

Bassett Creek Watershed Management Commission

Minutes of the Meeting of August 16, 2007

1. Call to Order

The Bassett Creek Watershed Management Commission (BCWMC) was called to order at 11:30 a.m., Thursday, August 16, 2007 at Minnetonka City Hall by Chair Welch. Ms. Herbert conducted roll call.

Roll Call

<i>Crystal</i>	Commissioner Pauline Langsdorf, Secretary	<i>Counsel</i>	Charlie LeFevere
<i>Golden Valley</i>	Commissioner Linda Loomis, Treasurer	<i>Engineer</i>	Len Kremer
<i>Medicine Lake</i>	Commissioner Cheri Templeman	<i>Recorder</i>	Amy Herbert
<i>Minneapolis</i>	Commissioner Michael Welch, Chair		
<i>Minnetonka</i>	Commissioner Kris Sundberg (arrived after roll call)		
<i>New Hope</i>	Commissioner Daniel Stauner (arrived after roll call)		
<i>Plymouth</i>	Commissioner Ginny Black, Vice Chair		
<i>Robbinsdale</i>	Commissioner Karla Peterson		
<i>St. Louis Park</i>	Commissioner Richard Johnson		

Also present:

- Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park
- Karen Chandler, Barr Engineering
- Lane Christianson, City of Minneapolis
- Lois Eberhart, BCWMC Technical Advisory Committee, City of Minneapolis
- Jack Frost, Metropolitan Council
- Lee Gustafson, BCWMC Technical Advisory Committee, City of Minnetonka
- Dave Hanson, Alternate Commissioner, City of Golden Valley
- Ann Holter, City of Medicine Lake City Council
- Steve Lillehaug, City of Minnetonka
- Bob Moberg, BCWMC Technical Advisory Committee, City of Plymouth
- Jeremy Pavlish (for Dave Vicau), Vicau Associates
- Chris Remus, James R. Hill, Inc.
- Stu Stockhaus, Alternate Commissioner, City of Crystal
- Liz Stout, BCWMC Technical Advisory Committee, City of Minnetonka
- Elizabeth Thornton, Alternate Commissioner, City of Plymouth

2. Approval of Agenda and Consent Agenda

Ms. Loomis moved to approve the agenda. Ms. Langsdorf seconded the motion. The motion carried unanimously [City of Minnetonka and City of New Hope were absent from the vote]. Ms. Black moved to approve the consent agenda. Ms. Peterson seconded the Consent Agenda. The motion carried unanimously [City of Minnetonka and City of New Hope were absent from the vote].

3. Administration

A. Presentation of the July 19th meeting minutes. The minutes were approved as part of the Consent Agenda.

B. Financial Statement. The August 2007 financial report was approved as part of the Consent Agenda.

The general and construction account balances reported in the August 2007 Financial Report are as follows:

<u>Checking Account Balance</u>	308,634.26
<u>TOTAL GENERAL FUND BALANCE</u>	308,634.26
Investment Balance	1,256,976.10
Commercial Paper (due 8/15/07)	1,486,323.75
<u>TOTAL CONSTRUCTION ACCOUNT BALANCE</u>	2,743,299.85
<u>-Less: Reserved for CIP projects</u>	2,585,050.58
<i>Construction cash/ investments available for projects</i>	158,249.27

C. Presentation of Invoices for Payment Approval.

Invoices:

- i. Kennedy & Graven – Legal Services - invoice for the amount of \$1,704.05.
- ii. Barr Engineering Company – July Engineering Services - invoice for the amount of \$21,907.30
- iii. Barr Engineering Company – July Sweeney Lake TMDL Project Services - invoice for the amount of \$520.00.
- iv. Barr Engineering Company – June and July Services for Twin’s Stadium – invoice for the amount of \$1,114.49.
- v. Amy Herbert – July Recording Administrator Services - invoice for the amount of \$2,567.57.
- vi. League of Minnesota Cities Insurance Trust – Annual Insurance Premium – invoice for the amount of \$4,251.00.

Ms. Black moved to approve payment of all invoices. Ms. Peterson seconded the motion. Mr. LeFevere reminded the Commission that it deferred the vote on the LMCIT premium invoice from the July meeting for clarification of the charges. Mr. LeFevere explained there were two parts to the bill: one part is the general liability coverage and the other part is the Open Meeting Law coverage. He said the remaining information in the invoice details how those numbers were derived. By call of the roll, the motion carried unanimously [City of Minnetonka was absent from the vote].

D. BCWMC Invoice through July 27, 2007 for Submission to the MN Ballpark Authority. Ms. Black moved to approve sending the invoice to the MN Ballpark Authority. Ms. Peterson seconded the motion. The motion carried unanimously [City of Minnetonka was absent from the vote].

E. Metropolitan Council Environmental Services – 2007 CAMP Program – Contract and Invoice. Ms. Loomis moved to approve entering into an agreement with the Met Council and to pay the CAMP invoice to the Met Council in the amount of \$4,610.00. Ms. Langsdorf seconded the motion. By call of the roll, the motion carried unanimously [City of Minnetonka was absent from the vote].

4. Communications

Citizen Input on Non-agenda Items: No Citizen Input.

A. Chair

- i. Chair Welch reminded the Commission of the BCWMC Special Meeting on Thursday, September 6th at 3:00 p.m. at Golden Valley City Hall for the Commission to discuss and make decisions on drainage issues related to the construction of a new Twins stadium.
- ii. Chair Welch reminded the commissioners that discussion of Commission business issues should not take place over e-mail and that the Open Meeting Law applies to the Commission's e-mail communications.
- iii. Chair Welch announced that the City of Minneapolis cut the check this week for its BCWMC 2007 assessment.

B. Commissioners: Ms. Black said she handed out a packet with the May and June Barr invoices that has the charges broken down to identify costs that could be saved by an administrator. She said no action needs to be taken but it is for the Commission's information.

C. Committees:

- i. Education and Outreach Committee - Ms. Black announced that the Education and Outreach Committee received a grant application this week and that she handed out copies of the application to the Commissioners at the meeting. She said the Education Committee will discuss the application at its 9:00 a.m. September 6th meeting at Golden Valley City Hall. Mr. Johnson asked if he can submit his comments about the grant application via e-mail to Ms. Black or if that would be in violation of the Open Meeting Law. Mr. LeFevere said that one on one communication is fine unless it is between two members of a three-person committee. He said if one person communicates with more people about a matter that will come before the Commission the communication would be a violation of the Open Meeting Law. He said the dangerous part about e-mail is that one person can hit "reply to all" and then everyone on the e-mail distribution list is party to that communication and it would violate the Open Meeting Law. Mr. LeFevere recommended that the Commissioners send their comments to Ms. Herbert who can collect all the comments and distribute them as part of the meeting materials.

D. Counsel: No communications.

E. Engineer: No communications.

5. New Business

A. Bassett Creek Office Centre: Plymouth. Mr. Kremer explained that the project is a proposed office center development in the City of Plymouth located just north of Highway 55, south of Medicine Lake, and west of Bassett Creek. He added that the proposed project is a 13.7-acre site with an office building and a large amount of parking. He said the 100-year flood plain elevation of the site is 889. Mr. Kremer said the proponent is proposing to fill a portion of the flood plain.

He said the compensation for the flood plain fill is the excavation being done to improve the size of an existing pond, to build a new a pond, and to construct wetland mitigation. Mr. Kremer reported that the water quality ponding meets Level 1 standards as required by the Commission and that there will be more compensating storage than fill, which also meets the Commission's requirements. Mr. Kremer said the Commission Engineer recommends approval of the proposal.

Ms. Loomis said the Engineer's Memo stated that the east pond had been receiving water from offsite and asked if it will still be receiving that offsite water. Mr. Kremer said yes. Mr. Kremer said that the consultants for the developer are present at the meeting and are prepared to answer any questions.

Chair Welch wanted to clarify that suspended solids at the Level 1 standard are the same as the NURP standards or 80% removal of suspended solids and 60% removal of phosphorus. He also wanted to clarify that the ponds in the proposal are not infiltration ponds but are permanent wet detention ponds so there won't be any infiltration of the asbestos material on the property. Mr. Kremer said there would not be infiltration.

Chair Welch asked if the proposal has a 1 to 1 wetland replacement. Mr. Moberg responded that with the wetland mitigation and the buffers being created it is a 2 to 1 replacement.

Mr. Kremer remarked that the Commission Engineer did have a few issues with the original project proposal. He said the Commission Engineer communicated with the City of Plymouth and the consultants for the developer regarding the issues and that the plan in front of the Commission is the modified plan that meets all the Commission's requirements. Ms. Black moved the staff's recommendation of approval. Ms. Templeman seconded the motion. The motion carried unanimously.

- B. Request by the City of Plymouth for BCWMC's Comments on Draft Non-Degradation Report.** Chair Welch stated that the City of Plymouth has requested comments from the BCWMC on the city's draft non-degradation plan and that the city is under a deadline to get the plan submitted to the Minnesota Pollution Control Agency (MPCA). Mr. Kremer said that as part of the settlement between the Minnesota Council of Environmental Services (MCES) and the MPCA, the MPCA agreed to have 30 of the metropolitan area's fastest growing cities prepare nondegradation plans. He explained that the purpose of the plan is to demonstrate how BMPs can bring water quality levels to 1988 levels. Mr. Kremer said Barr Engineering worked with the city of Plymouth to complete its nondegradation plan. He reported that the MPCA has asked cities to submit their plans to the local water management authority for comment. Mr. Kremer said the city of Plymouth's plan is due to the MPCA by October 1st. He said that Mr. Moberg expressed the opinion that since Barr Engineering did the plan it is not appropriate for the Commission Engineer [Barr Engineering] to provide comments on the plan to the Commission. Mr. Moberg has requested that the Commission's Technical Advisory Committee (TAC) look at the plan.

Mr. Kremer explained that a nondegradation plan falls short of a plan such as a TMDL plan. He said that the BCWMC's water quality management plan and the City of Plymouth's water quality management plan is much more aggressive than a nondegradation plan in terms of what the plans are trying to achieve for water quality purposes. Mr. Kremer said he personally doesn't think there is much for the Commission to be concerned about in the member-cities' nondegradation plans. He said the Commission should review whether the BMPs being proposed by the cities as part of their nondegradation plans are in compliance with the water quality standards required by the Watershed Management Plan.

Mr. Moberg commented that the City of Plymouth's nondegradation plan is about 75 pages of

very technical information. He said the City of Plymouth is asking the Commission to have its TAC look at the nondegradation plan. Chair Welch said he would expect a draft letter containing Commission comments on the Plymouth nondegradation plan for Commission review at the September meeting. He said he doesn't see any conflict with Barr Engineering preparing the letter with the TAC comments as long as Barr doesn't comment substantively.

Mr. Gustavson said Barr Engineering is preparing the City of Minnetonka's nondegradation plan and the same situation will come up in terms of the BCWMC being asked to comment on a plan that the Commission Engineer prepared. He said if it were something more critical being reviewed he would recommend the Commission hire an outside Engineering consultant to handle the review but in the case of these nondegradation plans he doesn't see an outside review as being necessary.

Chair Welch suggested directing the TAC to look at the City of Plymouth's nondegradation plan and to provide comments to Ms. Herbert to draft a letter.

Ms. Loomis moved to have the TAC look at Plymouth's nondegradation plan and to prepare comments to be included in a letter. Ms. Black seconded the motion. Mr. Gustafson asked for a friendly amendment to state that all nondegradation plans coming to the Commission for comment should be directed to the TAC for review. Ms. Black and Ms. Loomis approved the friendly amendment. The motion carried unanimously.

6. Old Business

- A. **2008 Operating Budget.** Chair Welch reminded the Commission that it received comments on its proposed budget from the City of New Hope and the City of St. Louis Park. Mr. Stauner commented that the City of New Hope was unhappy with the increase of the budget and that the city focused on the budget's proposed addition of personnel. He said he did not think New Hope City Council clearly understood that the BCWMC's proposed administrator position is a cost-savings proposal. Mr. Stauner said New Hope's City Council had reservations about the administrator position similar to the comments voiced in the City of St. Louis Park's comment letter to the BCWMC. He said there are a lot of unanswered questions about the position that could impact cost. Mr. Stauner commented that a letter with the same comments went to the Shingle Creek WMO, whose budget increased only 2.4%. Mr. Stauner said he would like to see the net tax capacity information for the City of New Hope to understand if it affected the increase in the City of New Hope's 2008 assessment from the BCWMC.

Chair Welch stated that the assessments in the recent past have been lowered by the Commission paying them down and remarked that the Commission did not do that payment this year, which probably had a bigger impact on the increase to the assessment than any other factor.

Ms. Langsdorf reported that the City of Crystal's City Council conducted a work session to discuss the BCWMC's proposed 2008 operating budget and asked if Barr Engineering had someone it could provide to do the Administrator work.

Chair Welch said the proposed 2008 budget includes a budget for adding an administrator position and moving some tasks from Barr Engineering and the Recording Administrator to the new administrator. He said that the details for the position and how the tasks would be moved and the costs of the position would be fleshed out by the Administrator Services Committee and would be brought to the Commission.

Ms. Black said that approving the proposed 2008 budget with the Administrator budget doesn't commit the Commission to hiring someone but commits funds to hire someone if the Commission approves doing so once it has gone through the process of determining whether it would make sense for the Commission to do so.

Ms. Loomis said the budget could be amended if the Commission decides not to move ahead with the Administrator position. Ms. Sundberg said she is uncomfortable with the administrator position and she would feel better if she could see specifics about it before taking action on the Administrator position.

Chair Welch thanked Mr. Stauner for his background on the budget comments from the City of New Hope and asked Mr. Stauner to communicate to the New Hope City Council that the BCWMC did not undertake the budget process in a willy-nilly fashion or without a sense of responsibility.

Mr. Stauner said he is a little troubled by the comment that bringing in an administrator may not be a significant cost savings because significant cost savings is the rationale for doing it and otherwise it would not be worth the hassle. He said he explained to the New Hope City Council that if the Commission does not go ahead with the Administrator then the budgeted funds would go to buy down the city assessments for the next year.

Ms. Black said she sees the Administrator position as a cost containment measure rather than a cost savings because the Commission would have a set staff person with a set salary.

Mr. Stockhaus said it seems the proposal of adding an Administrator is trying to help ensure the possibility of not having commissioner burn out. He said what the commissioners have been doing is subsidizing the budget and the municipalities are not even aware of how much and that the budget hadn't been reflecting the true expense of people's time. He said the Commission is now trying to make a more honest estimate of what the costs really are as opposed to what the costs are on paper.

Ms. Black commented that she thinks all cities that provided comment to the BCWMC on its proposed budget should receive a response from the Commission in written form. Chair Welch said the Commission should send the letter to all the cities and said he would draft a communication. Ms. Black and Chair Welch agreed to work together on the communication.

Chair Welch said the Administrator Services Committee should meet between now and the September 20th BCWMC meeting and said he would e-mail some possible meeting times to Ms. Herbert and Ms. Herbert can coordinate the meeting.

Ms. Black moved to approve the BCWMC 2008 operating budget as proposed. Ms. Loomis seconded the motion. The motion carried unanimously.

Mr. Kremer mentioned that Mr. Jim Herbert and Ms. Karen Chandler would be accompanying the Commission on today's watershed tour and their time would not be charged to the Commission.

- B. Minor Plan Amendments Update.** Chair Welch announced that the Board of Water and Soil Resources (BWSR) approved the proposed plan amendments for the channel restoration along the Sweeney Lake Branch of Bassett Creek from Courtlawn Pond to Turners Crossroad in Golden Valley and for the project cost estimate revision for the construction of Northwood Lake East Pond (NL-7) in New Hope and that BWSR approved them as minor plan amendments. Mr. LeFevere said the public hearing will be held at the September 20th BCWMC meeting and that it needs to

pass by a 2/3's vote so the commissioners need to be sure that if they can't attend the meeting to arrange for their alternate to be there to vote. Chair Welch directed Ms. Herbert to have the public hearing notices published.

- C. **BCWMC Education Grant Funding Recommendation for Northwood Lake/ Feldman Proposal.** Ms. Black mentioned that the Education Committee provided a write-up regarding the Committee's recommendation to approve the grant. She said that according to the Commission's grant criteria, individual homeowners qualify for BCWMC's grants and in this proposal the grant applicants Harvey and Andrea Feldman are individual homeowners. Ms. Black said the Commission's criteria also states that installation projects of native plantings to restore or establish vegetated buffer zones or habitat – especially along waterways, lakes, ponds or wetlands – or landscaping with native plants for a result of improved water quality qualify for the Commission's grant. Ms. Black explained that the proposed project is a project to revegetate the lakeshore of the Feldman's property using native species to improve the water quality of Northwood Lake. Ms. Black said the Education Committee also viewed the proposal as a demonstration project because other people will be able to come look at the project. She said the Feldman's are proposing a match of in-kind funding.

Chair Welch said he would like it if the Feldmans would add a sign to the revegetated area to explain the project and if the Feldman's would announce their open house in their local paper.

Chair Welch said if the Commission approves the grant, Mr. LeFevere would draw up the agreement between the Commission and the Feldmans. Mr. LeFevere said the Commission would draft up a brief, generic grant agreement that would be defined mostly by its attachments so the Commission wouldn't have to draft up a new agreement each time. He said he could work with Ms. Black on the documents. Chair Welch suggested adding a good faith clause for the homeowner to maintain the project.

Ms. Loomis remarked that she is not going to support this grant. She said she had envisioned something else for the Commission's grant program. She said she would rather see the grant money go to another group like the group applying for grant in the application Ms. Black passed out to the commissioners today. Ms. Loomis said she couldn't see the Feldman's project being useful to a lot of people.

Mr. Stauner said he has the same concerns as Ms. Loomis and commented that no one will see the project from the street. He also commented that he would prefer to see more hands on involvement by the homeowner on a project such as this.

Ms. Langsdorf moved approval of the grant proposal for \$925 or 50% of the project, whichever is less, for the Northwood Lake Shoreline Restoration project and of entering into a contract agreement with the homeowners. Ms. Black seconded the motion but added a friendly amendment of adding the educational requirements outlined in the Education Committee's August 9, 2007 memo: document the project through photographs; homeowners hold a neighborhood party to educate the neighborhood on the benefits of the project to the lake; upon request the homeowners allow others to view their project; provide information about ongoing maintenance of the project. Ms. Langsdorf agreed to the friendly amendment.

Ms. Templeman asked if it would be arbitrary to not approve the grant application if a grant meets all the grant criteria and asked if the Commission should make changes to the grant criteria. Mr. LeFevere said there wouldn't be any grounds to challenge the decision on the grounds that it is arbitrary because the grant applicant has no property right or entitlement to receiving a grant. He said commissioners have expressed legitimate reasons on why the project is not the best candidate.

Mr. LeFevere said if the Commission does not approve this grant it would not be a bad idea to go back and fine tune the grant criteria so applicants know the Commission's current thinking and don't apply for something that no longer would qualify. Chair Welch remarked that a regular review of the grant criteria should occur.

By call of the roll, the motion was denied with four votes in favor of the motion [City of Crystal, City of Medicine Lake, City of Minneapolis, and City of Plymouth] and five votes against the motion [City of Golden Valley, City of Minnetonka, City of New Hope, City of Robbinsdale, and City of St. Louis Park].

Ms. Black said she takes the motion of the denial as a direction to the Education Committee to bring to the Commission a revision to the grant criteria because the current criteria is misleading people regarding what types of projects qualify for the grants. Chair Welch said that is a good idea.

D. BCWMC Training. Item deferred to the September meeting.

E. September TAC Agenda. Mr. Kremer said there are three items on the September 6th TAC meeting: the Requirements for Development Proposals document addendum to add requirements for infiltration and filtration basins; the City of Minneapolis ballpark drainage issues; and the City of Plymouth's nondegradation plan. Ms. Loomis moved to include the three items specified by Mr. Kremer to the September 6th TAC meeting. Mr. Welch seconded the motion. The motion carried unanimously.

7. September Meeting

The following agenda items are currently scheduled for the September 20th, 2007 BCWMC meeting:

- A. Public Hearing on cost estimate revision for Northwood Lake East Pond (NL-7) construction and on the Channel restoration along Sweeney Lake Branch of Bassett Creek from Courtlawn Pond to Turners Crossroad in the City of Golden Valley.
- B. Medicine Lake Curlyleaf Pondweed Update
- C. BCWMC Training
- D. BCWMC Education Grant

8. Adjournment

Ms. Black moved to adjourn the business meeting and to start the watershed tour. Chair Welch seconded the motion. The meeting adjourned at 12:40 p.m.

Michael Welch, Chair

Amy Herbert, Recorder

Pauline Langsdorf, Secretary

Date: _____