

Bassett Creek Watershed Management Commission

Minutes of the Meeting of February 15, 2007

1. Call to Order

The Bassett Creek Watershed Management Commission was called to order at 11:30 a.m., Thursday, February 15, 2007 at Golden Valley City Hall by Chair Welch. Ms. Herbert conducted roll call.

Roll Call

<i>Crystal</i>	Commissioner Pauline Langsdorf	<i>Counsel</i>	Charlie LeFevere
<i>Golden Valley</i>	Commissioner Linda Loomis, Treasurer	<i>Engineer</i>	Karen Chandler
<i>Medicine Lake</i>	Commissioner Cheri Templeman	<i>Recorder</i>	Amy Herbert
<i>Minneapolis</i>	Commissioner Michael Welch, Chair		
<i>Minnetonka</i>	Commissioner Bill Yaeger, Vice Chair		
<i>New Hope</i>	Commissioner Daniel Stauner		
<i>Plymouth</i>	Alternate Commissioner Liz Thornton		
<i>Robbinsdale</i>	<i>Not Represented</i>		
<i>St. Louis Park</i>	Commissioner Richard Johnson		

Also present: Laura Adler, BCWMC Technical Advisory Committee, City of St. Louis Park
Jeannine Clancy, Technical Advisory Committee, City of Golden Valley
Jack Frost, MCES
Mary Gwin-Lenth, New Hope
Dave Hanson, Alternate Commissioner, City of Golden Valley
Ron Leaf, SEH
Bernard Lenz, SEH
Al Lundstrom, City of Golden Valley
Tom Mathisen, BCWMC Technical Advisory Committee, City of Crystal
Bob Moberg, City of Plymouth
Richard McCoy, BCWMC Technical Advisory Committee, City of Robbinsdale
Liz Stout, BCWMC Technical Advisory Committee Alternate, City of Minnetonka

2. Approval of Agenda and Consent Agenda

Ms. Chandler requested the deferral of item 5A. Industrial Supply: Plymouth until the March 2007 BCWMC meeting. Ms. Herbert asked for the addition of item Fv. Appointment of Deputy Treasurer. Ms. Loomis moved to approve the amended agenda. Ms. Thornton seconded the motion. The motion carried unanimously.

Ms. Thornton requested the removal of the financial statement from the Consent Agenda. Mr. LeFevere reported he had a communication item for Counsel Communications. Chair Welch removed the Counsel Communications from the Consent Agenda. Chair Welch removed the January 18th minutes from the Consent Agenda. There were no items remaining on the Consent Agenda.

3. Administration

- A. Presentation of the January 18, 2007 minutes. Chair Welch requested a change be made on page 9 of the minutes. He noted that the date of the memo referenced on page 9 in the fifth paragraph should be March 2006 not March 2007 as reflected in the minutes. He also clarified that the idea he

was trying to convey in that discussion. He said the idea behind setting up a fund for TMDL studies was that if the BCWMC got the studies done earlier then it could potentially put the BCWMC in line for implementation earlier. Ms. Loomis moved to approve the minutes as amended. Ms. Thornton seconded the motion. The motion carried unanimously.

B. Financial Statements.

Ms. Thornton said that on the financial report showing the 2006 year-end report [there were two financial reports in the meeting packet: the 2006 year-end report and the February 2007 report], the engineering administration budget item showed a deficit of \$38,471.62. She asked if that is an indication that the budget for 2007 should be amended or if the difference is made up in the permit fees. Ms. Loomis stated that the difference is made up in the permit fees. She said that this report does not show revenues but that the 2007-2008 financial reports, starting with the February 2007 report in the meeting packet, will reflect revenues.

Ms. Thornton said she thought that when the BCWMC talked about permits, the BCWMC discussed whether the permits would be charged to public agencies because that is taxpayer money. Ms. Thornton asked the BCWMC to consider whether it should charge public entities a permit fee and whether the fee charges are over and beyond the review costs and if the overcharges should be returned.

Chair Welch said he had the question some time ago about public versus private entities being charged fees. He said he was not at the meeting when the permit fee policy was adopted. Chair Welch said his understanding is that fees beyond what was expended would be returned. Mr. LeFevere said no, the policy adopted instated a fee as a flat fee that in some cases would be too high and in some cases would be too low. He noted that the fee can't be used as a general revenue stream but it is ok for the fee to recover more than actual costs in some cases and less than actual costs in some cases. He said the fee policy is currently set up as an approximate cost. Mr. LeFevere said the BCWMC could set it up differently and could charge actual costs. He said a problem with that is that if the BCWMC does not approve a certain proposal, it could be hard to collect a fee after the decision. Mr. LeFevere said another problem is that sometimes projects become controversial, then more time is spent on the project than usual. Chair Welch asked if this issue should be added as a policy issue on the March meeting agenda. Ms. Loomis thought the BCWMC had discussed not charging the cities for projects. Ms. Loomis thought the item should be added to the March agenda.

Chair Welch directed Ms. Herbert to add permit fees as a discussion item to the March BCWMC agenda and directed her to look through the historical meeting minutes and add to the March meeting packet copies of minutes containing previous discussions about the permit fee.

Ms. Loomis moved to receive and file the financial statements. Mr. Yaeger seconded the motion. The motion carried unanimously.

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

<u>Checking Account Balance</u>	<u>166,912.93</u>
<i>TOTAL GENERAL FUND BALANCE</i>	<i>166,912.93</i>
Investment Balance	1,822,357.68
Commercial Paper (due 2/14/07)	990,791.11
<u>TOTAL CONSTRUCTION ACCOUNT BALANCE</u>	<u>2,813,148.79</u>

C. Presentation of Invoices for Payment Approval.

- i. Kennedy & Graven – Legal Services**
Ms. Loomis moved to approve payment of the Kennedy & Graven invoice of \$1,135.27 and the Kennedy & Graven invoice of \$2,036.10. Mr. Johnson seconded the motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].
- ii. Barr Engineering Company – Engineering Services**
Ms. Loomis moved to approve payment of the Barr invoice of \$26,005.23. Ms. Loomis seconded the motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].
- iii. Amy Herbert – Recording Administrator Services**
Ms. Loomis moved to approve the Amy Herbert invoice of \$3,183.30. Ms. Thornton seconded the motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].
- iv. MMKR Certified Public Accountants – Progress Billing for Audit Services**
Mr. Yaeger moved to approve payment of the MMKR invoice of \$1,250.00. Ms. Loomis seconded the motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].
- v. CNA Surety – Treasurer’s Bond Renewal**
Mr. Yaeger moved to approve payment of the CNA Surety invoice of \$100.00. Ms. Loomis seconded the motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].
- vi. City of Golden Valley – Financial Management Fee**
Mr. Yaeger asked if there was a point in time when the city of Golden Valley was not in this position. Ms. Loomis commented that Ed Silberman previously did the financial report. Ms. Herbert said understood that former BCWMC commissioner Ed Silberman, when he was an acting commissioner and held the office of BCWMC treasurer, maintained the BCWMC financial report and budget. Mr. Yaeger moved to approve payment of the City of Golden Valley financial management fee invoice of \$1,200. Ms. Loomis seconded the motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].

Chair Welch took a quick break in the agenda to welcome Mr. Daniel Stauner, newly appointed commissioner representing the City of New Hope, to the Bassett Creek Watershed Commission.

- D. Resolution 07-04.** Chair Welch introduced the Resolution 07-04 as a revision of Resolution 07-02, which had been approved at the January meeting. Chair Welch said Resolution 07-04 corrects typographical errors contained in Resolution 07-04 and approves the reimbursement to the BCWMC of \$12,975, or 2.5% of the 2006 tax levy amount of \$519,000, for administrative expenses for Capital Improvement Projects and directs the Deputy Treasurer to transfer of the funds from the CIP account to the Administrative Account. Ms. Loomis moved to adopt Resolution 07-04. Ms. Langsdorf seconded the

motion. The motion carried unanimously.

- E. Annual Amendment of Contracts for Legal, Engineering, and Recording Administrator Services. Chair Welch announced that since this is the first meeting of the 2007 fiscal year, the BCWMC is reviewing annual amendments to existing contracts with Barr Engineering as the BCWMC consulting engineer and Amy Herbert as the BCWMC Recording Administrator. He commented that the BCWMC does not have contracts in place with Golden Valley for financial management or with Kennedy & Graven for legal services but that Mr. LeFevere has handed out a proposed Agreement for Legal Services for Commission review today.**

Mr. LeFevere stated that the contract between the BCWMC and Kennedy & Graven has to this point been the proposal submitted to the BCWMC by Kennedy & Graven, which lists the rates and specifies that Kennedy & Graven will do the work as assigned. He said that the BCWMC could accept the proposal as it has in the past or it could review and take action on the agreement for services he handed out today. Mr. Yaeger asked what action the BCWMC took to accept Kennedy & Graven's most recent proposal for legal services to the Commission. Ms. Herbert reminded the Commission that at the December BCWMC meeting it was announced that one proposal for legal services and three proposals for engineering services were received. She stated that the Commission created a committee to review the engineering proposals and in January, Ms. Black presented the committee's recommendation on which engineering firm to contract with for technical services. Ms. Herbert stated that no formal action was taken.

Ms. Loomis moved that the BCWMC accept the proposal from Kennedy & Graven and authorize the BCWMC to enter into an agreement with the firm for legal services. Mr. Yaeger seconded the motion. Ms. Templeman asked if on the top of page 2, letter 1, if the reference to the BCWMC means the commissioners also in regard to defense. Mr. LeFevere said in almost all cases the insurance of the BCWMC covers acts of the commissioners except in the case of something far outside of the scope of proper and appropriate activities of a commissioner. He continued by saying in the cases where a commissioner would not be covered under insurance, the BCWMC would decide whether to authorize defense. Mr. LeFevere said the Agreement for Legal Services is not meant to exclude that defense.

The motion carried unanimously.

Chair Welch asked how the BCWMC feels about not having a contract with the City of Golden Valley for financial management services. Mr. LeFevere said if the BCWMC and the City of Golden Valley is comfortable with the current arrangement it seems like it would not be necessary to create a contract. Mr. Yaeger commented he doesn't think the BCWMC needs a contract for the financial management services. Chair Welch asked Ms. Loomis to check with Deputy Treasurer Sue Virnig to make sure she is comfortable with the process as it stands.

Ms. Thornton asked if there should be something in the Barr Engineering and the Amy Herbert contract amendments that specify rates. Ms. Herbert said that her contract specifies a rate and so the contract amendment simply extends the term of the agreement previously entered into by the BCWMC and Amy Herbert. Ms. Thornton asked if the amendment should specifically state "at the same rate." Mr. LeFevere said it would not need to.

Ms. Thornton asked if the rates should be specified in the Barr Engineering contract amendment. Mr. Yaeger said the contract amendment is essentially just confirming that the BCWMC is accepting Barr Engineering's proposal and is authorizing the extension of its contract. Mr. Yaeger said Barr's contract amendment lists under item number 1 that the term of the contract is extended to January 31, 2008. Ms. Thornton asked if that means that the rates will be the same as the rates specified in the contract. Chair Welch said it means the rates will be as reflected in the proposal for engineering and technical services submitted by Barr and accepted by the BCWMC. Ms. Thornton asked if that change needs to be specifically listed in the contract amendment. Mr. Stauner said that issue is addressed somewhat in the second paragraph of Barr's contract amendment that states, "WHEREAS, the parties desire to amend the Contract to extend the term and to provide for additional services by Barr Engineering Company for additional compensation and to enable both parties to continue to enjoy the mutual benefits it provides." Mr. Stauner said his interpretation is that additional compensation could be an increased rate structure. He said he thought it would be appropriate for that language to be included as part of the amendment.

Mr. LeFevere said he does not know what the original contract states but that his guess is that the original contract says that rates would be adjusted from time to time. He said if that is what the original contract states, then it would be sufficient for the BCWMC to approve the amendment and approve the rate schedule set forth in the proposal. Mr. Yaeger asked if Barr Engineering would add to its contract amendment an additional paragraph as number 3 stating that the proposal is accepted as a contract. He said the BCWMC could table this item until next month when it could look at a revised contract amendment.

Mr. LeFevere said that if the BCWMC wants to act on this item today, he could give Barr Engineering the following language to add to its contract amendment as paragraph 3: "Rates shall be in accordance with the schedule in the proposal of Barr Engineering dated *date of proposal*." Mr. LeFevere said then the BCWMC wouldn't need to bring this issue back again. Mr. Yaeger moved to approve the Barr Engineering contract amendment with the changes specified by Mr. LeFevere. Ms. Loomis seconded the motion. Chair Welch added a friendly amendment to the motion of also accepting Barr Engineering's proposal. Mr. Yaeger accepted the amendment to his motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].

Ms. Loomis moved to approve Amy Herbert's contract amendment. Mr. Johnson seconded the motion. By call of roll, the motion carried unanimously [City of Robbinsdale was absent from the vote].

F. Organizational Meeting.

- i. **Nomination for Chair.** Chair Welch asked for nominations from the floor for BCWMC Chair. Ms. Loomis nominated Commissioner Welch, current BCWMC Chair. Ms. Langsdorf seconded the nomination. Chair Welch asked for nominations from the floor two more times and then closed the nominations. The motion carried unanimously.
- ii. **Nomination for Vice Chair.** Chair Welch asked for nominations from the floor for BCWMC Vice Chair. Mr. Yaeger nominated Ms. Langsdorf. Ms. Langsdorf declined the nomination. Ms. Langsdorf nominated Commissioner Black for Vice Chair. Chair Welch seconded the nomination. Chair Welch asked for nominations from the floor two more times and then closed the nominations. The motion

carried unanimously.

- iii. **Nomination for Secretary.** Chair Welch asked for nominations from the floor for BCWMC Secretary. Mr. Yaeger nominated Commissioner Langsdorf. Ms. Temleman seconded the nomination. Chair Welch asked for nominations from the floor two more times and then closed the nominations. The motion carried unanimously.
- iv. **Nomination for Treasurer.** Chair Welch asked for nominations from the floor for BCWMC Treasurer. Chair Welch nominated Commissioner Loomis. Ms. Thornton seconded the nomination. Chair Welch asked for nominations from the floor two more times and then closed the nominations. The motion carried unanimously.
- v. **Nomination for Deputy Treasurer.** Ms. Loomis nominated Sue Virnig for Deputy Treasurer. Chair Welch seconded the nomination. Chair Welch asked for nominations from the floor two more times and then closed the nominations. The motion carried unanimously.
- vi. **Appointment of Official Depositories.** Mr. Yaeger moved to appoint Wells Fargo and RBC Dain Rauscher as the Official Depositories of the BCWMC. Mr. Thornton seconded the motion. The motion carried unanimously.
- vii. **Budget Committee.** Chair Welch stated that traditionally the budget committee has consisted of the BCWMC officers and anyone else who was interested. Mr. Yaeger asked if a commissioner shows up who was not appointed to the committee, would that person be authorized to vote. He asked if the committee could be a committee of whole so that any commissioner who shows up to the meeting would be a voting member.

Mr. Stauner moved that the appointed Budget Committee is a committee of the whole. Mr. Yaeger seconded the motion. Mr. LeFevere said the Budget Committee could establish for itself its own bylaws, including defining the Budget Committee's quorum. The motion carried with seven votes in favor and one vote against by the city of Golden Valley [City of Robbinsdale was absent from the vote].
- viii. **Meeting Details.** Mr. Yaeger moved to approve the same schedule and time. Ms. Thornton seconded the motion. Chair Welch amended the motion to change the November 2007 meeting to Wednesday, November 14th. The motion carried unanimously.
- ix. **Commissioner Training.** Ms. Herbert announced that she still needs to work on putting together the CD-ROM of training materials as requested by the BCWMC.
- x. **Watershed Tour.** Chair Welch mentioned that traditionally the BCWMC has conducted a watershed tour every two years and that the last tour was in August of 2005. He asked if the commissioners are interested in a watershed tour this year and if so, if they have any comments on specific sites to visit.

Mr. Yaeger recommended holding the tour. Mr. Thornton suggested the tour start in the western part of the watershed and work its way east so that areas up by the headwaters get looked at. She mentioned that the last tours never made it to the tour sites located western part of the watershed due to running out of time. Chair

Welch suggested seeing the Wirth/ Highway 55 pond. Ms. Loomis suggested adding Van White Memorial Boulevard to the tour itinerary. Chair Welch recommended the Commission think about holding the tour in August at the regular meeting time. He asked commissioners to think about sites to visit.

4. Communications

- A. **Citizen Input on Non-Agenda Items:** Ms. Herbert announced that the BCWMC received an e-mail from Mr. Bryan Rossi, who resides at 4645 Bassett Creek Lane. Mr. Rossi's stated purpose of the e-mail was to bring to the BCWMC's attention to a proposed sidewalk project on the east side of Noble Avenue from Golden Valley Road to Noble Elementary School in Golden Valley. Mr. Rossi also requested that the plan to add a second sidewalk on the East side of Noble Avenue between Golden Valley Road and Culver Road be abandoned.

Chair Welch stated that the e-mail was sent to all of the commissioners as well as the Commission Engineer, Counsel, and Recording Administrator. Chair Welch asked Mr. Lundstrom if the city of Golden Valley has looked at the proposed increase in impervious surface and if the city has considered using a stretch of pervious concrete for that sidewalk Mr. Lundstrom responded that the city of Golden Valley hasn't done the details of design at this point. Chair Welch directed the Commission Engineer to look at the project and determine if it requires BCWMC review. He directed Ms. Herbert to e-mail Mr. Rossi to let him know about this action.

B. **Chairman:**

- i. Chair Welch commented that there will be a public meeting on March 6th held by combined forces from Minneapolis who are part of the legislative citizen commission on the Minnesota Resources project and from Hennepin County who are part of the proposed Daylighting Streams project. He mentioned the focus of the meeting is the area between Penn Avenue and the Bassett Creek Tunnel. Chair Welch said he would try to attend that meeting. Mr. Mathisen, Ms. Clancy, and Ms. Chandler requested Chair Welch forward the meeting announcement to them.
- ii. Chair Welch announced that the Office of the Legislative Auditor Evaluation Report was released [on January 25th, 2007] and encouraged the BCWMC to take a look at it and at least read the Executive Summary.
- iii. Chair Welch presented Resolution 07-05, a resolution of appreciation of the services of Commissioner Bill Yaeger. Ms. Loomis moved to approve the motion. Ms. Langsdorf seconded the motion.

C. **Commissioners:** No commissioner communications.

D. **Committees:**

- i. Ms. Langsdorf updated the Commission on the activities of the Education and Outreach Committee. She said the Committee met on February 6th and reviewed samples of table top displays. She stated that the Committee's recommendation is for the BCWMC to purchase two types of displays. Chair Welch asked about the cost. Ms. Langsdorf said the cost would be approximately \$1,500 for both, which would be within the BCWMC's \$7,000 education budget. Ms. Langsdorf asked if the Committee

has authorization to purchase the displays as long as it is within the budget discussed. Mr. LeFevere said that the BCWMC could authorize the expenditure of the amount of the display and the receipt could come back to the Commission as an expenditure. Chair Welch moved to authorize the Education and Outreach Committee Chair to spend up to \$2,000 on the table top display. Mr. Yaeger seconded the motion. The motion carries unanimously.

Ms. Langsdorf added that representatives of Shingle Creek and the West Mississippi Watershed Management Organizations' Education and Public Outreach Committee (EPOC) joined the second part of the February 6th meeting. She said these representatives will be helping the BCWMC Education and Outreach Committee at the Plymouth Environmental Fair, which is being held on March 27th at Pilgrim Lane Elementary school in the Bassett Creek Watershed.

Ms. Langsdorf asked the members of the BCWMC to consider volunteering. Mr. Yaeger said he would forward information to Ms. Langsdorf about Hands-on Twin Cities, which is an organization that connects volunteers with organizations.

Ms. Langsdorf said the event will bring in several hundred people and the Education and Outreach Committee would like \$100 from the 2007 BCWMC Education budget in order to purchase supplies for the Plymouth Environment Fair. Chair Welch recommended that someone from the Education Committee could write a check and then the BCWMC would reimburse the person. Mr. LeFevere said the reimbursement would likely need to go to the Shingle Creek/ West Mississippi WMO and that Ms. Langsdorf should request an invoice, letter, or e-mail from the WMO documenting the amount. He said she would submit the invoice or documentation to the BCWMC for payment.

Ms. Langsdorf said the next joint Education and Outreach meeting is on March 13th at 8:30 a.m. at the Plymouth Ice Center [3650 Plymouth Boulevard, Plymouth, MN 55446-3201]. She invited everyone to attend the meeting and encouraged everyone to volunteer at the Plymouth Elementary School event on March 27th.

E. Counsel: Mr. LeFevere announced that Mr. Joel Settles of Hennepin County called him and reported that Hennepin County is moving very slowly on the BCWMC's minor plan amendment. Mr. LeFevere said Mr. Settles advised the BCWMC that the County Board will not be meeting about the minor plan amendment until five days after the scheduled March 15th public hearing about the proposed amendment. Mr. LeFevere recommended the BCWMC hold the hearing and said that after the hearing the BCWMC would have a few action options such as:

- approving the various contracts contingent on Hennepin County Board approval;
- holding the hearing, close the hearing, and hold off acting until after the Hennepin County Board has acted.

Mr. LeFevere said Mr. Settles communicated that by the BCWMC's March 15th public hearing, the BCWMC will know the Hennepin County committee's decision, which Mr. Settles thinks will be unanimous approval.

F. Engineer: No communications.

5. New Business

A. Industrial Supply: Plymouth. Item deferred to March meeting.

6. Old Business

A. Review 2007 Budget. Chair Welch asked if anyone had any budget issues they would like to bring forward. No commissioners indicated any issues.

B. Sweeney Lake TMDL Study. Mr. LeFevere stated that at the last meeting the BCWMC directed staff to proceed with work on the TMDL study work contracts. He said the BCWMC would have two contracts for the TMDL study. One contract would be with the MPCA and one contract would be with the contractor. Mr. LeFevere said work on the contracts has slowed due to a complicating factor. He mentioned that the BCWMC decided to go ahead and proceed with preparations for the TMDL study notwithstanding the fact that the MPCA had not committed enough grant money for the project. Mr. LeFevere said that Mr. Larson of the MPCA has indicated he is confident he can come up with full funding for the project and he is comfortable doing the contract in two phases. Mr. LeFevere explained there would be a grant agreement for phase 1 of the TMDL project without a commitment to complete phase 2 of the project until the grant funds are available to do that.

Mr. LeFevere said the detailed work plan will be attached to the SEH contract and the state contract. He said the work plan needed to be divided into a phase 1 and phase 2 that make sense and so that everyone would know what the deliverables would be for each phase of the project. Mr. LeFevere remarked that some of the deliverables are due before the end-date of the first grant money.

Mr. LeFevere said the BCWMC does not have any final contracts in front of it for review or for execution although it does have the boilerplate contracts for review. Mr. LeFevere said he has asked SEH for additional language for clarification and to protect the BCWMC.

Mr. LeFevere said the choices in front of the Commission today are the following:

- Take no action;
- Decide to proceed with the project without approving specific contracts;
- Approve and authorize the execution of the state and SEH agreements subject to the BCWMC's changes and refinements by someone such as the BCWMC Chair, Executive Committee, or Engineer.
- Hold a special meeting prior to March 15th.

Mr. LeFevere said if the BCWMC decides to take no action today it would need to understand any potential technical and practical problems with not being able to proceed until after the March 15th BCWMC meeting.

Ms. Chandler pointed out that the work plan's Table 1 - Objectives/ Task-Hour Budget and Phasing Summary contains Barr Engineering's costs for its involvement in the project. She stated that Barr reviewed the costs attributed to the BCWMC and Barr Engineering in the February 8th version of Table 1. She reported that Barr is in pretty good agreement with the figures in the Barr/ BCWMC column except that Barr does not feel the BCWMC needs to be allocated any time or budget to review the recommended monitoring plan.

Mr. Leaf, SEH project manager of the proposed TMDL study, explained that SEH has been reviewing this TMDL project for over a year. He explained that there are two phases of the TMDL

study, two work plans, and two contracts. He said one work plan that the MPCA wants to see has only the phase 1 effort so the MPCA can contract only on the phase 1 effort and allocate the correct budget numbers. He explained that phase 2 is money that has not yet been allocated by the MPCA. He said the MPCA indicated it would be able to prioritize funding toward phase 2 and the completion of a TMDL project. Mr. Leaf reported that the contract the BCWMC would see would describe both phases of the project.

Mr. Leaf said the work plan is still changing even today and that Mr. Kremer and Mr. Lenz are still going through some of the details for the monitoring and sampling in order to get those numbers as accurate as possible. Mr. Lenz stated that SEH just received technical comments on the work plan from the MPCA and is still incorporating them into the work plan.

Mr. Leaf said SEH still needs to add clarity to what specifically will happen with the public involvement process and what will happen with some of the sampling information and that SEH will be working that out with Mr. Kremer.

Mr. Lenz explained that the project would need the aerator in Sweeney Lake turned off before the lake water turnover occurs and the thermocline forms, which is a barrier between the top and bottom water layers of the lake. Chair Welch asked what the date might be for the turnover. Mr. Lenz replied that it used to be early April but now may be as early as the end of March.

Mr. Leaf emphasized that it is important to get started on the public involvement process, which is critical to a successful TMDL study. He said we want to get people on board with knowing what will be happening to the lake, why we are doing this, and how we will be doing this. Mr. Leaf said if the BCWMC would want to wait until the March 15th meeting to take action, action would have to proceed immediately at that time and everything would have to go just right.

Mr. LeFevere asked what it would cost to get started on the public involvement process. Mr. Leaf said that number is not specifically broken down, but an estimate would be \$10,000 or less.

Mr. Yaeger asked what the BCWMC would gain by not making a decision on this issue today.

Mr. LeFevere commented that there is a knowledge gap between what the BCWMC has seen already and what the final documents will be. He said the Commission needs to decide what its comfort level is with that knowledge gap. He summarized the Commission's options: the Commission could take no action, the Commission could approve proceeding by either approving the agreements today or authorizing someone from the Commission such as the Chair or Executive Committee to approve the final agreements, or the Commission could hold a special meeting prior to the March 15th meeting.

Mr. Yaeger said he sees a huge downside to waiting until March 15th to make a decision and few downsides to making a decision today. Mr. LeFevere responded that if the BCWMC decides today to approve authorization of the contracts subject to review by somebody, SEH still can't proceed until the contracts are signed, which wouldn't happen for a week or two. He said if the BCWMC is comfortable with proceeding, the BCWMC could get copies of the final execution copies out to the BCWMC for a chance to review and if there are concerns, the BCWMC could call a special meeting at that point. If there are no substantial changes and no one raises any concerns, then a special meeting would not be necessary.

Chair Welch noted that there were two responses to the requests for comments from the TAC on the February 8th version of SEH's Sweeney Lake TMDL study work plan. He said that Shane Missaghi and Tom Mathisen provided comments, which were forwarded to the BCWMC.

Mr. Mathisen remarked that the TAC hasn't had a chance to meet and discuss the work plan. He said he thinks the TAC should sit down with SEH and Barr and go through the work plan. He commented that he is concerned about what's driving this \$120,000 TMDL project. He said the project could get very large and expensive if no one is guarding the bank. Mr. Mathisen said the BCWMC has other TMDL studies it may need to do and then it will be digging into its pockets for funding. He wants to discuss where does \$120,000 sit on the scale of TMDL projects.

Ms. Clancy remarked that Mr. Kremer has worked hard to reduce costs involved in the TMDL study for example by approaching the Three Rivers Park District regarding testing and this was a 15% to 20% reduction in cost right there. She said another cost savings occurred when Mr. Lundstrom asked Mn/DOT, which is an MS4, about data it has collected and found out that the data will be available to the TMDL study project.

Mr. Leaf said that the February 8th version of Table 1 doesn't represent the most recent changes, which include a shift of some of the in-lake and runoff monitoring tasks into phase 1 from phase 2, which reduces the overall total estimated cost by about \$14,000 because those activities wouldn't need to be brought into the next monitoring year. He said another factor is that Table 1 shows what the project would entail if there needs to be a second monitoring year. Mr. Leaf said if enough good data is collected in one sampling year, then the second year of sampling will not be necessary. He mentioned that there are contingencies such as that one worked into the project.

Mr. LeFevere said it makes sense that the MPCA only wants the phase 1 work plan attached to the contract and that SEH would have both phase 1 and phase 2 attached. He emphasized that phase 2 would only go forward if SEH is authorized by the BCWMC to proceed, which the BCWMC would do only when state funding is authorized.

Chair Welch announced that he is not comfortable with the idea of a contract with this much undone being brought to him alone for approval.

Ms. Loomis responded she is reluctant to move forward without agreements. She said she doesn't think the BCWMC has enough of the details and she is in favor of a special meeting.

Mr. LeFevere explained SEH wouldn't do work until there is a contract and that there wouldn't be an SEH contract without the MPCA contract.

Chair Welch commented that the project's total estimated cost is still at \$120,000 in spite of cost savings and reductions. He said he has specific questions about the work plan that there isn't time to voice at today's meeting.

Mr. Hanson reminded the BCWMC that he controls the aerators and he could shut them off at any time, but that he would like SEH to meet with him and tell him what they are trying to do. He said that he represents the lakeshore owners.

Mr. Moberg asked Mr. LeFevere what confidence he has that the contracts would be in place by the March 1st TAC meeting. Mr. LeFevere directed Mr. Moberg to ask SEH. Mr. Leaf said the contracts could be in place within a week as long as he, Mr. Lenz, and Mr. Kremer could get together. Chair Welch commented that the BCWMC needs to see the final work plan.

Mr. Yeager suggested holding a joint BCWMC and TAC meeting at the regularly scheduled TAC meeting time on March 1st. Chair Welch asked if the TAC meeting is held here at Golden Valley City Hall. Ms. Herbert said the meeting is here in the Council Conference Room at 1:30 p.m. on

Thursday, March 1st. Mr. Hanson if he could make a March 1st meeting. Mr. Hanson indicated he could. Chair Welch said he would contact Mr. Tim Larson to invite him to the meeting.

Chair Welch asked the BCWMC if the MPCA agreement is not in place by March 1st, would the BCWMC still want to hold the joint meeting. Mr. LeFevere said if the BCWMC acts on March 1st, the probable action would be the authorization of execution of an agreement. He said if the work plan is done before the meeting, the BCWMC may have more comfort with authorizing a contract even if the contract is not quite ready to go.

Mr. Yaeger moved to hold a joint meeting between the BCWMC and the TAC on March 1st at 1:30 p.m. Ms. Loomis seconded the motion. The motion carried unanimously. Chair Welch directed Ms. Herbert to add to the March 1st agenda the discussion of TAC's recommendations on CIP modifications.

- C. **Review Policy of CIP Reserve Account and \$250,000 Minimum Account Balance. Deferred until March meeting.**
- D. **BCWMC Web Site Traffic Report. Deferred until March meeting.**
- E. **Biotic Index Evaluation of Bassett Creek and Plymouth Creek: 2006. Deferred until March meeting.**
- F. **2006 Lake Water Quality Study: Medicine Lake. Deferred until March meeting.**

Ms. Herbert announced she has copies of the final 2006 Lake Water Quality Study report for Medicine Lake and the final 2006 Biotic Index Evaluation report on Bassett Creek and Plymouth Creek if anyone would like a copy.

7. March Meetings

The following agenda items are currently scheduled for the March 1st, 2007 BCWMC meeting:

- A. **Sweeney Lake TMDL Study**
- B. **TAC's Recommended Modifications to the CIP**

The following agenda items are currently scheduled for the March 15th, 2007 BCWMC meeting:

- A. **Public Hearing: Proposed Minor Plan Amendment**
- B. **Industrial Supply: Plymouth**
- C. **Sweeney Lake TMDL**
- D. **CIP Modifications**
- E. **Review Policy of CIP Reserve Account and \$250,000 Minimum Account Balance**
- F. **Permit Fee Policy**
- G. **BCWMC Web Site Traffic Report**
- H. **Biotic Index Evaluation of Bassett Creek and Plymouth Creek: 2006**
- I. **2006 Lake Water Quality Study: Medicine Lake**

8. Adjournment

Ms. Langsdorf moved to adjourn the meeting. Mr. Stauner seconded the motion. The meeting adjourned at 2:10 p.m.

Michael Welch, Chair

Amy Herbert, Recorder

Pauline Langsdorf, Secretary

Date: _____