk system was presented to the Commission for CIP funding, they would be eligible for consideration. Attorney Gilchrist echoed Commissioner Welch by stating the language in the agreement doesn't obligate the Commission to do something in

the future, that the new language should be what's been assumed with past agreements, and that cities can request future CIP funds for large projects in the same area.

This comment was followed by a discussion about whether this agreement language is a policy change. Commissioner Carlson asked whether this means the city is ultimately responsible. Attorney Gilchrist clarified that the Commission has a limited role in these projects. The new language says Crystal isn't precluded from coming back to the Commission. Commissioner Harwell thought this item will need future discussion so there is a clear understanding. Administrator Jester noted that one of the CIP "gatekeeper questions" is whether or not the project is on the BCWMC trunk system. Commissioner Scanlan recommended that the TAC discuss and define "maintenance." Commissioner Welch responded that "maintenance" can't be always defined, but the policy issue can be discussed in the future. He then stated that he was more concerned with buffer maintenance. Engineer Chandler agreed that maintenance of the pond's buffer will need to be worked out with the property owner and/or the city.

**MOTION: Commissioner Scanlan moved to approve Resolution 17-06 Ordering 2018 Improvement. Commissioner Carlson seconded the motion. Upon a vote, the motion carried 9-0.**

#### **B. Consider Approval of Proposal to Develop Aquatic Invasive Species Rapid Response Plan**

Administrator Jester's overview reminded the Commission that several APM/AIS Committee recommendations were approved at the July meeting and included directing the Commission Engineer to submit a proposal to develop a rapid response plan for key invasive species in priority lakes. Engineer Chandler added that the proposed plan will:

- i. Determine how the Commission responds to AIS species found in priority 1 lakes
- ii. Determine what the response should be to the specific AIS species specific to the water bodies
- iii. Define responsible parties and funding partners' roles

Commissioner Welch suggested that BCWMC contact MCWD because they have a very well developed AIS plan so the BCWMC doesn't have to "reinvent the wheel." Eric Eckman asked whether toxic blue-green algae would be addressed and was told that it won't be addressed in this plan because it's not an invasive species. Commissioner Harwell asked about AIS that aren't known about yet and Engineer Chandler responded by saying general parts of the plan address this, but there wouldn't be specifics. She noted they had to put boundaries on the plan because there was only a budget of \$15,000. The plan could be amended in the future if needed.

**MOTION: Commissioner Welch moved to approve the Proposal to Develop Aquatic Invasive Species Rapid Response Plan. Commissioner Scanlan seconded the motion. Upon a vote, the motion carried 9-0.**

#### **C. Consider Approval of Technical Advisory Committee Recommendations**

TAC Chair Erick Francis, reported that the TAC met on August 4<sup>th</sup> to discuss multiple topics and had recommendations for Commission consideration. He briefly reviewed the recommendations including directing the Commission Engineer to develop a scope and budget for completing the tasks laid out for the FEMA modeling work and to submit that scope and budget to the DNR to seek FEMA grant funds to complete the work. Commission Engineer Chandler discussed the FEMA modeling process and reported that the DNR is receiving grant funds from FEMA to develop hydrologic and hydraulic models and that the TAC had discussed the pros and cons of the Commission submitting a proposal to the DNR to do this work. She noted the work would be done by the DNR or its consultants if the Commission did not want to perform the work. She noted that if the Commission proposes to do the work, the cost of developing the proposal (estimated at \$2,000) would be a Commission expense but that all actual work on the modeling would be covered by the FEMA grant. She also noted that that if the DNR does the work rather than the Commission, there is likely to be considerable Commission expenses in reviewing and discussing DNR's work.

There was discussion about what would be involved with the work and how it differs from the modeling work recently completed by the Commission. Commissioner Prom noted his opposition to the Commission performing the work because the Commission may incur liability for flood damages that weren't predicted by the modeling.

Commissioner Harwell shared her experience that if DNR does the work, it would be many years before it's complete. Attorney Gilchrist explained that "liability" is a breach in duty. He noted the risk in liability for BCWMC is low because BCWMC is using the best data possible.

Mr. Eckman commented that the TAC discussed that there are already differences between the BCWMC and FEMA flood elevations and that FEMA elevations are outdated. He compared it to using traffic information from 1980 to build modern roads. He noted that the two different elevations are confusing for property owners and realtors. There was discussion about how this work would change the Commission's XP-SWMM model. If the DNR does the work, there could be two different models for the watershed, but if the Commission does the work, the Commission's model would be used by both the Commission and the state and federal agencies.

**MOTION: Commissioner Scanlan moved to approve the TAC recommendation to direct the Commission Engineer to develop a scope and budget for completing the tasks laid out for the FEMA modeling work and to submit that scope and budget to the DNR to seek FEMA grant funds to complete the work. Commissioner Prom seconded the motion. Upon a vote, the motion carried 8-1 with Plymouth Commissioner voting nay.**

Continuing with TAC recommendations, Mr. Francis reported that the TAC recommends adjusting the Commission's review fees and to add a provision to charge actual costs for reviews that exceed \$5,000 in expenses. Commission Engineer Chandler further described the TAC's discussion noting that at the March 27, 2017 BCWMC Budget Committee meeting, the committee discussed the discrepancy between development review expenses and the fees collected. It was noted that in 2016 and 2017 there were a few large, complicated projects that required much more time to review and to coordinate with developers about the XP-SWMM model and MIDS, than was recovered in fees. The Budget Committee requested TAC input on the issue. The TAC reviewed data provided by the Commission Engineers showing reviews, fees, and a comparison of fees collected with the current structure and fees that would have been collected if their proposed new structure was in place. It was noted that the current fee schedule is based on project size but that smaller parcels often have more complicated and time-consuming projects.

Commission Engineer Chandler presented a proposed restructured fee schedule that attempts to base fees more on review effort than project size. She noted that the proposed fee schedule still includes lower fees for single-family homes and municipal projects because the Commission does not intend to burden single-family homeowners with high fees, and the Commission offers lower fees to municipalities that fund the operating budget of the Commission. TAC members discussed situations where reviews take considerable time and expense. There was consensus that escrow accounts are too complicated and time consuming to administer. Instead, the TAC recommended that the Commission charge project proposers for actual expenses when a project review exceeds \$5,000.

Mr. Asche commented that he thought the revised fees were going in the right direction but asked if reviews could be provided through a flat fee from Barr Engineering to the Commission. Administrator Jester noted that that would have to go through a re-negotiated contract with Barr Engineering. She pointed out the proposed fee schedule would have reduced the Commission's loss by 75%.

Commissioner Harwell noted that project plans vary widely and there is a lot of hand-holding which costs money. She commented that it would be appropriate for single-family homeowners to pay over \$5,000 if their project is complicated. Commissioner Prom said he thought it should be equity in fees among developers, homeowners and cities. Mr. Eckman offered that there may be a risk for developers with unknown expenses and wondered if a cap is appropriate. Alternate Commissioner McDonald Black commented that cities already pay into the BCWMC so having to pay a potentially higher fee would cause cities to pay twice. Mr. Asche noted he supported the changes but requested that the Commission consider negotiating a flat fee from Barr Engineering.

**MOTION: Commissioner Mueller moved to approve the TAC recommendation without exemption for single-family lots and cities for paying actual costs above \$5,000. Commissioner Scanlan seconded it. Upon a vote, the motion carried 8-1 with Minneapolis Commissioner voting nay.**

**MOTION: Commissioner Prom moved to approve Resolution 17-07 adopting the revised review fee schedule. Commissioner Scanlan seconded it. Upon a vote, the motion carried 8-1 with Minneapolis Commissioner voting nay.**

TAC recommendations #3 and #4 were set aside to a future meeting.

**D. Consider Approval of Proposals to Develop Feasibility Studies for 2019 CIP Projects**

Administrator Jester reminded the Commission that there are 3 CIP projects slated for implementation in 2019 and that feasibility studies should get underway this fall because some fieldwork is required. She noted that each of the cities where the projects are located asked the Commission Engineer to complete the feasibility study.

**i. Medicine Lake Road and Winnetka Avenue Area Long Term Flood Mitigation Plan Implementation Phase I: DeCola Ponds B & C Improvement Project (BC-2, BC-3 & BC-8)**

Commission Engineer Chandler reviewed the proposal to implement one portion of the recently completed Medicine Lake Road and Winnetka Avenue Area Long Term Flood Mitigation Plan. She discussed that much work had already been accomplished through the development of the flood storage and conveyance on the adjacent Liberty Crossing development site but that some more investigation and field work is needed, along with engaging residents and stakeholders. She walked through the specific recommendations in the proposal.

Commissioners Scanlan and Welch expressed displeasure at the last-minute action needed on these proposals and asked that future items be brought to the Commission earlier to allow for sufficient discussion and consideration. Administrator Jester apologized for the short timeframe and noted that any of these proposals could be held until the October meeting if warranted.

**MOTION:** Commissioner Scanlan moved to approve the proposal to complete a feasibility study for the Medicine Lake Road and Winnetka Avenue Area Long Term Flood Mitigation Plan Implementation Phase I project. Commissioner Prom seconded the motion.

[Commissioner Prom departs; Alt. Commissioner Byrnes assumes representation for Plymouth.]

Discussion on the motion: There was discussion about what the project would entail, how the total price tag for projects in the Flood Mitigation Plan is \$22M, how this CIP project is just one \$1.6M piece of the Flood Mitigation Plan, how the City of Golden Valley has already implemented one part of the Flood Mitigation Plan, and that additional funding partners would be sought to implement other aspects of the overall Flood Mitigation Plan.

Commissioner Welch noted his disagreement with the component of the proposal that entails wetland bank scoping because doesn't think the Commission should be using capital dollars to offset wetland destruction somewhere else. There was also a discussion about the proposed environmental review that included digging test trenches on private land. Commissioner Welch noted that the site should be enrolled in the Voluntary Investigation and Cleanup (VIC) Program before invasive soil testing is done so as not to expose the Commission to liability if contamination is discovered. Finally, Commissioner Welch asked if the city forester could perform the tree survey rather than the Commission Engineers. Mr. Eckman noted that the city forester has multiple responsibilities and a full plate and that the tree survey is an important component of the feasibility study that should be completed early in the process to appropriately engage residents.

[Commissioner Harwell departed; Alt. Commissioner McDonald Black assumes representation for Golden Valley.]

Engineer Chandler said wetland banking could be removed from the proposal if the Commission chooses to remove it. She responded that test trenching is needed because the project will likely involve excavation. She told the Commission that there is an easement over this area and she wondered if that wasn't sufficient in giving rights to test trench. Commissioner Welch replied that if the Commission performs a test trench, they are "in the mix" as a liable partner. Commissioner Welch offered that maybe the city does have this liability covered. Engineer Chandler asked if it could be left in the proposal with the caveat of addressing the liability issue. There was consensus that test trenching could be removed from the proposal now and added back, with Commission approval, if found to be necessary and legally appropriate.

**MOTION:** Commissioner Welch moved to amend motion on the floor to remove wetland banking investigation from the proposal. Alt. Commissioner Byrnes seconded the motion. Upon a vote, the motion carried 9-0.

**MOTION:** Commissioner Welch moved to amend the motion on the floor to remove invasive testing of the soil from the proposal at this time. Commissioner Scanlan seconded it. Motion carried 9-0.

**MOTION:** Commissioner Welch moved to amend the motion on the floor to cap the feasibility study cost not to exceed \$72,000. Commissioner Mueller seconded the motion. Upon a vote, the motion carried 9-0.

**VOTE:** Upon a vote of the original motion including the three amendments, the motion carried 9-0.

[Commissioner Fruen departs.]

**ii. Westwood Lake Water Quality Improvement Project (WST-2)**

Commission Engineer Chandler briefly described the proposal for a feasibility study of the Westwood Lake Water Quality Improvement Project noting that it's part of a much larger city project at the Westwood Hills Nature Center. She noted it is in the BCWMC's current CIP, listed as project WST-2, with a total estimated cost of \$300,000. She also noted that the project could entail pervious pavers, improvements to an existing stormwater pond, or other practices that would go "above and beyond" the treatment required for the complete city project.

There was a brief discussion about the tasks that will be completed by the city vs. those to be completed by the Commission Engineer.

**MOTION:** Commissioner Welch moved to approve the proposal to complete a feasibility study for the Westwood Lake Water Quality Improvement Project. Commissioner Scanlan seconded the motion. Upon a vote, the motion carried 8-0 with. [City of Minnetonka absent from the vote.]

**iii. Bryn Mawr Meadows Water Quality Improvement Project (BC-5)**

Commission Engineer Chandler walked through the proposal noting that the Bryn Mawr Meadows Water Quality Improvement Project is in the BCWMC's current CIP, listed as project BC-5 with a cost of \$500,000. She noted that the park is owned by the Minneapolis Park and Recreation Board and the project would treat water from a large residential area greater than 300 acres. She reported that field investigations include test trenching and soil borings but significant field work may not be warranted depending on the alternatives to be studied.

Commissioner Welch noted it's a heavily used park with very poor, spongy soils and he doubted if ponding would be an option due to high groundwater and contamination. He expressed concern for whether test trenching was even warranted.

**MOTION:** Commissioner Welch moved to approve the scope of work with test trenching to be completed only if the Minneapolis Park and Recreation Board enrolls in the Voluntary Investigation and Cleanup (VIC) Program. Commissioner Scanlan seconded the motion. Upon a vote, the motion carried 8-0 with. [City of Minnetonka absent from the vote.]

**E. Consider Approval of Recommendations of the Aquatic Plant Management/Aquatic Invasive Species Committee**

Tabled to a future meeting.

**7. COMMUNICATIONS**

**A. Administrator's Report**

- i. Update on Chloride Training Recruitment - Currently 29 people registered
- ii. Report on Main Stem Project Open House - 11 people attended; some comments from residents including a desire for a nicer footpath and concerns with navigability of the creek.

B. Chair – No report

C. Commissioners

i. Report on Golden Valley Arts and Music Festival

Scanlan, Harwell, and Welch attended. Many people played the new bean bag toss game/display and salt cups were given away as prizes.

D. TAC Members—No report

E. Committees —No report

F. Legal Counsel—No report

G. Engineer—No report

8. INFORMATION ONLY (Information online only)

A. CIP Project Updates: Available Online <http://www.bassettcreekwmo.org/projects>

B. Grant Tracking Summary and Spreadsheet

C. Freshwater Society Recruiting Master Water Stewards

D. Governor Dayton’s 25% by 2025 Clean Water Initiative – Town Hall Meetings. The date has changed and it will be on Wednesday, not Tuesday.

E. WCA Notice of Application, Plymouth

F. Minnehaha Creek Watershed District Cottageville Park Video

G. Freshwater Society Newsletters and Sign Up

H. WCA Notice of Application, Golden Valley

9. ADJOURNMENT

The meeting was adjourned at 11:59 a.m.

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Signature/Title

Date

Signature/Title

Date