



Bassett Creek Watershed Management Commission

MEMO

To: BCWMC Commissioners and Alternate Commissioners
From: Laura Jester, Administrator
Date: January 10, 2024

RE: Consider Approval to Refine and Update BCWMC Joint Powers Agreement

The Bassett Creek Watershed Management Commission was created through a [joint powers agreement](#) (JPA) among all nine member cities in 1969. The JPA has been renewed on several occasions over past decades with minimal substantive changes and few editorial changes. The current JPA expires on January 1, 2025. The JPA must be approved and signed by all nine member cities in order for the BCWMC to remain in existence. The refusal of just one city to sign the agreement would result in dissolution of the BCWMC and management of the watershed would have to take another form.

Commission Attorney Anderson recently reviewed the JPA in detail and developed a general list of areas that should be considered for updates to streamline and organize the agreement. Staff recommends that the Commission direct the Commission Attorney to make his recommended edits to the document (shown as tracked changes) for review by the Commission. The estimated cost for this work is up to \$2,000 which would come from the legal services line in the operating budget.

Commission Attorney Anderson recommends:

1. Simplifying the document. The current JPA is extremely long, slightly disorganized, and contains a lot of history and details about Bassett Creek and the Commission that, while interesting, detract from the user-friendliness of the document. The JPA should be simplified by removing many of the unnecessary details. Additionally, it should flow better, use clean headings/formatting, and be reorganized so pertinent sections can be found quickly. For example, there are several important provisions buried in the "Miscellaneous" section, including language about eminent domain, property ownership, etc. Those items should be in a more prominent location so they aren't overlooked.
2. Clarify and update provisions based on current policies and practices, especially those that relate to processes that are dictated by state law. It's clear when the JPA was originally drafted that there were a lot of uncertainties about how the Commission would function and how projects would be carried out and the document has not been updated to include more current information. Some information should simply reference state law rather than be reiterated in the document and in some cases, the JPA references outdated statutes.
3. Confirm that the updated JPA includes all of the mandated provisions contained in Minnesota Rules, section 8410.0030. This Rule contains an exhaustive list of various components that must be in the JPA. It appears that the current agreement likely adheres to most, if not all of those requirements, but that should be confirmed.

It should be noted that Commission Attorney Anderson has not recommended substantive changes to the JPA, i.e. changes that would increase or decrease Commission powers or fundamentally alter the makeup and operation of the Commission. He points out that the scope of the JPA depends entirely on the desire of the member cities because it is a written agreement among those cities. That said, if there's a desire on the part of the Commission to recommend substantive, policy-related amendments to the JPA – that is a matter of public policy for the Commissioners to decide. The Commission is afforded the right to recommend any changes to the JPA to its member cities, but ultimately the member cities will need to individually agree to any such changes before they take effect.

The Commission and/or the Administrative Services Committee can discuss potential substantive changes to the JPA outside of, but concurrent with, the effort by the Commission Attorney to refine and update the document. Discussions on substantive change, if any are proposed, should include significant conversation and feedback from city staff and city officials.

Ideally, the final JPA document will be completed by the June 20th Commission meeting to allow plenty of time for approval by member cities and complete execution by the end of the year.