



# City of Medicine Lake

December 5, 2022

## City of Medicine Lake Council Minutes

**Present:** Mayor Scott Marks; Councilors Jo Meyer, Ron Tomczik, Connie Shaffer, Chris Heim; Treasurer Gary Englert, City Clerk Therese Polum, BCWMC Commissioner Clint Carlson, Fire Chief Rich Halvorson, Public Works Superintendent Chris Klar, Brad Scheib

**Council and Staff Absent:** Planning Commissioner Jesse Swanson

**Other attendees:** Hennepin County Sergeant Nelson, Mayor Marks's daughters, Ruth Hovey, Susan Wiese, Marks daughters, Bill McNaughton, Grant Carlson, Shaun Kennedy

Mayor Marks called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

### Minutes and Agenda

- **Motion to approve the agenda forwarded by Councilmember Marks and seconded by Councilmember Meyer. Councilmembers Mayor Marks, Meyer, Tomczik, Heim, Shaffer in favor. Motion passed.**
- **Motion to approve the November 7, 2022 city council minutes forwarded by Councilmember Shaffer and seconded by Councilmember Meyer. Councilmembers Mayor Marks, Meyer, Tomczik, Heim, Shaffer in favor. Motion passed.**
- **Motion to approve the November 14, 2022 special city council minutes forwarded by Councilmember Shaffer and seconded by Councilmember Meyer. Councilmembers Mayor Marks, Meyer, Tomczik, Heim, Shaffer in favor. Motion passed.**

### Open Forum

- None

### Hennepin County Sheriff –Sergeant Nelson

- 2020 provided 855 hours of service to City
- 2022 is at 500 hours of service to City
- Contract is for 4 hours per week; Sheriff's department provides well above this
- Provided summary of calls for the year to date
- Councilor Meyer inquired as to placement of temporary electronic speed sign; discussion pursued
- Councilor Meyer will put in request for temporary electronic speed sign

### Proposed Ordinance Amending Ordinance 126 Rental Housing Regulations

Councilor Shaffer introduced the amendment, provided a summary to date, and introduced Brad Scheib to provide a summary. Summary:

- Added definitions

- Added in 180 minimum day requirement
- Enforcement component
- Planning Commission did one survey; which was just one of many ways to seek citizen input
- Legal requirements have been reviewed and checked
- Council may or may not open to comments, as this is not a public hearing

#### Council Comments

- Councilor Heim spoke with many citizens who manage rental properties in the city
  - Feedback he received was supportive of 180 days
  - City is volunteer city, not a staff-based city
  - Spoke with numerous citizens and is supportive of the amendment
- Councilor Tom
  - Agree with Heim's comments
- Councilor Meyer
  - Spoke with residents and supports the amendment
- Councilor Marks
  - In support of the amendment and has spoken to many residents
  - We want our neighbors to be a part of our family

**Motion to approve Ordinance 138 An Ordinance Amending Ordinance 126 Governing The Licensure And Regulations Or Rental Housing Within The City Of Medicine Lake forwarded by Councilor Mayor Marks and seconded by Councilor Heim. Councilors Marks, Meyer, Tomczik, Shaffer, Heim in favor. Motion passed.**

**Motion to approved Resolution 22-27 A Resolution Authorizing Publication Of Ordinance No. 138 By Title And Summary forwarded by Councilor Mayor Marks and seconded by Councilor Heim. Councilors Marks, Meyer, Tomczik, Shaffer, Heim in favor. Motion passed.**

#### Heim Transition

- Councilor Heim provided a summary of transition steps for his move from Mayor-elect to Mayor.
- Councilor Heim provided his resignation letter

**Motion to accept the resignation of Mayor-elect Heim as councilmember effective January 2, 2023 in order to transition to the newly elected position as Mayor forwarded by Councilor Shaffer and seconded by Councilor Meyer. Councilors Marks, Meyer, Tomczik, Shaffer, Heim in favor. Motion passed.**

**Motion to approved Resolution 22-28 A Resolution Accepting Resignation and Declaring a Vacancy forwarded by Councilor Meyer and seconded by Councilor Shaffer. Councilors Marks, Meyer, Tomczik, Shaffer, Heim in favor. Motion passed.**

Mayor Marks invited interested candidate forward to present to council for vacant seat.

- Bill McNaughton provided his interest in the vacant council seat
- Mr. McNaughton provided his business resume and his current involvement in the City and volunteer activities

Mayor Marks thanked Bill for his interest and is very happy for his willingness to serve. Councilor Heim gave praise for Bill and would be very happy to have him join the council. Councilor Meyer appreciates that Bill called each councilor to introduce himself and express his interest in the vacant position

#### Fire Department Report – Rich Halvorsen

- Reported 0 calls for service
- Reported on gear expense
- Reported may or may not have the calendar fundraiser this year
- Reported pizza fundraiser was excellent providing a net donation of \$3700
- Big Thank You to Leigh Doyle for spearheading the pizza fundraiser

**Motion to approved Resolution 22-29 A Resolution Accepting Monetary Gift of \$3700 from the Medicine Lake Fire Department Pizza Fundraiser to Benefit the City of Medicine Lake Fire Department forwarded by Councilor Heim and seconded by Councilor Shaffer. Councilors Marks, Meyer, Tomczik, Shaffer, Heim in favor. Motion passed.**

#### Public Works Superintendent Report – Chris Klar

- Reported parks closed
- Reported a wintertime light scene will be on display at Jevne Park, built entirely from volunteer time and material from the Klar family
- Reported on snowplow operations

#### Bassett Creek Watershed Management Commission Report – Clint Carlson and Shaun Kennedy

- Reported on the BCWMC regular monthly meeting update
- Reported on temporary variance; variance was approved with much discussion by the other cities
- Reported FEMA technical violation requirements need to be resolved as a result of variance that City has to complete
- Councilor Heim reported SEH is working on the FEMA response
- Reported another variance most likely will not be approved and City needs to work diligently to resolve this variance within the next two years

#### Planning Commission Report – Jesse Swanson

- Absent, no update

#### Treasurer's Report – Gary Englert

- Receipts in reporting period: \$10,063
- Receipts year to date: \$4441,919
- Disbursements in reporting period: \$57,549
- Disbursements year to date: \$592,861
- Capital Project Reserve Balance: \$827,691
- Debt Service Reserve Balance: \$29,728
- Reported on MN Aid to Fire Dept reimbursement for training
- Reported 2022 H2 property tax remittance received December 1 will be included in next month's report
- Reported Fire Dept. expense mainly from Engine #11 repair/maintenance and training
- Reported Fire Dept. received \$6,600 YTD in MN Aid for training. Aid received in 2021 was approx. \$8,000

- Reported Sheriff Dept. billings for Q2 and Q3 2022 received and paid in November
- Reported on final 2023 budget and tax levy

**Motion to approve the summary spending, receipts and cash balances through November 30, 2022 forwarded by Councilmember Shaffer and seconded by Councilmember Meyer. Mayor Marks, Councilmembers Meyer, Tomczik, Heim, Shaffer in favor. Motion carried.**

**Motion to approve the final budget in the amount of \$655,574 for 2023 forwarded by Councilmember Meyer and seconded by Mayor Marks. Mayor Marks, Councilmembers Meyer, Tomczik, Heim, Shaffer in favor. Motion carried.**

**Motion to approve Resolution 22-30 A Resolution Adopting Final Tax Levy For Taxes Payable In 2023 forwarded by Councilmember Meyer and seconded by Councilmember Shaffer. Mayor Marks, Councilmembers Meyer, Tomczik, Heim, Shaffer in favor. Motion carried.**

Officer Reports:

Councilmember Heim

- Reported on his preparation for Mayor position
- Reported on Federal Grant information meeting
- Reported Three Rivers Park District Commissioner District 1 Marge Beard has been in contact with Heim and Mayor Marks on follow-up from November council meeting and is preparing a response for January meeting
- Reported Jevne park long range vision planning has begun with a vision committee and professional volunteer hours from SRF Consulting
- Reported council rolls and responsibilities will be reviewed at January meeting

Councilmember Meyer

- Reported on phone system
- Reported on office cleanout/city hall space updates and record retention
- Reported on volunteers who will help with record retention
- Reported on website updates and support

Councilmember Tomczik

- No report

Councilmember Shaffer

- Reported was covered with rental ordinance and fee schedule

Mayor Marks

- Reported a big Thank You to Chris Klar for using his personal equipment to clear out City roads
- Reported Chris Klar to bill his time for this work
- Reported light is out at City Hall flag
  - Councilor Tomczik will follow up
- Reported this is his last meeting as Mayor. City business has been a huge part of his life for the last 12 years and he will miss volunteering for the city however is happy Councilor Heim is mayor-elect and knows the city is in great hands!

New Business

**Resolution 22-31 a Resolution designation a Polling Place forwarded by forwarded by Councilmember Meyer and seconded by Councilmember Shaffer. Mayor Marks, Councilmembers Meyer, Tomczik, Heim, Shaffer in favor.**

**Motion to approve Ordinance 139 An Ordinance Adopting A Schedule For The Collection Of Land Use Related Fees For 2023 forwarded by forwarded by Councilmember Shaffer and seconded by Councilmember Meyer. Mayor Marks, Councilmembers Meyer, Tomczik, Heim, Shaffer in favor.**

**Motion to approve Resolution 22-32 A Resolution Authorizing Publication Of Ordinance No. 139 By Title And Summary forwarded by Councilmember Meyer and seconded by Councilmember Mayor Marks. Mayor Marks, Councilmembers Meyer, Tomczik, Heim, Shaffer in favor. Motion carried.**

**Motion to adjourn forwarded by Councilmember Meyer and seconded by Councilmember Shaffer. Mayor Marks, Councilmembers Meyer, Tomczik, Heim, Shaffer in favor. Motion carried at 7:54p.m.**

Respectfully submitted,

Therese Polum  
City Clerk

Approved on: January 9, 2023

Attachments:

[BCWMC Meeting Mintues- 16 Nov 2022.pdf](#)  
[BCWMC Lift Station and Temp Variance Request](#)



## Bassett Creek Watershed Management Commission

### Minutes of Regular Meeting Wednesday, November 16, 2022 8:30 a.m.

Golden Valley City Hall, 7800 Golden Valley Road

#### 1. CALL TO ORDER and ROLL CALL

On Wednesday, November 16, 2022 at 8:34 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	Joan Hauer	Mark Ray
Golden Valley	Stacy Harwell	Paula Pentel	Drew Chirpich
Medicine Lake	Clint Carlson	<i>Absent</i>	<i>Absent</i>
Minneapolis	Michael Welch	Jodi Polzin	<i>Absent</i>
Minnnetonka	<i>Absent</i>	<i>Vacant Position</i>	<i>Leslie Yetka</i>
New Hope	Jere Gwin-Lenth	Jen Leonardson	Nick Macklem
Plymouth	Catherine Cesnik	<i>Absent</i>	Ben Scharenbroich
Robbinsdale	<i>Absent</i>	<i>Vacant Position</i>	Mike Sorenson
St. Louis Park	<i>Vacant Position</i>	<i>Absent</i>	Erick Francis
<b>Administrator</b>	Laura Jester, Keystone Waters		
<b>Engineers</b>	Karen Chandler, Barr Engineering		
<b>Recording Secretary</b>	<i>Absent</i>		
<b>Legal Counsel</b>	Sarah Sonsalla, Kennedy & Graven		
<b>Presenters/ Guests/Public</b>	Jane McDonald Black, Golden Valley Resident		

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

No comments from the public were made.

**3. APPROVAL OF AGENDA**

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

**4. CONSENT AGENDA**

Chair Cesnik asked to remove Item 4I from the consent agenda. Commissioner Gwin-Lenth requested removing Item 4F from the consent agenda.

**MOTION:** Commissioner Carlson moved to approve the consent agenda without Items 4F and 4I. Commissioner Gwin-Lenth seconded the motion. Upon a vote, the motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

The following items were approved as part of the consent agenda.

- A. Approval of Minutes – October 20, 2022 Commission Meeting
- B. Acceptance of November 2022 Financial Report
- C. Approval of Payment of Invoices
  - i. Keystone Waters, LLC – October 2022 Administrative Services
  - ii. Keystone Waters, LLC – October 2022 Meeting Expenses
  - iii. Barr Engineering – October 2022 Engineering Services
  - iv. Kennedy & Graven – September 2022 Legal Services
  - v. Redpath – October 2022 Accounting Services
  - vi. Triple D Espresso – Meeting Catering
  - vii. Shingle Creek WMC – West Metro Water Alliance
  - viii. Stantec – WOMP Services
- D. Approval of Final Reimbursement to City of Minneapolis for Bassett Creek Main Stem Erosion Repair Project: Cedar Lake Road to Dupont Ave North, 2nd Ave North, plus Fruen Mill Area, (2017CR-M)
- E. Approval to Submit Comments in Support of Minnesota DNR’s Proposed Rulemaking on Aquatic Invasive Species
- G. Approval to Direct Commission Engineer to Submit Flood Control Inspection Report to Cities, Minnesota DNR, U.S. Army Corps of Engineers
- H. Approval of Pay Request from SOLitude Lake Management for Sweeney Lake Alum Treatment

**5. BUSINESS**

**4I. Resolution of Appreciation for Alternate Commissioner McDonald Black**

Administrator Jester reported that Jane McDonald Black had stepped down from her alternate commissioner position. Chair Cesnik read the resolution of appreciation for Jane.

[Commissioner Welch arrives.]

Several commissioners offered their thanks to Ms. McDonald Black and indicated their appreciation for her expertise on the budget committee. Commissioner Harwell thanked Jane for her partnership in representing the city of Golden Valley.

**MOTION:** Commissioner Harwell moved to approve the resolution of appreciation. Chair Cesnik seconded the motion. Upon a vote, the motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

Chair Cesnik introduced the new Golden Valley Alternate Commissioner, Paula Pentel. Ms. Pentel noted that she lives near Sweeney Lake and teaches urban environmental sustainability at the University of Minnesota. She is a former Golden Valley City Council and Environmental Commission member and has been through the MN Water Steward training program.

**4F. Approval of Four Seasons Mall Demolition Project, Plymouth**

After requests for clarification, Commission Engineer Chandler confirmed that because the Four Seasons Mall and parking lot is being demolished and the area will no longer be covered by impervious surface, there would be a reduced risk of downstream flooding. Commissioner Welch noted its advantageous for the site to be pervious but added that future redevelopment should be able to use the current impervious conditions as the basis for water management calculations. Administrator Jester reminded the group that the Commission had approved a TAC recommendation to use current impervious conditions for future redevelopment, sunseting after 20 years. She noted the TAC will be discussing additional items regarding future development at this site during their meeting on December 7<sup>th</sup>.

**MOTION:** Commissioner Welch moved to approve the Four Seasons Mall demolition project with the Commission Engineer's conditions. Commissioner Harwell seconded the motion. Upon a vote, the motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

**A. Consider Approving Medicine Lake Lift Station Rehabilitation and Temporary Variance Request for Compensating Floodplain Storage, Medicine Lake**

Commission Engineer Chandler reviewed the project noting that the City of Medicine Lake reconstructed a sanitary lift station on Kaiser Avenue that resulted in 81 cubic yards of fill in the Medicine Lake 100-year floodplain. The station was reconstructed due to concern about possible failure of the existing station. The city intended to provide compensatory storage as part of their Peninsula Road Street and Utility Improvement Project that was approved at the BCWMC meeting in March, but the street project was delayed. Therefore, the sanitary lift station project was completed this summer with no compensatory storage. She noted the almost negligible impact of the floodplain loss on lake levels (less than 0.0015 inches). She reported staff is recommending conditional approval of the sanitary lift station project and a temporary variance of the floodplain impact until December 31, 2024.

Commissioner Harwell noted that while floodplain storage is important, the impact is negligible in this case.

**MOTION:** Commissioner Harwell moved to approve the project with the Commission Engineer's recommended conditions and to approve the temporary variance of floodplain impacts until December 31, 2024. Commissioner Carlson seconded the motion.

Discussion: Commissioner Carlson provided more background on the lift station and street reconstruction project. Commissioner Welch indicated he cannot support the variance request as a matter of principle; he did not find a compelling reason to allow waiving the rules. Commissioner Harwell noted her support of the engineers' professional judgement. Commission Gwin-Lenth asked what happens if storage is not provided by the end of 2024. Engineer Chandler indicated there is no real teeth in the requirement except that the BCWMC operates under a joint powers agreement indicating the necessity for cooperation of member cities. Alternate Commissioner Polzin requested that the item be brought back in mid-2024 to ensure there is a plan for mitigation before the variance expires.

**VOTE:** Upon a vote, the motion carried 5-1 with Crystal, Golden Valley, Medicine Lake, New Hope, and Plymouth voting for the motion; and Minneapolis voting against.

**B. Consider Approving Resolution 22-10 Revising Boundary with Shingle Creek Watershed Management Commission**

Commission Engineer Chandler reported that Shingle Creek WMC recently evaluated and proposed changes to their boundary with adjacent watersheds including the BCWMC. She noted that Commission Engineers and TAC members reviewed the proposed changes in relation to the latest BCWMC XP-SWMM hydrologic boundary, including gathering detailed information from city staff for specific areas where there appeared to be discrepancies between the XP-SWMM boundary and SCWMC proposed boundary. After discussions with SCWMC engineers and some adjustments, the Commission Engineer agrees the proposed revised boundary accurately reflects the most appropriate legal boundary between the SCWMC and the BCWMC and recommends the Commission approve the new boundary by resolution. She noted the changes result in an additional 551 acres in the BCWMC.

Commissioner Harwell asked that the maps be improved so it's easy to identify which parcels lie in each watershed. She also noted she requests her alternate vote on this item because she is a Stantec employee (SCWMC's consulting



engineering firm).

There was discussion about the timing of this effort and Alternate Commissioner Polzin wondered if in some areas of Minneapolis whole blocks, rather than individual parcels could be included in one watershed or the other rather than splitting up blocks. She noted that sometimes more than one parcel is included in a development but each watershed has their own rules, making it difficult. Administrator Jester noted that occasionally BCWMC reviews a project that is split between two watersheds. She noted that in those instances, the engineers agree on which watershed should take review authority and whose rules apply – typically which watershed has the most area in the project site. Commissioner Welch noted that by law, watershed boundaries must follow hydrologic boundaries and there is no technical reason not to approve these revised boundaries. Some city staff reported on how closely they examined specific areas to determine actual drainage patterns.

**MOTION:** Commissioner Welch moved to approve Resolution 22-10 reflecting revised watershed boundaries. Commissioner Gwin-Lenth seconded the motion. Upon a vote, the motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

**C. Discuss Ability to Compensate Community Members for Participation in Watershed Plan Focus Groups**

Administrator Jester told the Commission that seeking input from various community groups continues as the BCWMC develops the 2025 Watershed Plan and endeavors to build relationships with groups to understand their experience, knowledge, and priorities surrounding water resources. She noted that as part of this work, she plans to engage with specific groups such as members of the Native community and residents of environmental justice or historically underserved communities. She recommended that to honor the giving of time and knowledge, it is appropriate to compensate individuals financially for their time and that this is considered a best practice among many organizations. Commissioner Anderson asked about the budget implications of offering financial incentives. Administrator Jester noted that it would be a small amount overall and could be built into the Plan Development budget. Overall, commissioners indicated their support for this recommendation and noted that it would be important to clearly articulate that the information gathered may or may not be used in the final Plan. It was also recommended that a participation agreement and Commission policy be developed and brought to a future meeting.

**MOTION:** Commissioner Harwell moved to approve the Administrator’s recommendation to further explore this idea and bring more detail and specifics to a future meeting. Commissioner Welch seconded the motion.

Discussion: Several commissioners and alternates volunteered to help develop more details for participation and compensation.

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

**D. Appoint Delegates for MN Association of Watershed Districts Annual Meeting and Review Proposed Resolutions**

Administrator Jester noted that the Commission should appoint official delegates to the MAWD business meeting to be held in Alexandria MN on December 2<sup>nd</sup>.

[Commissioner Harwell temporarily leaves the meeting.]

**MOTION:** Commissioner Harwell moved to appoint Chair Cesnik and Alternate Commissioner Hauer as delegates to the MAWD business meeting and Commissioner Welch as the alternate delegate. Commissioner Carlson seconded the motion. Upon a vote, the motion carried 6-0, with the cities of Robbinsdale, St. Louis Park, and Minnetonka absent from the vote.

The meeting adjourned for a 5-minute break.

[Commissioner Harwell returns to the meeting. Commissioner Anderson departs the meeting.]

Commissioners then briefly discussed each of the eight proposed resolutions that delegates would vote for or against at the MAWD meeting including topics such as MAWD participation on MDH’s stormwater reuse taskforce and

Minnesota Drainage Workgroup; limited liability for winter salt applicators; limiting the use of wake boats in certain lakes; advocating for stable funding for flood damage reduction projects; clarification of statute language regarding watershed project review authority; limiting groundwater use for landscaping; and providing additional flexibility in the open meeting law for use of technology.

In general, there was consensus to support most of the resolutions. There was discussion about how wake boats are an issue on Medicine and Sweeney Lakes and appear to be further eroding shorelines. There was also discussion about declining groundwater levels. Delegates planned to discuss further before the MAWD meeting.

[Alternate Commissioner Pentel leaves the meeting.]

**E. Discuss Process for Evaluating Staff and Soliciting Proposals for Engineering and Technical Services**

Administrator Jester reminded commissioners that near the end of each year the Commission evaluates her performance and that of Commission Engineer Chandler. She noted the evaluation has been accomplished in a variety of ways over the years usually including commissioners and TAC members providing feedback through quantitative evaluation forms and review by the Administrative Committee. She asked how the Commission would like to evaluate staff this year. She also reported that the Commission must solicit proposals or letters of interest proposals for at least legal and engineering services as required by law once every two years.

Commissioners noted that more feedback to staff is always beneficial, that consultants are always willing to receive feedback at any point during the year, that results of the evaluation should drive the solicitation of engineering proposals. It was also noted that the Commission has the ability to request proposals from other engineering firms for specific projects; that the relationship with Barr Engineering is not exclusive.

There was consensus to use the same staff evaluation form as the last two years with responses being sent to Chair Cesnik would be summarize and bring results to the December meeting. There was also consensus to solicit “letters of interest proposals” as in years past.

[Commissioner Harwell leaves the meeting.]

**6. COMMUNICATIONS**

**A. Administrator’s Report**

1. Update on Watershed Plan Development Activities – Administrator Jester and Minneapolis commissioners have been attending Minneapolis neighborhood association meetings. The Jordan Area Community Council meeting was mainly focused on public safety but they also highlighted new gardens and their work with Metro Blooms.
2. Update on Crane Lake Chlorides Issue – Conversations with city staff continue along with investigations on Crane Lake water levels and outlet levels. Administrator Jester noted her desire to move the Crane Lake Chloride Reduction CIP project earlier on the schedule.
3. Hennepin County Taking Applications for Minnesota Water Stewards – Administrator Jester noted the materials in the “information only” section and asked that commissioners disseminate to interested friends or neighbors.

**B. Chair – no report**

**C. Commissioners**

Former Alternate Commissioner McDonald Black reminded commissioners that the CIP funds are separate from the general operating budget. CIP funds shouldn’t accumulate unnecessarily and should be spent.

[Alternate Commissioner Hauer leaves the meeting. No longer a quorum of commissioners.]

Commissioner Welch reported that he attended an event sponsored by Wellington Management and noted a lot of construction and changes in the Bassett Creek Valley. He noted Wellington may be an important partner in conversations about the future of the Valley within the 2025 Plan. Administrator Jester indicated that flooding and water quality challenges in the Bassett Creek Valley are part of the Plan’s “challenging issues” currently being assessed. She reported she has talked with Hennepin County staff about convening a “Bassett Creek Valley Summit”

to discuss issues and a path forward with multiple stakeholders.

**D. TAC Members**

TAC member Mike Sorensen reported that Minneapolis Park and Rec Board is hiring an AIS Specialist. TAC member Ben Scharenbroich reported that Plymouth staff Chris LaBounty gave a presentation at the North American Lake Management Society conference on the Parkers Lake Chloride Reduction Project. He also noted the city is sponsoring a Smart Salting Training session.

For the December 7<sup>th</sup> TAC meeting, Commissioner Welch is the primary liaison while Chair Cesnik is alternate.

**E. Committees**

No reports were given.

**F. Legal Counsel**

No report was given.

**G. Engineer**

Commission Engineer Chandler reported that the pre-construction meeting for the Lagoon Dredging Project is scheduled for November 28<sup>th</sup>. She reported on the discovery of a partially exposed sanitary sewer pipe within the creek bed that is likely to require a different access route to Pond D. Regarding the Bryn Mawr Project, she reported that construction is beginning soon and that more contamination than expected is being discovered.

**7. INFORMATION ONLY (Information online only)**

- A. BCWMC Administrative Calendar
- B. CIP Project Updates [www.bassettcreekwmo.org/projects](http://www.bassettcreekwmo.org/projects)
- C. Grant Tracking Summary and Spreadsheet
- D. WCA Notices – Plymouth and Golden Valley
- E. MN Stormwater Research Program Highlights 2022
- F. Minnesota Water Stewards Application Materials

**8. ADJOURNMENT**

The meeting adjourned at 11:25 a.m.

LINK to BCWMC consideration of Medicine Lake’s Temporary Variance Request re: the Lift Station Rehabilitation&Reconstruction:

[https://www.bassettcreekwmo.org/application/files/7716/7053/8533/Item\\_4A\\_Draft\\_Mintues-\\_16\\_Nov\\_2022.pdf](https://www.bassettcreekwmo.org/application/files/7716/7053/8533/Item_4A_Draft_Mintues-_16_Nov_2022.pdf)

**A. Consider Approving Medicine Lake Lift Station Rehabilitation and Temporary Variance Request for Compensating Floodplain Storage, Medicine Lake**

Commission Engineer Chandler reviewed the project noting that the City of Medicine Lake reconstructed a sanitary lift station on Kaiser Avenue that resulted in 81 cubic yards of fill in the Medicine Lake 100-year floodplain. The station was reconstructed due to concern about possible failure of the existing station. The city intended to provide compensatory storage as part of their Peninsula Road Street and Utility Improvement Project that was approved at the BCWMC meeting in March, but the street project was delayed. Therefore, the sanitary lift station project was completed this summer with no compensatory storage. She noted the almost negligible impact of the floodplain loss on lake levels (less than 0.0015 inches). She reported staff is recommending conditional approval of the sanitary lift station project and a temporary variance of the floodplain impact until December 31, 2024.

Commissioner Harwell noted that while floodplain storage is important, the impact is negligible in this case.

**MOTION:** Commissioner Harwell moved to approve the project with the Commission Engineer’s recommended conditions and to approve the temporary variance of floodplain impacts until December 31, 2024. Commissioner Carlson seconded the motion.

Discussion: Commissioner Carlson provided more background on the lift station and street reconstruction project. Commissioner Welch indicated he cannot support the variance request as a matter of principle; he did not find a compelling reason to allow waiving the rules. Commissioner Harwell noted her support of the engineers’ professional judgement. Commission Gwin-Lenth asked what happens if storage is not provided by the end of 2024. Engineer Chandler indicated there is no real teeth in the requirement except that the BCWMC operates under a joint powers agreement indicating the necessity for cooperation of member cities. Alternate Commissioner Polzin requested that the item be brought back in mid-2024 to ensure there is a plan for mitigation before the variance expires.

**VOTE:** Upon a vote, the motion carried 5-1 with Crystal, Golden Valley, Medicine Lake, New Hope, and Plymouth voting for the motion; and Minneapolis voting against.

**BACKGROUND**

Memorandum from Commission engineers (Barr) re: Lift Station Rehab and Temp Vairance Request  
Item 5a – BCWMC 11.16.22

LINK

[https://www.bassettcreekwmo.org/application/files/5516/6808/5952/Item\\_5A\\_Medicine\\_Lake\\_Lift\\_Station\\_Rehab\\_Project.pdf](https://www.bassettcreekwmo.org/application/files/5516/6808/5952/Item_5A_Medicine_Lake_Lift_Station_Rehab_Project.pdf)

## Memorandum

**To: From: Subject:**

**Date: Project:**

Bassett Creek Watershed Management Commission (BCWMC)

Barr Engineering Co. (Barr)

Item 5A: Medicine Lake Lift Station Rehabilitation and Temporary Variance Request –  
Medicine Lake, MN

BCWMC November 16, 2022, Meeting Agenda

November 9, 2022

23270053 2022 2297

### BCWMC 2022-17

#### Summary:

**Project Proposer:** City of Medicine Lake

**Proposed Work:** Reconstruction of sanitary lift station

**Basis for Review at Commission Meeting:** Fill in floodplain; temporary variance request

**Impervious Surface Area:** No change

**Project Schedule:** Constructed summer 2022

**Recommendation:** Consider approval of the variance and conditionally approve the project

#### General Project Information

The City of Medicine Lake reconstructed a sanitary lift station on Kaiser Avenue that resulted in 81 cubic yards of fill below the Medicine Lake 100-year floodplain. The city had initially intended to construct the lift station and provide compensatory storage as part of the BCWMC #2021-36 Peninsula Road Street and Utility Improvements project that was reviewed and approved at the BCWMCs March 18, 2022, meeting, but the street project was delayed. According to the City, the sanitary lift station improvements were separated from the street project and the schedule was accelerated due to the poor condition of the existing lift station and concerns about failure. Therefore, the City completed the lift station reconstruction project during the summer of 2022 with no compensatory storage.

The City of Medicine Lake is requesting “after-construction” approval of the referenced project and a temporary variance to BCWMC Rule 4.8 (Policy 38), which requires “that projects within the floodplain maintain no net loss in floodplain storage and no increase in flood level at any point along the trunk system.” The city is requesting a temporary variance until December 31, 2024.

#### Floodplain

The project includes work in the BCWMC (Medicine Lake) 1% annual-chance (base flood elevation, 100- year) floodplain. The February 2021 BCWMC Requirements for Improvements and Development Proposals (Requirements) document states that projects within the floodplain must maintain no net loss in floodplain storage and no increase in flood level at any point along the trunk system (managed to at

Barr Engineering Co. 4300 MarketPointe Drive, Suite 200, Minneapolis, MN 55435 952.832.2600  
www.barr.com

**To: From: Subject: Date: Page:**

Bassett Creek Watershed Management Commission (BCWMC)

Barr Engineering Co. (Barr)

Item 5A: Medicine Lake Lift Station Rehabilitation and Temporary Variance Request – Medicine Lake, MN

November 9, 2022

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least a precision of 0.00 feet). The 1% annual-chance (base flood elevation, 100-year) floodplain elevation of Medicine Lake is 890.4 feet NAVD88. The proposed project resulted in 81 cubic yards of floodplain fill and no compensating storage.

### **Temporary Variance Request**

The City of Medicine Lake requested a temporary variance to Rule 4.8 of the BCWMC Requirements document for the requirement of providing compensatory storage. The city initially planned to provide compensatory storage as part of the City Street and Utilities Project (BCWMC #2021-36 Peninsula Road Street and Utility Improvements). However, the city is unable to move forward with the street and utilities project due to high bid prices, increased borrowing costs, and failure of the State Legislature to pass a bonding bill. Therefore, the city is requesting a temporary variance to provide the compensatory storage later, when the street and utility project moves forward. The city is also exploring other compensatory storage options in case the street project is delayed further. The temporary variance is requested until December 31, 2024.

Section 3.3 of the BCWMC Requirements document indicates that in granting variances, the Commission shall make a finding showing that all the following conditions exist. The October 20, 2022 memorandum from the city's consultant addressed these conditions, as follows.

1. There are special circumstances or conditions affecting the property such that the strict application of the provisions of these standards and criteria would deprive the applicant of the reasonable use of the applicant's land.  
*"The site is too small to include mitigation within the available property. Additional easement on private property would be required to excavate the required volume for mitigation. Mitigation was planned as part of another project (BCWMC #2021-36 Peninsula Road Street and Utility Improvements), which was delayed due to unforeseen circumstances."*
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.  
*"Excavation would be detrimental to the private property owner as well as the lift station and City street."*
3. The granting of the variance will not be detrimental to the public welfare or injurious to the other property in the territory in which the property is situated.  
*"Storage lost due to delayed mitigation would increase the high-water level of the lake less than 0.0015 inches during a 100-year flood until mitigation is accomplished. This temporary increase would be negligible and would not be detrimental to the public welfare of injurious to other property in the territory."*
4. In applications relating to a use in the 1% (base flood elevation, 100-year flood) floodplain set forth in Table 2-9 of the Watershed Management Plan, the variance shall not allow a lower degree of flood protection than the current flood protection.  
*"Storage lost due to delayed mitigation would increase the high-water level of the lake less than 0.0015 inches until mitigation is accomplished, which would be a negligible decrease in the degree of flood protection."*

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5.

Bassett Creek Watershed Management Commission (BCWMC)

Barr Engineering Co. (Barr)

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The granting of the variance will not be contrary to the intent of taking all reasonable and practical steps to improve water quality within the watershed.

*“Granting variance will have no effect on water quality”*

It is the opinion of the Commission engineer that the temporary 81 cubic yards of fill in the Medicine Lake floodplain will have a negligible impact on the flood level of Medicine Lake and at any point along the trunk system to at least a precision of 0.00 feet.

### **Wetlands**

The BCWMC is the local government unit (LGU) responsible for administering the Wetland Conservation Act (WCA) in the City of Medicine Lake. There are no wetlands impacted by the lift station project, therefore, BCWMC wetland review is not required.

### **Rate Control**

The lift station project does not create one or more acres of net new impervious surfaces; therefore, BCWMC rate control review is not required.

### **Water Quality**

The lift station project does not create one or more acres of net new impervious surfaces; therefore, BCWMC water quality review is not required.

### **Erosion and Sediment Control**

The lift station project does not result in more than 10,000 square feet of land disturbance or 200 cubic yards of cut and fill; therefore, BCWMC erosion and sediment control is not required.

### **Recommendation**

Approval of the temporary variance and conditional approval of the project, based on the following comments:

1. The BCWMC 100-year floodplain elevation for the project site (890.4 feet NAVD88) must be shown on the drawings.
2. The limits of the floodplain fill and calculations showing the fill volume below the 100-year floodplain (for the lift station project) must be shown on the drawings.
3. As discussed with the applicant, we understand Exhibit 1 (Floodplain Earthwork 2022 Street & Utility Imp.) from the February 25, 2022 resubmittal for BCWMC #2021-36 Peninsula Road Street and Utility Improvements has been revised. The revised exhibit that shows cut/fill computations for both the street project and the lift station project must be provided.
4. Compensatory storage must be provided when the street and utility project moves forward or by other storage options before December 31, 2024. Final compensating storage plans must be provided to the Commission Engineer for future review.