



Bassett Creek Watershed Management Commission

Watershed Management Organization (WMO) – Joint Powers Agreement Overview

I. Legislative history and required makeup of WMOs:

- 1) In 1982, the Minnesota Legislature approved the Metropolitan Area Surface Water Management Act. The Act requires local units of government in the seven-county metro to prepare and implement comprehensive surface water management plans through membership in a Watershed Management Organization (WMO). WMOs are based on watershed boundaries and can be created in one of three ways:
 - i. ***As a joint powers entity made up of the cities and townships within the watershed via a joint powers agreement (like BCWMC);***
 - ii. As a watershed district, a special unit of local government operating under Minnesota Statutes Chapters 103B and 103D (like Minnehaha Creek Watershed District); or
 - iii. As a function of county government, usually administered by the county planning departments.
- 2) WMOs are governed by a board appointed by the member cities or townships.
- 3) Each WMO is required to have a technical advisory committee to provide input to the board on projects and activities.

II. What is a joint powers agreement (JPA)?

- 1) Put simply, a JPA is a formal, written contract between two or more governmental units, e.g. cities and towns, to jointly or cooperatively exercise any power common to the contracting parties.
- 2) All JPAs require approval by each parties' respective governing body. In the case of BCWMC, if just one governing body refuses to enter into an extended or new JPA and the existing JPA terminates, the WMO would be considered dissolved and the respective watershed would need to be governed through alternative means
- 3) JPAs are expressly authorized pursuant to Minnesota Statutes, section 471.59.
- 4) The participating governmental units and the joint board are considered a single governmental unit for liability purposes.

III. A joint powers agreement establishing a WMO is typically a very detailed, long-term agreement that provides lots of details about the innerworkings of the WMO. Pursuant to state law, it *must* contain, at minimum, 15 things:

- 1) A purpose statement consistent with Minnesota Statutes, section 103B.201;
- 2) A section defining the powers and duties of the WMO;
- 3) An official map based on parcels or a legal description defining the boundary of the WMO's jurisdiction;
- 4) A section defining how the WMO's members will be represented, with the total number of members on a joint powers board to be at least three;
- 5) A section outlining meetings to be scheduled, which can be no less than annually;
- 6) A notification process for meeting agenda, location, and time;

- 7) Procedures for annual establishment of the WMO's work plan and budget;
- 8) A procedure for the establishment of an advisory committee or other means of public participation;
- 9) A formula for determining the share of the annual operating budget for each of the WMO's members or a description of revenue generating authorities the WMO will utilize;
- 10) A section establishing the duties and terms of the officers of the WMO;
- 11) The process and responsibilities of the WMO and its members for filling vacancies consistent with Minnesota Statutes, section 103B.227, subdivisions 1 and 2;
- 12) A section specifying the compensation for board members, if any;
- 13) A section defining the voting requirements for decision making and capital improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1(c);
- 14) A requirement to adopt rules of order and procedure; and
- 15) The duration of the agreement and a process for dissolution of the WMO that provides for at least 90 days' notice of the intent to dissolve to the affected counties and the board.

IV. A joint powers agreement establishing a WMO typically includes more than just the 15 required items outlined above. Additionally, and also pursuant to state law, such an agreement may also authorize the WMO's joint board to do the following:

- 1) Prepare, adopt, and implement a watershed management plan for the watershed meeting the requirements of Minnesota Statutes, section 103B.231;
- 2) Review and approve local water management plans;
- 3) Regulate the use and development of land in the watershed when one or more of the following conditions exists:
 - i. the planning and zoning authorities do not have a local water management plan approved and adopted in accordance with the requirements of section 103B.235 or has not adopted the implementation program described in the plan;
 - ii. an application to the local government unit for a permit for the use and development of land requires an amendment to or variance from the adopted local water management plan or implementation program of the local unit; or
 - iii. the local government unit has authorized the WMO to require permits for the use and development of land;
- 4) Accept the transfer of drainage systems in the watershed, to repair, improve, and maintain the transferred drainage systems, and to construct all new drainage systems and improvements of existing drainage systems in the watershed, provided that certain statutory conditions are met;
- 5) Adopt a budget and decide on the total amount necessary to be raised from ad valorem tax levies to meet the budget (i.e. for a maintenance levy as authorized under Minnesota Statutes, section 103B.251, subd. 9);
- 6) Certify its budget with the auditor of each county having territory within the joint powers WMO (especially critical as it relates to the annual certification of CIP project costs to the county, as authorized under Minnesota Statutes, section 103B.251, subs. 6 and 8);
- 7) File approved assessment statements with each affected county; and
- 8) Other powers necessary to exercise the authority under the first three bullet points above, including the power to enter into contracts for the performance of functions with other governmental units or persons.