



## Bassett Creek Watershed Management Commission

### DRAFT Minutes of Regular Meeting October 20, 2016 Golden Valley City Hall, 8:30 a.m.

Commissioners and Staff Present:

Crystal	Commissioner Guy Mueller, Vice Chair	Plymouth	Commissioner Ginny Black
Golden Valley	Absent	Robbinsdale	Alt. Commissioner Scanlan
Medicine Lake	Absent	St. Louis Park	Commissioner Jim de Lambert, Chair
Minneapolis	Alt. Commissioner Lisa Goddard	Administrator	Laura Jester
Minnetonka	Commissioner Mike Fruen	Attorney	Troy Gilchrist, Kennedy & Graven
New Hope	Commissioner John Elder	Engineer	Karen Chandler, Barr Engineering

*Technical Advisory Committee (TAC) Members/ Other Attendees:*

Jeff Oliver, TAC, City of Golden Valley	Alt. Commissioner, Plymouth, Dave Tobelmann
Megan Albert, TAC, City of New Hope	Ben Scharenbroich, TAC, City of Plymouth
Mark Ray, TAC, City of Crystal	LesLee Jackson, Minneapolis Resident
Steve Christopher, MN Board of Water and Soil Resources	

#### 1. CALL TO ORDER AND ROLL CALL

On Thursday, October 20, 2016, at 8:32 a.m. in the Council Conference Room at Golden Valley City Hall (7800 Golden Valley Rd.), Chair de Lambert called to order the meeting of the Bassett Creek Watershed Management Commission (BCWMC) and asked for roll call to be taken. The cities of Crystal, Golden Valley, and Medicine Lake were absent from the roll call.

#### 2. CITIZEN FORUM ON NON-AGENDA ITEMS

No comments from citizens.

**3. APPROVAL OF AGENDA**

MOTION: Commissioner Black moved to approve the agenda. Commissioner Elder seconded the motion. Upon a vote, the motion carried 6-0. [Cities of Crystal, Golden Valley, and Medicine Lake were absent from the vote.]

**4. CONSENT AGENDA**

MOTION: Commissioner Black moved to approve the consent agenda. Commissioner Elder seconded the motion. Upon a vote, the motion carried 6-0. [Cities of Crystal, Golden Valley, and Medicine Lake were absent from the vote.]

[The following items were approved as part of the consent agenda: the September 15, 2016, Commission Meeting Minutes, the October 2016 Financial Report, the payment of invoices, and setting a November or December TAC meeting.]

The general and construction account balances reported in the October 2016 Financial Report are as follows:

Checking Account Balance	\$545,568.45
<b>TOTAL GENERAL FUND BALANCE</b>	<b>\$545,568.45</b>
<b>TOTAL CASH &amp; INVESTMENTS ON-HAND (10/11/16)</b>	<b>\$2,855,074.44</b>
CIP Projects Levied – Budget Remaining	\$3,967,010.19
Closed Projects Remaining Balance	(\$1,111,935.75)
2011-2015 Anticipated Tax Levy Revenue	\$6,710.47
2016 Anticipated Tax Levy Revenue	\$601,430.96
Anticipated Closed Project Balance	\$503,794.32

**5. BUSINESS**

**A. Receive Update on Minnesota Buffer Initiative from Board of Water and Soil Resources**

Administrator Jester introduced Steve Christopher with the Minnesota Board of Water and Soil Resources (BWSR) who gave a report on the new Minnesota Buffer Initiative. Mr. Christopher reported that 50-foot buffers must be installed along public waters by November 1, 2017 and 16.5-foot buffers must be installed along public ditches by November 1, 2018. He noted that if the shoreline is used for recreation (such as beaches or boat landings) and/or if the shoreline is already regulated through a shoreland ordinance, then it already meets the requirements of the law. Mr. Christopher noted that the “MS4 exemption” is really more of an “already compliant” indication rather than an exemption. He noted that because cities must already enforce a

shoreland ordinance, that there are likely no areas within the watershed that are not already compliant.

There were questions from Commissioners and staff. Mr. Christopher noted that enforcement of the State buffer law will be done by the county or by BWSR. He also confirmed that current city shoreland ordinances do not need to be amended if they are as strict or stricter than the Department of Natural Resources shoreland regulations (which should be the case in all cities).

[Commissioner Mueller arrives.]

Mr. Christopher noted that Hennepin County staff will be developing a map of the watershed indicating where (if) there is non-compliance with the buffer law. Commission legal counsel Gilchrist confirmed that city shoreland ordinances cover all public waters including streams. There was also confirmation that the public ditches within the watershed (which include parts of the Main Stem of Bassett Creek) are covered by city shoreland ordinances.

LesLee Jackson, a resident of Minneapolis studying water resources at the University of Minnesota, asked about erosion control at construction sites, indicating that more should be done to control the erosion she's witnessed at various sites. Alt. Commissioner Goddard noted that the State's Buffer Initiative is aimed at curbing erosion in agricultural areas and that construction sites are regulated by cities following State erosion control requirements. She noted that concerns about a particular construction site should be taken to city staff who can inspect the site and address erosion issues with the contractor on site.

There were further comments from Ms. Jackson regarding her concerns for water quality and flooding in Bassett Creek in her neighborhood. Commissioner Black noted that water regulations can be confusing but that it's good to have engaged citizens bringing concerns to the appropriate authorities.

## **B. Consider Technical Advisory Committee (TAC) Recommendations**

Administrator Jester reported that the TAC met on October 6<sup>th</sup> to discuss a variety of topics. She walked through TAC recommendations per topic:

### **i. MDNR Buffer Map**

Administrator Jester noted that in July the Minnesota Department of Natural Resources (MDNR) published the official buffer map indicating where the new State Buffer Law (from the discussion in 5A) would be applied. She noted the map includes all of the BCWMC's priority waterbodies plus 12 additional DNR public waters. She noted that the law recognizes that "other watercourses" (such as streams or ditches; not lakes or wetlands) which are not found on the MDNR Buffer Protection Map may benefit from the installation of buffers and that Hennepin County is seeking input from watershed organizations regarding whether or not "other watercourses" should be included on the map.

Administrator Jester reported that the TAC reviewed the map and recommends that the Commission provide input to the County stating that there are no additional watercourses within the BCWMC that should be included on the buffer map. Commissioners agreed with the TAC's recommendation.

## ii. Checklist of BCWMC Policy Implementation by Cities

Administrator Jester reported that per the BCWMC Watershed Plan, the BCWMC is to annually evaluate member cities' compliance with the goals and policies of the Plan. She noted that staff developed a checklist for cities to indicate what activities were completed, started, or not done. She reported that the TAC recommends that the BCWMC use the checklist to gather input from the cities on the implementation of BCWMC policies, without requiring cities to complete the "optional items" section of the list. The TAC further recommends that the checklist be sent to cities in early December of each year for feedback on that calendar year's activities such that data could be compiled in the first quarter of the following year and used in the BCWMC annual report. She also reported that the Commission Engineer will be developing a list of items for member cities that are required to be included in local water management plans.

Commissioners noted that a checklist was a good idea and agreed with the TAC's recommendation.

## iii. Guidance for Using Request for Proposals (RFP) Process

Administrator Jester reminded the group that at their meeting on August 18th, the Commission approved the Budget Committee's recommendation to get input and recommendations from the TAC on a process and/or policy related to when and how to go through an RFP process. She reported that the TAC discussed several aspects of the issue and forwards the following recommendations:

- a. The TAC recommends that the following projects, programs, or activities should only be performed by the Commission Engineer:
  - Flood Control Project inspections
  - Development reviews
  - CIP project reviews (50% plans, 90% plans, final plans)
  - XP-SWMM model maintenance and updates
  - P8 model maintenance and updates
  - Watershed-wide total maximum daily load study (TMDL)
  - Local water management plan reviews- except when Barr Engineering develops the local water management plan for the city. In this case, the TAC recommended using a different firm to review the city's plan but does not recommend using an RFP process for this simple task.

Commissioner Black asked about the possible need for outside review of CIP project designs if Barr Engineering is the firm designing the project. Administrator Jester explained that if the Commission Engineer (Barr) designs the project, then no outside review is needed because review of the designs is only needed to make sure plans follow Commission policies and the desires of the Commission as stated and discussed during approval of the feasibility study and selection of options.

- b. The TAC recommends that the types of projects that could warrant seeking proposals from others include:
  - Routine lake monitoring
  - Routine stream monitoring
  - WOMP sample collection & equipment maintenance
  - WOMP flow analysis and data analysis
  - Specific studies (such as localized TMDLs, CIP effectiveness monitoring, AIS pathways analysis, subwatershed analysis, resource management plans, etc.)

The Commission agreed with this recommendation. It was also noted that it's possible that one firm could simply collect water monitoring data and the Commission Engineer could analyze the data.

- c. The TAC recommends that the Commission consider using a multi-year or automatically renewing contract for routine, annual work. Commissioner Black noted that using an auto-renewing contract may be a concern because changes in prices may not be checked on a regular basis. She noted that a policy may be needed to dictate how often bids should be sought from other consultants. There was further discussion that different services may not have the same period of contract renewal, that some programs that seem routine may become un-routine, and that prices for work could be "locked in" for a certain contract duration or a certain stepped increase in prices could be agreed upon at the outset of the contract.
- d. The TAC recommends refining the water monitoring report format so that it's more succinct and useful. Administrator Jester noted that she is working with the Commission Engineer and will be working with the firm performing monitoring in 2017 to refine and overhaul the monitoring report such that it's more useful to the Commission and the public. The Commission agreed with this recommendation.
- e. The TAC recommends that a project's estimated cost not be used as a threshold to determine when to use the RFP process but to instead consider each project individually. There was discussion about the likely need for refined guidance or policy on when it's appropriate to use an RFP process, even if cost isn't the deciding factor. Commission legal counsel Gilchrist confirmed that professional services are not covered by the municipal contract law so there is no project cost threshold to which the Commission must legally seek bids because all the services contracted by the Commission are considered "professional services."

The Commission recommended that the policies of other watershed organizations could be reviewed for possible guidance on RFPs. And, it was acknowledged that the Commission could discuss and get recommendations from the TAC on a per project basis to allow flexibility in the RFP process. Alt. Commissioner Tobelmann suggested that a general framework be developed by the Administrative Services Committee to help guide the use of the RFP process.

- f. The TAC recommended that the BCWMC Administrator draft RFPs with assistance from city staff and others, as needed. The Commission agreed with this recommendation.
- g. The TAC requested that the TAC be asked to review and help refine any technical RFP before it's distributed. The Commission agreed with this recommendation.
- h. The TAC requested that the TAC be allowed to review and make recommendations on responses to RFPs for technical projects. The Commission agreed with the recommendation.

#### **iv. Engineering Pool**

Administrator Jester reported that the TAC considered and discussed the use of the Commission's Engineering Pool which currently consists of Wenck Associates, WSB & Associates, SEH & Associates, and Barr Engineering. She reported that the TAC noted that different firms have strength in different areas which is generally known by TAC members and that the TAC hoped for more flexibility in helping choose firms from which to seek proposals.

She reported that the TAC recommends that the Commission end its use of an engineering pool and instead seek proposals from qualified firms on a project by project basis with input from the TAC.

There was discussion about the history of the engineering pool. Commissioners noted that it was developed as a list of already-vetted firms that could be quickly and easily considered for Commission projects. Commissioners acknowledged that it makes sense to get the right vendor for the right price which may vary widely from project to project. It was noted that new and emerging technologies may be used by some firms and not others so there is a risk of losing out on all possible technologies by using only a short list of firms. There was discussion that a strong RFP policy should be developed if there is no engineering pool and that it would not be appropriate for the same firms to be asked over and over for proposals, essentially amounting to an informal list.

Administrator Jester noted that several good firms have approached her in recent years hoping to either get into the engineering pool or be asked for proposals. There was discussion about the staff time used in administering the RFP process and time that consultants put into developing proposals. It was also acknowledged that a proposer's price (the bottom line) shouldn't be the only consideration in hiring a firm; that innovation, technical expertise, and specialization should be considered as well. The Commission agreed that "value" should be considered above "price."

Commissioners agreed with the TAC's recommendation to discontinue use of the engineering pool. Administrator Jester reported that the "feasibility study criteria" would change accordingly.

**v. Schaper Pond Effectiveness Monitoring**

Administrator Jester reminded the Commission that at the June 28th TAC meeting, the TAC recommended using the Commission Engineer to perform the Schaper Pond effectiveness monitoring in 2017 and to use the project's remaining CIP funds. Further, she reminded the Commission that at their August 18th meeting, they approved the use of CIP funds for the study but did not assign an engineering firm nor specify a funding amount for the project. She reported that the TAC reiterates its recommendation to use the Commission Engineer for the Schaper Pond Effectiveness Monitoring Project and recommends a funding amount (not to exceed) \$44,000 to match the estimated project cost in the Commission Engineer's original proposal. There was no discussion by the Commission.

Commissioner Black moved approval of TAC recommendations i – iv except for iii(e), and directed the Administrator and appropriate committees to work on developing additional guidance for the RFP process. Commissioner Elder seconded the motion. Upon a vote the motion passed 7-0. [Cities of Golden Valley and Medicine Lake were absent from the vote.]

Mr. Oliver asked that the Commission request TAC recommendations on any draft RFP policy. Commissioners agreed.

Commissioner Black moved to approve the TAC recommendation to use the Commission Engineer for the Schaper Pond Effectiveness Monitoring Project for an amount not to exceed \$44,000 (recommendation "v."). Commissioner Mueller seconded the motion. Upon a vote the motion passed 7-0. [Cities of Golden Valley and Medicine Lake were absent from the vote.]

Alt. Commissioner Tobelmann suggested that future CIP project budgets include effectiveness monitoring, if warranted.

**C. Consider Request from Administrator to Attend Minnesota Association of Watershed Districts (MAWD) Annual Conference**

Administrator Jester requested approval to attend the MAWD conference December 1 – 2 in Alexandria, MN including the pre-conference workshop on the “Art of Facilitation” (\$85), conference registration (\$185), one night’s lodging (\$99), mileage (\$154), and time attending sessions (approximately 16 hours or \$1,072) for a total of \$1,595. She noted these costs would fit within the “Administrator” budget line. She also indicated that Commissioners are able and encouraged to attend the conference and that budget remains for “Commissioner training.”

Alt. Commissioner Scanlan expressed interest in attending the conference and said he would drive up and back on the same day so hotel expenses weren’t necessary.

Commissioner Black indicated that conference attendance is valuable for staff to network with others and learn new best practices.

Commissioner Black moved to approve the Administrator’s attendance at the MAWD conference and to reimburse Alt. Commissioner Scanlan for conference registration fees of \$185 and mileage expenses. Commissioner Elder seconded the motion. Upon a vote the motion carried 7-0. [Cities of Golden Valley and Medicine Lake were absent from the vote.]

**6. COMMUNICATIONS**

**A. Administrator’s Report**

Administrator Jester reminded the Commission that the November Commission meeting will be held on Wednesday the 16<sup>th</sup>. She also reported that she received thank you notes from several students who attended the Children’s Water Festival. Commissioner Black asked that the notes be scanned and emailed to Commissioners.

**B. Chair**

Chair de Lambert reported that the Great River Greening event at Westwood Hills Nature Center was a successful event that provided him and Commissioners Black and Mueller with a good opportunity to talk with the group about the Commission and water quality, in general.

Chair de Lambert also reported that the Water Resources Conference was well attended, very organized, and a very good event.

**C. Commissioners**

Alt. Commissioner Goddard reported that she, Commissioner Welch, and Administrator Jester met with a development company (Wellington) who is currently planning redevelopment in a four-acre area and envisioning large scale redevelopment throughout the Bassett Creek valley in Minneapolis. She reported that Wellington was hoping the Commission could be a neutral convener or facilitator of stakeholders in the area and that regional stormwater management, improvements in natural resource amenities, and improved community vitality would be an ultimate outcome of redevelopment in the area. She noted that more information and/or specific requests may come to the Commission in the future.

Commissioner Mueller and Alt. Commissioner Scanlan provided their impressions of the Water Resources Conference and Clean Water Summit (Scanlan), noting that much water pollution is originating from agricultural areas of the state, that water quality ponds can sometimes be a source of pollutants, and that buffers around parking lots can be an effective best management practice.

**D. TAC Members**

No comments.

**E. Committees**

Administrator Jester noted the upcoming APM/AIS and Administrative Services Committee meetings.

**F. Legal Counsel**

Legal counsel Gilchrist reported that the Commission’s bond insurance is now in place.

**G. Engineer**

Commission Engineer Chandler reported on the progress of the feasibility study for dredging Bassett Creek Park and Winnetka Ponds. She noted that sediment sampling and wetland delineation is complete and that current surveys will be compared with past surveys.

Commissioner Black noted that grant tracking list in item 7B below needs to include the MPCA’s Environmental Assistance grants.

**7. INFORMATION ONLY** (Available at <http://www.bassettcreekwmo.org/document/meeting-materials-minu/meeting-materials/thursday-october-20-2016> )

- A. CIP Project Updates: Now Available Online** <http://www.bassettcreekwmo.org/projects>
- B. Grant Tracking Summary and Spreadsheet**
- C. Water Links Fall Newsletter -**  
<https://content.govdelivery.com/accounts/MNHENNE/bulletins/16822da>
- D. West Metro Water Alliance September Meeting Minutes**
- E. WCA Notice of Decision for Exemption, Plymouth**

**8. ADJOURNMENT** - Chair de Lambert adjourned the meeting at 10:21 a.m.

Signature/Title	Date	Signature/Title	Date
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