



Bassett Creek Watershed Management Commission

MEMO

To: BCWMC Commissioners and Alternate Commissioners
From: Administrator Jester
Date: June 12, 2024

RE: Comments from Member Cities on Proposed Revised Joint Powers Agreement (JPA)

At the April 18th Commission meeting, proposed language for an updated JPA was approved. (The final proposed draft is included with this month's meeting materials.) The proposed revised JPA and corresponding documents outlining the changes from the current JPA were sent to the member cities on April 19th. Cities were asked to provide comments by June 10th. To date, I have received comments from all cities except Golden Valley and Medicine Lake. These cities hope to provide comments before the Commission meeting which I will send to commissioners as soon as received.

The comments below are provided verbatim so that commissioners can review exact comments. At this meeting, the Commission should discuss the comments and provide direction to staff on how to proceed.

<p>Crystal</p> <p>The only comment at this time is we feel the watershed should not have authority to compensate commissioners.</p>
<p>Golden Valley</p> <p>No comments to date</p>
<p>Medicine Lake</p> <p>No comments to date</p>
<p>Minneapolis</p> <p>Section 1.3: please add an additional definition for "Act": the Metropolitan Surface Water Management Program (referenced in 1.3 e)</p> <p>Regarding the term: The City of Minneapolis agrees that the term should be decoupled from the LSWMP [local surface water management plan] schedule of every ten years. The City supports a time frame for the JPA of least 8 years and no more than 12 years. This will allow for an organization analysis to be completed and to thoroughly understand and draft future changes to the JPA to support organizational change without being "under the gun" to sign a new agreement.</p>

Minnetonka

Substantive:

5.2 Member Contributions – while no revision is suggested, this is a bit unclear. A potential wording could be useful. Below is a suggestion:

*Each Member agrees to contribute each year to a fund to be used for general administration purposes including, but not limited to: salaries, rent, supplies, development of the Watershed Management Plan, engineering and legal expenses, insurance, and bonds, and to purchase and maintain any personal property deemed necessary by the Commission in furtherance of its purposes and powers as articulated in this Agreement. Said funds may also be used for normal maintenance of any facilities, but any extraordinary maintenance or repair expense will be treated as an improvement cost and processed in accordance with section 5.3 of this Agreement. **Fifty percent (50%) of the annual budget for the general administration fund shall be allocated among the Members based upon the net tax capacity of all property within the Member’s boundaries compared to the net tax capacity of all property within the Watershed, and the remaining fifty percent (50%) shall be allocated among the Members based on the total area of each Member that lies within the boundaries of the Watershed compared to the total area of all property in the Watershed. In no event will any assessment hereunder require a contribution to exceed one-half of one percent of the net tax capacity within the Watershed.***

Typos/grammar:

4.1(a)(6) – or “any” public or private organization

4.3(d) by “Hennepin County” not “County’s”

5.5(b) – all the other clauses use complete sentences and this one does not. Consider: Members who have lands in the subdistrict that is responsible for a capital improvement may negotiate an amount to be contributed by each Member.

New Hope

Following review by the city attorney, New Hope is in agreement with the proposed changes as presented in the JPA update documents and have no further comments at this time.

Plymouth

Section 3.3 – Compensation and Expenses

Historically all boards and commissions in Plymouth, including watersheds, are not paid positions. If one watershed is proposing to pay people serving in a volunteer position that is not consistent with our practices.

- Plymouth would respectfully request the language proposing to compensate commissioners be removed.

Section 4.3(b) – Projects implemented by Members and Others

This section appears to allow for member cities to not participate in projects that are occurring within the boundaries of their city.

- Plymouth would request wording to be added that member cities must approve or support a project occurring within their community for the commission to do a project. We support the commission doing work, however support from the member community is important to have.

Section 4.1(a)(7) and (8) – Ordering Members to Perform Specific Actions

What are the limits of this power and authority to require members to change/construct drainage systems? What is the process for an order, and is there a petition process?

Section 4.3(f), paragraph 2

Why is this provision needed?

Robbinsdale

The City of Robbinsdale discussed the proposed Bassett Creek JPA during the May 15th Work Session. The main discussion revolved around the proposed Section 3.3. The City does not support the proposed language relating to Commissioner compensation. The opposition to this language is as follows –

- City Code Sections 320.01 Subd 2 and 320.03 Subd 2, specifically identify that Planning Commissioners, Parks, Recreation and Forestry Commissioners and Human Rights Commissioners serve without compensation. While it is noted that these City Code sections refer to specific Commissions, the City seeks to maintain a consistent message across its Commissions.
- The proposed Bassett Creek JPA Section 3.3 language is out of step with the proposed Shingle Creek JPA language (renewal also required by the end of the year) that maintains similar language to the existing Section 5 Subd 6, related to compensation for Commissioners.
- The proposed Bassett Creek JPA Section 3.3 language takes away control of this issue from individual Member cities which is considered undesirable.
- The proposed Bassett Creek JPA Section 3.3 language allowing greater autonomy and independence in compensating Commissioners would be effectively allowing the Commission to establish paying itself without further checks and balances from the City.
- The payment of compensation to Commissioners would cause an increase in City Assessments.
- The City acknowledges the contributions and dedication of all its Commissioners, however it is noted that Commissioners are not publicly elected or held to the same public account as City Council Members with regard to expenditure of City funds.

Therefore, it is the City’s desire to keep the existing language found in Section 5 Subd 6 where compensation of Commissioners remains wholly at the discretion of the Member City.

St. Louis Park

The revised provision in section 3.3 appears to allow an individual member city discretion to pay its own commissioners (and alternates), which raises a few questions:

- Is this compensation to be paid by the member cities to its own commissioners?
- Would the member city paid compensation be in addition to any amounts set by the board, in addition to reimbursements?

- What if the commission sets commissioner compensation at zero, or a nominal amount, does this mean that some commissioners may be paid in varying amounts, or not paid at all?
 - If so, this raises equability questions.