



Bassett Creek Watershed Management Commission

DRAFT Minutes of Regular Meeting
Thursday, February 16, 2023
8:30 a.m.
Golden Valley City Hall, 7800 Golden Valley Road

1. CALL TO ORDER and ROLL CALL

On Thursday, February 16, 2023 at 8:34 a.m. Chair Cesnik brought the Bassett Creek Watershed Management Commission (Commission) to order.

Commissioners, city staff, and others present

| City | Commissioner | Alternate Commissioner | Technical Advisory Committee Members (City Staff) |
|----------------------------------|--------------------------------------|------------------------|---------------------------------------------------|
| Crystal | Dave Anderson | Joan Hauer | Mark Ray |
| Golden Valley | Stacy Harwell | Paula Pentel | Eric Eckman, Drew Chirpich |
| Medicine Lake | <i>Absent</i> | Shaun Kennedy | <i>Absent</i> |
| Minneapolis | Michael Welch | Jodi Polzin | Liz Stout, Katie Kowalczyk |
| Minnnetonka | Maryna Chowhan | <i>Vacant Position</i> | Sarah Schweiger |
| New Hope | Jere Gwin-Lenth | Jen Leonardson | <i>Absent</i> |
| Plymouth | Catherine Cesnik | Monika Vadali | Ben Scharenbroich |
| Robbinsdale | Wayne Sicora | <i>Vacant Position</i> | Mike Sorensen, Richard McCoy |
| St. Louis Park | <i>Vacant Position</i> | <i>Absent</i> | Erick Francis |
| Administrator | Laura Jester, Keystone Waters | | |
| Engineers | Karen Chandler, Barr Engineering | | |
| Recording Secretary | <i>Vacant Position</i> | | |
| Legal Counsel | Dave Anderson, Kennedy & Graven | | |
| Presenters/ Guests/Public | Jon Harkness, Golden Valley Resident | | |

2. PUBLIC FORUM ON NON-AGENDA ITEMS

None.

3. APPROVAL OF AGENDA

MOTION: Commissioner Welch moved to approve the agenda. Commissioner Gwin-Lenth seconded the motion. Upon a vote the motion carried 8-0, with the City of St. Louis Park absent from the vote.

4. CONSENT AGENDA

Item 4E was removed from the consent agenda.

MOTION: Commissioner Gwin-Lenth moved to approve the consent agenda as amended. Commissioner Welch seconded the motion. Upon a vote the motion carried 8-0, with the City of St. Louis Park absent from the vote.

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

- Approval of Minutes – January 19, 2023 Commission Meeting
- Acceptance of February 2023 Financial Report
- Approval of Payment of Invoices
 - Keystone Waters, LLC – January 2023 Administrative Services
 - Keystone Waters, LLC – January 2023 Meeting Expenses
 - Barr Engineering – January 2023 Engineering Services
 - Kennedy & Graven – December 2022 Legal Services
 - Redpath – January 2023 Accounting Services
 - Triple D Espresso – Meeting Catering
 - Stantec – WOMP Services
- Approval of Updated Conflict of Interest Policy
- Approval of Updated Agreement for Legal Services
- Approval of Updated Agreement for Engineering Services
- Approval to Submit Comments on MPCA Construction Stormwater Permit
- Approval to Designate *Finance and Commerce* as the Official News Publication of the BCWMC
- Approval of Resolution 23-01 Designating Depositories for BCWMC Funds
- Approval of Resolution 23-02 to Transfer Funds from CIP Account to Administrative Account
- Approval of Resolution 23-03 Transferring Funds from TMDL Studies, Next Generation Plan Development and Flood Control Project Long Term Accounts to Administrative Fund
- Approval of Resolution 23-04 to Transfer Funds from Administrative Account to Channel Maintenance Fund and Long-Term Maintenance Fund
- Approval to Adopt Data Practices Policy

4E. Approval of Letter of Engagement from MMKR for 2022 Financial Audit

Commissioner Welch noted that although this was a routine item, he wondered why the Commission was simply approving a letter of engagement with MMKR to perform the financial audit and not also entering an agreement or contract with the firm as the engagement letter seems to be missing legally required elements of an agreement. Administrator Jester will follow up on this item with Commission Attorney Anderson.

MOTION: Commissioner Harwell moved to approve the letter of engagement with MMKR for the 2022 financial audit. Commissioner Chowhan seconded the motion. Upon a vote the motion carried 7-0, with the City of St. Louis Park absent from the vote and the City of Minneapolis abstaining from the vote.

5. ORGANIZATIONAL MEETING

A. Elect Officers

Commission Attorney Anderson facilitated the election of officers. Commission Harwell announced that she is moving out of Golden Valley and into Minnetonka. She will no longer be able to represent Golden Valley on the Commission but may become an alternate commissioner from Minnetonka as that position is currently vacant. It was noted that the BCWMC Joint Powers Agreement does not state that cities must appoint only city residents to the commission. Although the resident requirement for Golden Valley is unknown, TAC member Eric Eckman indicated the City of Golden Valley would likely encourage residents, rather than non-residents to serve on the Commission.

Chair Cesnik and Vice Chair Welch indicated they are willing to continue in their roles. Commissioner Sicora indicated he was willing to serve as Secretary/Treasurer and that he planned to regularly attend meetings. No

other commissioners indicated their desire to hold a Commission office.

MOTION: Commissioner Welch moved the election of Commissioner Cesnik as Chair, himself as Vice Chair, and Commissioner Sicora as Secretary/Treasurer. Commissioner Gwin-Lenth seconded the motion. Upon a vote the motion carried 8-0, with the City of St. Louis Park absent from the vote.

B. Review Roles and Responsibilities Document and Bylaws

Administrator Jester noted that the annual organizational meeting was a good time to review the roles and responsibilities document that was developed in 2013. Chair Cesnik noted the importance and value of the Technical Advisory Committee (TAC) indicating that cities carry out many of the Commission policies and their technical expertise was critical to the Commission. There was consensus that a review of the roles and responsibilities document should be considered by the Administrative Services Committee this year.

C. Discuss Commissioner Appointments and Attendance Expectations

Administrator Jester indicated that at the December meeting, she was asked to include this discussion item on the January or February agenda. She noted vacant positions currently include Minnetonka and Robbinsdale alternates and St. Louis Park primary commissioner. She noted there are no attendance requirements currently set forth in BCWMC policy documents. Chair Cesnik noted the importance of regular attendance and the need for a quorum of the Commission. TAC member Erick Francis reported the City of St. Louis Park continues to look for a primary commissioner. There was consensus that when the Administrative Services Committee reviews the joint powers agreement this year, an attendance requirement should be considered.

D. Review 2023 Commission Calendar and Areas of Work

Administrator Jester listed some items of business throughout the year in the Commission calendar and noted the calendar is updated and included in "information only" for every meeting. She was asked to add a list of acronym definitions to the calendar. She briefly reviewed the Commission committees and their work and noted committee meetings will be held in person during a time when members were available. She noted the Plan Steering Committee was currently a "committee of the whole" but would be much more active with nearly monthly meetings for about 18 months starting this summer. She asked for those committed to developing the 2025 Watershed Management Plan to participate on the committee.

E. Appoint Committee Members

- i. Administrative Services Committee
- ii. Budget Committee
- iii. Education Committee
- iv. Plan Steering Committee
- v. Technical Advisory Committee Liaison

Chair Cesnik noted the importance of committee work, saying it could streamline Commission meetings. Chair Cesnik went around the room and asked each commissioner and alternate to indicate which committee(s) each person would like to participate on. The following members were appointed to committees:

BCWMC Plan Steering Committee: Commissioners Cesnik, Welch, Harwell; Alternate Commissioners Vadali, Kennedy, and Polzin; TAC Members Scharenbroich and Ray

BCWMC Administrative Services Committee Members: Commissioners Cesnik, Welch, Gwin-Lenth; Alternate Commissioners Pentel, and Hauer

BCWMC Budget Committee Members: Commissioners Cesnik, Sicora, Anderson, Carlson, and Alternate Commissioner Polzin

BCWMC Education Committee Members: Commissioners Cesnik, Harwell, and Chowhan; Alternate Commissioners Hauer, Pentel, Leonardson, and Vadali, and TAC member Chirpich

Technical Advisory Committee Liaison: to be appointed by the Commission ahead of each TAC meeting.

- F. **Review Open Meeting Law**
Commission Attorney Anderson briefly reviewed the open meeting law, noting that it applies whenever there is a quorum of the board, including during social events or trainings. He also noted that discussions via email can also violate the law and it's important not to "reply all" to emails from the Administrator.
- G. **Review Year End Financial Report (Feb 1, 2022 - Jan 31, 2023)**
Administrator Jester reviewed the year end financial report noting that the Commission budget was "in the black" after all transfers between long term accounts. She reported that investment income was included as income to the general fund this year and that it was a substantial amount. She will work with the Budget Committee and financial consultants to determine if the investment income should be posted to the general fund or the CIP fund.

Administrator Jester reviewed budget lines that were over budget and why and others that were under budget. She reviewed grant funding received, contributions from partners, development review fees, etc. She noted this was not the final year end report but was close to an accurate reflection of spending vs. income for the year.

[Commissioner Chowhan leaves the meeting.]

6. BUSINESS

- A. **Receive Update and Consider Approving Payment Request for Lagoon Dredging Project**
Commission Engineer Chandler reviewed the status of the Bassett Creek Lagoon Dredging Project, saying that weather conditions had been challenging but that dredging in Lagoon E should be completed this week and Lagoon F completed next week. Excavation on Lagoon D had just gotten started. She reported that each day the contractor is dredging, Commission engineers are on-site and they are in frequent communication with the Minneapolis Park and Rec Board staff and Commission Administrator.

MOTION: Commissioner Welch moved that the Commission approve payment of the contractor's invoice and direct the Commission Chair to sign the pay application document. Commissioner Gwin-Lenth seconded the motion. Upon a vote the motion carried 8-0, with the City of St. Louis Park absent from the vote.

BREAK: A 5-minute break was taken.

- B. **Consider Providing Direction to Staff on Linear Projects Standards in 2025 Watershed Management Plan**
Administrator Jester reminded commissioners that this item was tabled at the January meeting. She noted that in light of TAC Chair Ray's letter to commissioners, she and Commission Engineer Chandler revised the memo to more clearly state the intent of the request to the Commission: to review options and provide direction to staff on how to move forward at this time. She reviewed the history of Commission linear project standards, including following MN Pollution Control Agency's (MPCA) Minimal Impact Design Standards (MIDS) starting with the adoption of the 2015 Watershed Plan. She noted that because of limited space in rights-of-way and other site constrictions, cities found it extremely difficult and costly to meet the MIDS requirements. In 2017, the Commission revised the standards significantly, resulting in very few linear projects triggering stormwater management requirements. She reported that to further complicate matters, the new MS4 permit from the MPCA requires cities to perform a reasonable attempt at stormwater treatment and infiltration, depending on cost effectiveness and site constraints.

Administrator Jester reported the TAC had discussed the linear project standards at their December meeting and that the memo in the meeting packet accurately reflected their comments at that meeting.

Commission Engineer Chandler explained how the triggers for requiring linear standards is the biggest difference between the 2015 standards, 2017 standards, and MS4 permit standards. She further explained how the MS4 permit language was intentionally vague to allow the flexibility sought by cities. She also noted that the Minnesota Cities Stormwater Coalition is currently developing guidance to help cities adhere to the MS4 permit, given the vague language.

Commission Engineer Chandler reported that this is one of the complex issues being analyzed for the 2025 Plan and that no decision regarding actual requirements is being sought today; that staff just needed direction from the Commission at this point.

Commissioner Harwell noted that infiltrating stormwater adjacent to roads could increase chloride levels in soil and groundwater. Alternate Commissioner Polzin noted that the City of Minneapolis had a different MS4 permit than other cities and that it had just expired and may be revised in its next iteration. Commissioner Welch noted that this is a difficult issue to solve and commented that when Commission standards were changed in 2017, little or no data were used to make that decision. Additional points raised during this discussion include: TAC members should continue to be engaged on the topic; MS4 permit requirements sometimes have unintended consequences; it is important to be fiscally responsible; in a fully developed watershed like Bassett Creek, it is important to use the opportunity that linear projects provide to gain improvements in stormwater management.

Commissioner Welch noted that watershed organizations are in a unique position to find a workable solution for addressing this issue at a local scale, likely better than the MPCA.

[Alternate Commissioner Pentel leaves the meeting.]

TAC member Katie Kowalczyk reported that the City of Minneapolis has been installing green infrastructure with linear projects. She noted that it's often difficult and costly, but the city is meeting the permit requirements.

Commission Engineer Chandler then reviewed the five options presented in the memo. Commissioner Welch wondered if there was another option to consider: Commission and cities partnering on linear projects, looking five years ahead, and collaborating on designing stormwater management. He noted that when it comes time to review the project, the Commission Engineer would already know the site, the constraints, and would have helped develop the best management practices to be used in the project.

Commissioner Harwell commented that regional treatment opportunities might better help address linear project stormwater management needs. Alternate Commissioner Polzin commented that she agrees with Commissioner Welch's suggestion and she would like to avoid overlapping or duplicative regulations. She wondered if there was another way to contribute a solution with other tools.

There was more discussion about Commissioner Welch's idea. It was acknowledged that collaboration and long-range planning might work but may be costly. Alternate Commissioner Kennedy asked what data had been analyzed on the different linear standards. Administrator Jester pointed to a table from the December TAC meeting and indicated the link could be sent to commissioners.

The TAC was asked to consider and discuss Commissioner Welch's idea at their next meeting. It was also noted that commissioners should rank their preferences for the 5 options included in the memo with meeting materials. Commissioners requested that pros and cons be developed for each option, with input from the TAC. It was acknowledged this is an iterative process and more discussion would be forthcoming.

Commissioners Harwell and Welch, and Alternate Commissioner Polzin volunteered to be liaisons for the March 1 TAC meeting.

[Commissioner Harwell and Alternate Commissioner Vadali leave the meeting.]

C. Update on Planning for February 28th Public Open House

Administrator Jester briefly reviewed the plans for the open house, noting there would be 5 tables, each with a different topic, where commissioners, alternates, and staff should engage with residents. She asked for a show of hands to make sure a quorum of cities would be present at the meeting. She said she would send more information via email.

7. COMMUNICATIONS

A. Administrator's Report

- i. Clarification on Interim Administrator Role – Administrator Jester reported that when Commission Engineer Chandler is acting as interim administrator March 4 – March 18, her role is to continue the day-to-day operation of the organization. She noted that Engineer Chandler will not be directing any new or additional work of the Commission Engineers and would, instead, contact Chair Cesnik or others (including Administrator Jester), if the need arises.
- ii. Administrator Jester reported that the Bassett Creek Valley stakeholder meeting is being convened by the BCWMC and will be held on March 29th at 9:00 a.m. at a venue to be determined. She reported that Commissioner Welch will give the welcome and introduction and that the goal of the meeting is to ultimately develop a partnership of various entities to advance regional stormwater and floodplain management and community improvements in the Bassett Creek Valley.

B. Chair – No report

C. Commissioners – Commissioner Welch noted that the Commission should consider developing a policy statement on diversity, equity, inclusion in order to connect BCWMC work with DEI issues. He also reported a forthcoming meeting with the Downtown Improvement District regarding oversalting on downtown sidewalks.

D. TAC Members – TAC Chair Ray noted that in other watershed organizations, the use of subwatershed analyses was a useful planning tool for long-term coordination. Commissioner Sicora agreed.

E. Committees – No report

F. Legal Counsel – No report

G. Engineer

- i. Update on Bryn Mawr Construction – Commission Engineer Chandler reported that pile construction is complete and contractors are preparing to install storm sewer. She also noted that much of the excavated soil isn't as contaminated as expected and is being used onsite, which will save construction funds.

8. INFORMATION ONLY (Information online only)

- H. BCWMC Administrative Calendar
- I. CIP Project Updates www.bassettcreekwmo.org/projects
- J. Grant Tracking Summary and Spreadsheet
- K. WCA Notice of Application, Crystal
- L. [Star Tribune Article: Low Salt No Salt Minnesota Campaign](#)
- M. [CCX News Story: Low Salt No Salt Minnesota Campaign](#)
- N. Correspondence on Proposed Golden Valley Land Use Amendment
- O. Loppet Sustainability Fair

8. ADJOURNMENT - The meeting adjourned at 11:29 a.m.