



Bassett Creek Watershed Management Commission

DRAFT Minutes of Regular Meeting Thursday, April 21, 2022 8:30 a.m.

Brookview, Golden Valley, Bassett Creek North Room

1. CALL TO ORDER and ROLL CALL

On Thursday, April 21, 2022 at 8:32 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	<i>Absent</i>	Mark Ray
Golden Valley	Stacy Harwell	Jane McDonald Black	<i>Absent</i>
Medicine Lake	Clint Carlson	Shaun Kennedy	Susan Wiese
Minneapolis	Michael Welch	Jodi Polzin	Liz Stout, Katie Kowalczyk
Minnnetonka	<i>Vacant Position</i>	<i>Vacant Position</i>	<i>Absent</i>
New Hope	Jere Gwin-Lenth	Jennifer Leonardson	Nick Macklem
Plymouth	Catherine Cesnik	Monika Vadali	Chris LaBounty, Ben Scharenbroich
Robbinsdale	<i>Absent</i>	<i>Vacant Position</i>	Richard McCoy, Mike Sorenson
St. Louis Park	<i>Vacant</i>	<i>Absent</i>	Erick Francis
Administrator	Laura Jester, Keystone Waters		
Engineers	Karen Chandler and Greg Wilson, Barr Engineering		
Recording Secretary	<i>Absent</i>		
Legal Counsel	Dave Anderson, Kennedy & Graven		
Presenters/ Guests/Public	John Elholm, City of Crystal		

First in-person meeting in over two years: introductions were made.

2. PUBLIC FORUM ON NON-AGENDA ITEMS

No comments from the public were made.

3. APPROVAL OF AGENDA

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

4. CONSENT AGENDA

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

- Approval of March 17, 2022 Meeting Minutes
- Acceptance of April Financial Report
- Approval of Payment of Invoices
 - i. Keystone Waters, LLC – March 2022 Administrative Services
 - ii. Keystone Waters, LLC – March 2022 Meeting Expenses
 - iii. Barr Engineering – March 2022 Engineering Services
 - iv. Kennedy & Graven – February 2022 Legal Services
 - v. Redpath – March 2022 Accounting Services
 - vi. Jan Voit – March 2022 Administrative Services
 - vii. Stantec – WOMP Services
 - viii. MN Association of Watershed Districts – 2022 Membership Dues
 - ix. Three-One-Six Bar and Grill – Meeting Catering
- Approval of Agreement with Met Council for 2022 Citizen Assisted Monitoring Program (CAMP)
- Approval to Execute Lawns to Legumes Grant Agreement
- Approval to Execute Grant Sub-contract with Metro Blooms for Lawns to Legumes Project
- Approval of Bryn Mawr Meadows Park Improvements, Minneapolis
- Conditional Approval of Meadowbrook Elementary School Parking Lot Improvements, Golden Valley

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

5. BUSINESS

***Moved off consent:* 4D. Approval to Appoint Administrator as BCWMC Representative for Watershed Based Implementation Funding (WBIF) Convene Process**

Administrator Jester explained that approximately \$88,000 in non-competitive Clean Water Funds have been awarded to the Bassett Creek Watershed for water quality improvement projects over the next biennium. To access the funds, a meeting must be convened with an official representative from BCWMC, representatives from Hennepin County, Board of Water and Soil Resources (BWSR), and two official city representatives. Attendees at this meeting decide how the funds should be appropriated. Administrator Jester intends to ask that some of the money be used for education in the west metro.

MOTION: Commissioner Welch moved to appoint Administrator Jester as the representative of the BCWMC for the convene WBIF process. Commissioner Harwell seconded the motion. Upon a vote, the motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

***Moved off consent:* 4E. Approval to Execute Contract with PLM Lake & Land Management for Curly-leaf Pondweed Treatment, Medicine Lake**

Administrator Jester explained that the Commission annually treats Medicine Lake for curly-leaf pondweed. Treatments should be applied during a specific window of water temperatures and waiting until May to approve the contract would likely be too late. She recommended PLM Lake & Land Management as the company that has been employed in previous years with good results. Since the last Commission meeting, the Department of Natural Resources (DNR) approved a Vegetation Management Plan for Medicine Lake. That plan allows treatment of a larger lake area. The herbicide type and treatment areas are still being explored. The cost is higher than anticipated because of the larger area and the need to use a different herbicide in some areas which is less detrimental to the native plant community. She is seeking the ability to have the Commission Chair execute a contract with PLM Lake & Land Management for a not to exceed price of \$44,000. The Commission has also received a \$10,000 grant from the DNR for treatment. Three Rivers Park District (TRPD) also provides cost-share for treatment. This is generally 17% of the cost because that is the amount of shoreline

they own on the lake; however, TRPD noted that they can contribute more than 17%. The Commission could also seek funding from other partners.

MOTION: Commissioner Welch moved to authorize Chair Cesnik to execute a not-to-exceed contract of \$44,000 for herbicide treatment on Medicine Lake with PLM Lake & Land Management. Commissioner Carlson seconded the motion. Upon a vote, the motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

Moved off consent: **4J. Approval of Bassett Creek Dog Park Project, Crystal**

This proposed project is located along the North Branch Bassett Creek in Bassett Creek Park. Mr. Elholm, Parks and Rec Director with City of Crystal gave a brief overview of the project. Discussion was held regarding encouragement of pet waste management program, DNA testing, and that a portion of the proposed dog park is located in a floodplain along a creek with a bacteria impairment. It was noted that most of the proposed project is not in the floodplain.

Commissioners expressed concern about placement of the dog park near the creek. However, the project as proposed meets BCWMC requirements. It was suggested that the Commission consider standards for future placement of dog parks and other activities that could generate bacteria. Commission Attorney Anderson noted that unless there is something in the BCWMC requirements that prohibits the project, it cannot be denied.

There was a question regarding MS4 permit compliance due to the existing bacteria impairment. It was noted that many dog parks have water access (this dog park would not have access to the creek). Mr. Elholm noted the city has not analyzed this project's compliance with the city's MS4 permit. It was also noted that the Commission doesn't have regulatory authority and collaboration with the city is important. Mr. Elholm noted the city is planning to include signage to point out sensitive areas in the park, as well as the potential damage from pet waste. Signage could be done in partnership with the Commission. They want to make sure that dogs are not in the water.

Administrator Jester said that the approval letter to the city could include the encouragements and recommendations to the city to address the potential for bacteria pollution and to work with the Commission on signage and education. She noted that while the Commission doesn't have requirements preventing the dog park placement, it does have policies encouraging cities to preserve natural areas and to take every possible action to preserve and protect natural resources.

MOTION: Commissioner Welch moved to table approval of the Bassett Creek Dog Park Project with direction to the Commission Engineers to work with city staff to incorporate stream protections. Images of the park should be provided at the next meeting. Commissioner Carlson seconded the motion.

Discussion: There was also discussion on the impact of the decision on the bidding process. The bid packets are already out. The city may not be able to approve a contract without the full approval of the Commission. Tabling this until the next meeting will delay the contract award until June.

Discussion was held about floodplains. The Commission Engineer explained that the floodplain referenced in the review memo is the BCWMC jurisdictional floodplain, which may be different than the FEMA-delineated floodplain elevation. The amount of floodplain in the park is relatively small.

Upon a vote, the motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

A. Receive Update and Consider Approvals for Schaper Pond Carp Management

Engineer Wilson gave an overview of the Schaper Pond Carp Management Project in Golden Valley. He reviewed the history of the 2017 and 2018 monitoring of the effectiveness of the floating water baffle in removing total phosphorus. The data showed that the water quality got worse as the flow moved through the pond. In 2019, a carp population assessment was done. In 2020 more assessment was done, along with a carp removal project in which 452 carp were removed from the system. The carp population went down below the threshold for water quality impacts.

Engineer Wilson reviewed prior work to assess options for long-term control of the carp population. In September 2021, the Commission approved the adaptive management plan and a 2022 carp survey to compare current and past carp populations. The recommendation presented at this meeting is a scope and budget with Carp Solutions for carp removal, if it is deemed necessary, and for stocking panfish. The DNR was contacted about getting a permit for stocking panfish, and a local hatchery provided a cost estimate for stocking bluegills. In conversation with Riley-Purgatory-Bluff Creek Watershed District, Engineer Wilson found they have four years of experience stocking panfish and have seen success. The cost is relatively low.

The costs for this project would come from the remaining Schaper Pond Diversion Project CIP funds with a current balance of \$165,000. The potential for success of panfish stocking was noted. Discussion was held regarding the cost per pound for phosphorus removal when the carp are removed. There are no current calculations for that but better functionality for Schaper Pond is the goal.

Discussion was held regarding solely contracting with Carp Solutions. Engineer Wilson explained that from a timing perspective, there are only a couple of entities in Minnesota that do this work. He noted Carp Solutions has experience with this system and knows what works and that it makes the most sense to subcontract with them.

MOTION: Commissioner Welch moved to authorize approval for up to \$65,000 for work recommended by the Commission Engineer, noting that the \$52,000 is contingent on the preliminary results of carp surveys. Commissioner Carlson seconded the motion.

It was noted that panfish stocking is a cost-effective way to lower the carp population as the fish eat carp eggs and young carp. Discussion was held regarding the alum treatment on Sweeney Lake. Engineer Wilson explained that since the alum treatment was done in a deeper part of Sweeney Lake, he did not believe the carp populations would adversely affect the treatment. In the fall, the second alum treatment will be done. He did not believe the carp would adversely affect the second treatment or the long-term effects.

It was noted that after the carp population is under control, monitoring the effectiveness of the diversion project in the pond would be prudent. Administrator Jester noted remaining CIP funds could be used for that work.

There was a question on whether bluegills act like carp, stirring up bottom sediments. Engineer Wilson explained that bluegills would likely spawn in upper reaches of Schaper Pond or downstream. He noted that it may be necessary to stock bluegills more than one year, in the likely event of winter kill. The impact that bluegills might have would not come close to the damage being done by carp.

Alternate Commissioner McDonald Black asked if there are other unintended consequences with bluegill stocking or impacts on other fish communities? Engineer Wilson explained that if the DNR issues a permit, they are the experts, and we can assume there shouldn't be adverse impacts on the gamefish.

Upon a vote, the motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

B. Receive Overview of BCWMC Joint Powers Agreement (JPA)

Commission Attorney Anderson explained that it is important for the Commission to review the Joint Powers Agreement. He noted the intent today is to give a high-level introduction and summarize the contents. The JPA is a contract between the nine member cities. It expires on January 1, 2025. Updates or extensions of the agreement would have to be approved by all nine members.

The basic components of the JPA were reviewed with a presentation. There are interesting bits of history in the document dating back to 1968. Article 5 creates this board, which is the governing body of the BCWMC. Each city appoints a commissioner and an alternate, who serve staggered three-year terms. Commissioners serve without compensation. Officers are elected annually.

The most important provisions are outlined in Articles 6 and 7, which describe the general responsibilities and authority to protect ground and surface water quality. Powers and duties are described in the JPA, as well as financial provisions and those for public participation.

The Commission does not have eminent domain authority but can establish policies for acquiring land. All member cities have eminent domain authority for public purposes. The Commission reviews city water management plans to ensure they are in line with the BCWMC Watershed Management Plan (WMP).

There is a requirement to have an improvement fund for all of the CIPs. A repair and maintenance fund can also be established. The budget process is outlined in the JPA. The Commission does not have levy authority or the power to assess.

The Commissioners should review the JPA in conjunction with updating the Watershed Management Plan (WMP).

If the BCWMC should cease to exist because the nine member cities didn't sign the JPA, watershed management must still happen within this area. It would be the responsibility of Hennepin County. There is also a petition process to form a watershed district.

The last JPA had a 10-year extension. The one before that had a 20-year extension. There is no limit to the timeframe for extensions. It was suggested that the next timeframe be extended past the deadline for the next WMP update.

There was a one-page handout containing an overview of the JPA in the meeting packet. A copy of the PowerPoint presentation will be posted on the Commissioner Orientation webpage. The Administrative Services Committee will be reviewing the JPA.

The JPA does have some language that indicates the Commission has regulatory authority, but there were no specifics. State law says that regulation as a joint powers watershed can only occur if specific statutory requirements are met. Commission Attorney Anderson will review JPAs from other joint powers watersheds and determine if there are some best practices that the Commission should consider.

It was suggested that the TAC review the JPA at their next meeting and determine if there are items that they would recommend be changed.

C. Consider Recommendations from Technical Advisory Committee

TAC Chair Mark Ray reviewed recommendations for the Flood Control Project inspections and budgeting. He noted the recommendation to only use non-destructive inspection techniques in the Bassett Creek Tunnel, including no drilling of microphones into tunnel walls. The TAC also recommends piloting use of a new inspection technique using geophysical techniques, such as ground penetrating radar or multichannel analysis of surface waves, to look for voids behind the tunnel walls in a 500-ft unsubmerged portion of the tunnel.

TAC member Stout noted the city of Minneapolis does have other tunnels for which they are responsible. This proposal is consistent with other processes used for non-destructive testing. It was suggested that the Commission Engineer check with the city of Minneapolis to determine if there could be combined efforts and cost-sharing. It was noted that visual inspection with staff in the tunnel is the best way to capture and observe possible problems and changes to the tunnels over time. Inspections are done in the same manner, but it may be warranted to add spot inspections. This is in reference to tunnels that are easily accessed, not deep tunnels in which the water needs to be drawn down in order for an inspection to be done.

Commission Engineer Chandler reported that when looking at the alternative methods, the physical inspection cannot be replaced. This new technology would be in addition to visual inspection because voids cannot be seen during an inspection. The new technology is complementary to the physical inspection process.

The TAC also recommends that the Commission adjust the annual operating budget to set aside \$35,000 per year to cover the cost of the 20-year inspection program and to account for higher cost of the pilot program in 2025.

Further, TAC Chair Mark Ray explained that the 5-year Capital Improvement Program was reviewed. No new projects were proposed by the cities. The city of Plymouth requested that two Plymouth Creek restoration projects be combined into one with the intent of getting better pricing. There are also recommendations to increase the budgets of other CIP projects due to rising costs.

The process for the TAC to gather input on the Watershed Management Plan from city councils or commissions was reviewed. TAC members Ray and Francis were appointed to the WBIF convene meeting.

MOTION: Commissioner Welch moved to approve the TAC recommendations as presented in the memo. Commissioner Gwin-Lenth seconded the motion. Upon a roll call vote, the motion carried 6-0, with the cities of Minnetonka, Robbinsdale, and St. Louis Park absent from the vote.

[A five-minute break was taken.]

D. Consider Approval of Scope and Budget for Analysis of Alternatives to Jevne Park CIP Project

Commission Engineer Chandler presented a scope and budget to analyze alternatives for the Jevne Park CIP Project as directed at the March meeting. The alternatives were limited to a shoreline assessment and enhanced street sweeping evaluation. Project meetings and limited public engagement were also included. The result would be a summary memo that would serve as an addendum to the previous feasibility study.

Engineer Chandler noted that the shoreline assessment is the biggest piece. There will be an initial desktop screening of vegetation along the shoreline, as well as field review and confirmation. Coordination with the city and Administrator Jester would be necessary to gain access to private property to conduct the assessment. They would determine what type of water quality treatment the buffers are currently providing, where there are deficiencies, and what could be gained by making the buffer wider.

In the street sweeping assessment, they would be looking at different tools to determine what might be a reasonable phosphorus removal using the regenerative air street sweeper in areas where this is not currently being done.

In developing the cost estimate, it was assumed there will be one presentation to the Commission and minor edits to the final memo. Another assumption was there would not be large public engagement meetings, but the development of a fact sheet that the city could use in their own public engagement. The schedule assumes beginning in June and wrapping up at the end of the fiscal year. The estimated cost is \$43,000.

Discussion was held regarding street sweeping. Commissioner Carlson noted there may be a benefit to implementing broader street sweeping. He suggested that the Commission consider requiring street sweeping in conjunction with the implementation of any project.

Questions were asked about the budget. There is \$443,000 in the account for the Jevne Park project. If the Commission did not move forward with this, the funds would be moved into a closed project account to be used on another CIP, not the operating budget.

Commission Engineer Chandler explained that the purpose of the study is to estimate phosphorus removal levels through implementation of the practices identified in the scope and budget and whether they are more or less than what was estimated in the original Jevne Park project.

Commissioner Welch noted he does not support this project. He went on to say the idea [of the CIP] is not to allocate funding for a project and then assume there is funding to do any project in the city. He noted shoreline assessments are good, but engineers cannot offer solid information about the effectiveness of shoreline buffers in removing phosphorus. He noted street sweeping is also good and there is information available about the effectiveness of phosphorus removal.

Chair Cesnik asked for thoughts regarding the suggestion to spend CIP funds for incentives for residents to install shoreline buffers rather than do the study. Administrator Jester explained that there is precedence for the Commission to take a step back from a project that was not done and look at other options for improving water quality.

Discussion was held regarding street sweeping and whether it has been thoroughly evaluated. It has been evaluated in the city of Plymouth, but there are other studies. Commission Engineer Chandler stated that she did not believe that the value of street sweeping is well known. There are studies available, but we do not know how that translates into how much is getting to the water body. The assumption is that all of the pollutants collected by street sweeping would otherwise go to the water body and it is not known if that is true.

There was some discussion about how the city is mitigating pollution through practices installed with its sewer and water project. It was noted that the Commission approved the infrastructure project for the city of Medicine Lake in March. There is respect for the lack of space for water quality improvement opportunities in the city.

It was noted there is a line between capital funding and operational funding. For example, capital money could be used to buy a street sweeper, but not for operating it. Administrator Jester explained that if the analysis showed that street sweeping needs to be improved for better efficiency, that would be an operational undertaking by the city. Installation of shoreline buffers could be done with capital funds. Commission Attorney Anderson said that doing a feasibility study with CIP funds is appropriate.

Chair Cesnik said that she would not feel comfortable putting money into shoreline buffers without a study to prioritize. Commissioner Welch reminded the commissioners that the CIP is a watershed-wide program and not funds for specific cities. He noted again that if we don't do this project, the funds go into a closed project account and we lower the levy.

Commissioner Carlson said that the timing for this is not critical and he has no objection to tabling the discussion.

MOTION: Commissioner Gwin-Lenth moved to table the discussion until legal counsel and engineer can provide answers to questions that have arisen. Commissioner Harwell seconded the motion.

Commission Attorney Anderson stated that this is a policy debate. There is need for clear direction to staff. Chair Cesnik said that from the February meeting, the Commission wanted something to be done and had directed the engineer to provide options. Administrator Jester suggested that it may be prudent for the city to poll residents to determine interest in establishing or learning about shoreline buffers. Chair Cesnik suggested turning this into a grant program.

Administrator Jester recommended that staff look at options for how this should be assessed. There may not be a need to know the pollutant reduction from shoreline buffers, but it would be good to understand the residents' willingness to participate in shoreline improvement. Alternate Commissioner Kennedy stated that the city is in the process of revising its shoreline ordinance. More information could be obtained from residents during the public meeting.

Commissioner Gwin-Lenth withdrew his motion. Commissioner Harwell withdrew her second.

Commissioner Carlson moved to request the city of Medicine Lake use the shoreline ordinance public meeting to gather input from residents about shoreline improvements and rewrite the analysis to simply look at street sweeping efficiencies. The motion died for lack of a second.

No action was taken.

[Commissioner Harwell left the meeting.]

E. Receive Update on Watershed Management Planning Process

- i. Stakeholder Engagement Plan
Administrator Jester reported that this is the beginning of the input process. Several documents will be posted to a new watershed planning page on the website. The Outreach Plan reflects the scope and budget. It was reviewed by BWSR and they had no significant issues.
- ii. Official Notification Letters
The notification letters were sent to all of the review agencies. Comments on items to consider in the planning process are due June 15.
- iii. Plan Process Overview Fact Sheet
A fact sheet was created. Copies were distributed to member cities. The audience for this is city officials and staff.
- iv. City Input form
A questionnaire was developed at the request of cities for direction on the needed input.
- v. Equity Workshop
Administrator Jester met with Commissioner Fernando regarding the Equity in Watershed Management Workshop. The commissioner had many suggestions for making the workshop more interactive. There is interest in this workshop from other watersheds and BWSR. The intended audience is commissioners.

6. COMMUNICATIONS

A. Administrative Report

- i. Update on Intern from Dougherty Family College
We continue to move forward with Dougherty Family College about an intern who will be housed at the city of Golden Valley. An independent contractor agreement with the intern is needed and may include the city in the agreement as well.
- ii. Update on 2022 Chloride Monitoring in Lakes
Discussions have been held regarding the CAMP volunteers doing some chloride monitoring. That will not be necessary because we are monitoring the lakes where chloride is a concern. The city of Minnetonka is monitoring Crane Lake as part of their regular program.
- iii. Celebration of Haha Wakpadan (Bassett Creek) Oral History Project
On June 4, there will be a Celebration of the Haha Wakpadan Oral History Project. They are hoping the Commission can be represented at this event. More information will be provided at a later date.

B. Chair

No report was given.

C. Commissioners

No reports were given.

D. TAC Members

i. Standing TAC Meetings

Standing TAC meetings will be held on the first Wednesday of the month. They may alternate between in-person and virtual. The first meeting is May 4. The agenda item is the TAC's recommendation to adopt the new model. No TAC liaison was appointed.

E. Committees

i. Budget Committee

The Budget Committee is meeting for the second time on May 2. Committee Chair McDonald Black noted the operating budget has not been raised for several years while CIP projects have seen increases. Updating the WMP will have added costs. The Commission should expect a recommendation for a significantly higher budget in 2023.

F. Legal Counsel

No report was given.

G. Engineer

No report was given.

7. INFORMATION ONLY (Information online only)

- A. BCWMC Administrative Calendar
- B. CIP Project Updates <http://www.bassettcreekwmo.org/projects>
- C. Grant Tracking Summary and Spreadsheet
- D. Met Council Water Resources Update
- E. Smart Salting Legislation Support Letter
- F. Adopt a Shoreline Program - <https://freshwater.org/adopt-a-river/>
- G. Wetland Conservation Act Notices: Plymouth, Medicine Lake, Golden Valley

8. ADJOURNMENT

The meeting adjourned at approximately 11:27 a.m.