

MINUTES
Regular Meetings
June 9, 2016

(Action by the SCWMC appears in blue, by the WMWMC in green and shared information in black.
*indicates items included in the meeting packet.)

I. A joint meeting of the Shingle Creek Watershed Management Commission and the West Mississippi Watershed Management Commission was called to order by Shingle Creek Chairman Andy Polzin on Thursday, June 9, 2016, at 12:45 p.m., at the Clubhouse at Edinburgh, USA, 8700 Edinbrook Crossing, Brooklyn Park, MN.

Present for Shingle Creek were: David Mulla, Brooklyn Center; John Roach, Brooklyn Park; Janet Moore, Crystal; Karen Jaeger, Maple Grove; Bill Wills, New Hope; Larry Stelmach, Osseo; Andy Polzin, Plymouth; Troy Gilchrist, Kennedy & Graven; Ed Matthiesen, Wenck Associates, Inc.; and Judie Anderson, JASS.

Not represented: Minneapolis and Robbinsdale.

Present for West Mississippi were: David Mulla, Brooklyn Center; John Roach, Brooklyn Park; Karen Jaeger, Maple Grove; Larry Stelmach, Osseo; Troy Gilchrist, Kennedy & Graven; Ed Matthiesen, Wenck Associates, Inc.; and Judie Anderson, JASS.

Not represented: Champlin.

Also present were: Dave Vlasin and Andrew Hogg, Brooklyn Center; Steve Chesney and Jesse Struve, Brooklyn Park; Mark Ray, Crystal; Heidi Nelson and Rick Lestina, Maple Grove; Shawn Markham, New Hope; Ben Scharenbroich, Plymouth; and Richard McCoy, Robbinsdale.

II. **Agendas and Minutes.**

Motion by Jaeger, second by Wills to approve the **Shingle Creek agenda**.* *Motion carried unanimously.*

Motion by Stelmach, second by Roach to approve the **West Mississippi agenda**.* *Motion carried unanimously.*

Motion by Wills, second by Moore to approve the **minutes of the May 12, 2016 Shingle Creek regular meeting*** as written. *Motion carried unanimously.*

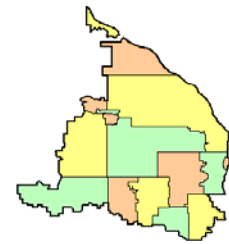
Motion by Roach, second by Mulla to approve the **minutes of the May 12, 2016 West Mississippi regular meeting*** as written. *Motion carried unanimously.*

The regular meeting was suspended at 12:46 p.m.

III. **Minor Plan Amendment.**

A. The Shingle Creek and West Mississippi Capital Improvement Programs (CIPs) are proposed to be amended by Minor Amendment to the joint Third Generation Watershed Management Plan. One project is proposed to be added to the Shingle Creek CIP, the cost of one project in the Shingle Creek CIP is proposed to be increased, and one project is proposed to be added to the West Mississippi CIP. The Board of Water and Soil Resources (BWSR) agreed with the Commission's February 4, 2016 request to proceed as a Minor Plan Amendment as long as Hennepin County did not object.

*items are included in meeting packet



On April 14, 2016, the Commissions initiated a Minor Plan Amendment. Notice of a Public Meeting to take comments on the proposed amendment was sent to the member cities, county, and reviewing agencies, and published as required by statute and the Plan.

The purpose of today's public meetings is to discuss the proposed minor plan amendment and any comments received prior to or at the meetings. After that discussion, each Commission will consider a resolution adopting a Minor Plan Amendment contingent on County Board approval of the Minor Plan Amendment, which will be heard at a County Board hearing on July 19, 2016. Tables 4.5 and 4.6 of the CIPs are revised as follows:

Table 4.5 Shingle Creek

Action	2013	2014	2015	2016	2017	2018-2022
<i>Becker Park Infiltration Project</i>					\$2,500,000	
-Commission Contribution					250,000	
-Local Contribution					2,250,000	
<i>Iron and Biochar-Enhanced Sand Filter Retrofits</i>					\$210,000	
-Commission Contribution					210,000	
-Local Contribution					0	

Table 4.6 West Mississippi

Action	2013	2014	2015	2016	2017	2018-2022
<i>Iron and Biochar-Enhanced Sand Filter Retrofits</i>					\$80,000	
-Commission Contribution					80,000	
-Local Contribution					0	

The Commissioners discussed the proposed minor plan amendment and comments received prior to the meeting. (No written comments were received.)

The public meeting was convened at 12:49 p.m.

(No one appeared at the meeting to provide comments.)

An error was identified in Staff's memo regarding the amounts of the funding options for the Iron and Biochar-Enhanced Sand Filter projects in both watersheds. These numbers will be corrected and a revised memo published.

The public meeting was closed at 1:02 p.m.

B. In order to timely advise the County of the maximum amount of the Commissions' anticipated levies, and pending receipt of updated numbers, motion by Stelmach, second by Jaeger to move forward to adopt the Minor Plan Amendment. *Motion carried unanimously.*

Motion by Moore, second by Jaeger to approve Resolution 2016-01* Adopting a Minor Plan Amendment ... Revising the Capital Improvement Program. *Motion carried unanimously.*

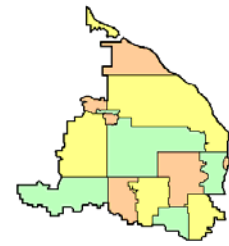
Motion by Jaeger, second by Roach to approve Resolution 2016-01* Adopting a Minor Plan Amendment ... Revising the Capital Improvement Program. *Motion carried unanimously.*

The regular meeting resumed at 1:04 p.m.

IV. Finances and Reports.

A. Motion by Moore, second by Jaeger to approve the **Shingle Creek Treasurer's Report.*** *Motion carried unanimously.*

*items are included in meeting packet



Motion by Roach, second by Sicora to approve the **Shingle Creek June claims.*** Claims totaling \$73,924.65 were *approved by roll call vote*: ayes – Mulla, Roach, Moore, Jaeger, Wills, Stelmach, and Polzin; nays – none; absent – Minneapolis and Robbinsdale.

Commissioners received a revised copy of the preliminary **2015 Audit Report*** along with **Staff's memo*** dated June 9, 2016. Diane Spector, Wenck Associates, and Anderson reviewed the original report and identified one adjustment that should be made to the restricted funds account for capital improvements. They also reviewed the income statement and restricted/assigned fund accounts. They determined that the negative unrestricted fund balance reflects the Commission's cash position after ad valorem funds received from the County have been paid out to the cities where those capital projects were constructed, but does not reflect the expenses incurred by the Commission on those projects. Oftentimes the ad valorem funds received do not match the amounts levied. (See VI.A., below.) The number also reflects the situations where expenses against projects including capital projects, grant-funded projects and studies, are realized before reimbursement has been received from the funding agencies. Attached to the memo were spreadsheets showing the adjusted fund balances and the Commission's year-end cash position from previous audits. They also recommended that both Commissions review their Closed Project Account Policy at a future meeting. Some clarifications may be necessary regarding shortfall levy funding. Motion by Stelmach, second by Jaeger to accept the revised 2015 Audit Report. *Motion carried unanimously.*

B. Motion by Jaeger, second by Roach to approve the **West Mississippi Treasurer's Report.*** *Motion carried unanimously.*

Motion by Jaeger, second by Stelmach to approve the **West Mississippi June claims.*** Claims totaling \$19,624.47 were *approved by roll call vote*: ayes – Mulla, Roach, Jaeger, and Stelmach; nays – none; absent – Champlin.

V. Open Forum.

The Commissioners discussed the importance of attendance at meetings in order to conduct business. Commissionerships are voluntary and all should be recognized for the time they devote to the Commission.

VI. Project Reviews.

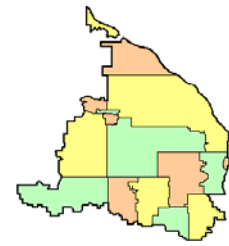
A. SC2016-06 Robert Nelson Building, Brooklyn Park.* Construction of a loading dock on an industrial building located at 7801 Xylon Avenue North. A complete project review application was received on May 24, 2016. The proposed project is in the Shingle Creek floodplain. Following development, the site will have an increase of 0.04 acres or 1,716 SF for a loading dock on a 1.05-acre site.

To comply with the Commission's water quality treatment requirement, the site must provide ponding designed to NURP standards with dead storage volume equal to or greater than the volume of runoff from a 2.5" storm event, or BMPs providing a similar level of treatment - 80-85% TSS removal and 50-60% TP removal. If a sump is used the MnDOT Road Sand particle size distribution is acceptable for 80% capture.

Runoff from the site is proposed to be routed to Shingle Creek by overland flow through 120 feet of wooded vegetation. The applicant meets Commission water quality treatment requirements. Commission rules also require that site runoff be limited to predevelopment rates for the 2-, 10-, and 100-year storm events. The proposed work is in the flood fringe and backwater area of Shingle Creek. A "No-Rise" Certification was completed demonstrating that there is no change in the 100-year elevation; therefore, the change in runoff rate is acceptable and the applicant meets the Commission's rate control requirements.

Commission rules require the site to infiltrate 1.0" of runoff from new impervious area within 48 hours. The new impervious area on this site is 0.04 acres, requiring that 0.003 acre-feet (143 CF) be infiltrated within 48 hours. The applicant proposes to create 22 CY of floodplain storage and keep the 120-foot vegetated distance to the creek from the proposed work. Therefore, the proposed project has the capacity to infiltrate the required volume within 48 hours, meeting Commission requirements.

*items are included in meeting packet



The NWI does identify wetlands on the parcel but not in the proposed project area. The project meets the Commission wetland requirements. There are Public Waters on this site, namely Shingle Creek.

There is floodplain on this site. The low floor elevations of the buildings are at least two feet higher than the high water elevation of the according to the 2004 Flood Insurance Rate Map. The proposed loading dock is within the floodplain and is using 22 CY of floodplain storage. Compensatory storage is provided.

An erosion control plan was not submitted with the project review and is not needed because the work involves asphalt pavement adjacent to the dock.

A public hearing on the project has not been conducted and, according to Cindy Sherman, Brooklyn Park Planning Department Director, in a phone call with Ed Matthiesen on June 3, 2016, is not needed.

Motion by Wills, second by Stelmach to advise the City of Brooklyn Park that project SC2016-06 is approved with no conditions. *Motion carried unanimously.*

B. Floodplain Analysis Assistance.* Frequently a developer or property owner will contact the Commission requesting information and help in devising a strategy on how to develop a property within a floodplain and or floodway. In most cases this work is a one-half to two hour consultation and is considered part of the service offered by the Commission. Occasionally, a complicated site can run into several hours that may require an onsite meeting and frequent communication with city staff. Since some of these sites may not move forward there is no way to obtain offsetting funding to cover Staff cost. As the economy improves and marginal land becomes more financially viable, Staff anticipates more of these requests for assistance. Staff are requesting the Commissions to approve a fee of \$500 to cover floodplain assistance for larger and more complicated projects.

Motion by Moore, second by Stelmach to approve an addition to the project review fee table to include a line for floodplain planning assistance for \$500. *Motion carried unanimously.*

Motion by Stelmach, second by Roach to approve addition of the \$500 floodplain assistance fee. *Motion carried unanimously.*

Matthiesen and Gilchrist will create appropriate language.

VII. Watershed Management Plan.

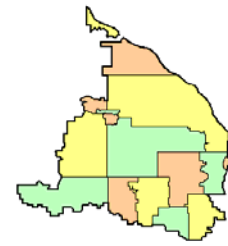
A. Staff's June 3, 2016 memo* outlines action to set the maximum amount of **capital projects levy** the Commissions expect to certify to Hennepin County. The actual levies will be certified in September, after the Commissions hold public hearings on the proposed projects.

In reviewing past project accounting as part of the 2015 audit review, Staff compared the levy certified with the amount of levy collected by the County. Due to delinquencies, foreclosures or other actions, each year there are a number of parcels for which property taxes are not paid in full. The Commissions rarely receive the full amount certified. In some years it appears that the levy received exceeded the amount certified. This is because the bulk of the levy is received the year following certification, but in subsequent years additional revenue trickles in as delinquent parcels pay off back taxes. Often not enough information was provided from the County to properly "credit" previous projects, so it is booked toward current projects. For the most accuracy, Staff added up the entire amount certified and the entire amount received since 2005, the result being the Commission received 98.9% of the amount certified (\$1,573,125 levied v. \$1,556,297 received).

In past years this was not an issue for the Commissions as the policy was to forward to the member cities the actual levy received less expenses rather than the amount certified. The policy was changed a few years ago so that the cities receive the full amount, with any difference and the expenses coming from the balance in the Closed Projects Account. This is depleting the account.

It is common for cities to levy slightly more than their budget requires to ensure they collect adequate revenues. It is Staff's recommendation that the Commissions begin the practice of certifying 102% of the

*items are included in meeting packet



required capital projects levy to ensure the actual levy receipts are closer to the actual Commission cost share amount.

In their memo Staff show the CIP projects that will be considered in September 2016. They are currently updating the cost estimates for the Biochar retrofits as they are being designed and the cost for each is running ~\$20,000 more than originally estimated. To be sure the amount levied is sufficient, Staff increased the cost of each pond and added an additional contingency factor. The Maximum Levy sets the ceiling for the capital levy; the Commissions can certify a lesser levy based on actual bid prices, which are expected in time for the September 2016 public hearing.

Motion by Mulla, second by Stelmach to set the Maximum 2016 Capital Project levies at 101% of cost, dependent upon legal review and approval of the County. *Motion carried unanimously.*

Motion by Mulla, second by Stelmach to set the Maximum 2016 Capital Project levies at 101% of cost with the same conditions. *Motion carried unanimously.*

B. Minneapolis Stormwater Plan. The City of Minneapolis and the Minneapolis Park and Recreation Board are co-permittees holding a National Pollutant Discharge and Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase I Permit from the State of Minnesota. Phase I MS4s are cities over 100,000 in population and Phase I permits have additional requirements beyond the Phase II permits that the remaining member cities hold.

The City and MPRB are currently taking input on their Stormwater Management Program in preparation for preparing their Annual Report. The comment period extends through June 17, 2016. Comments will assist the City and MPRB with future modifications to the Program.

Staff have reviewed the Program and find that it is consistent with the standards set in the Commission's Third Generation Watershed Management Plan. They recommend the Commission submit comments on Table A-6 of the Program's Appendix. This table sets forth Public Education Activities by Other Entities, and for WMWA and Shingle Creek it contains several outdated programs and does not reflect newer initiatives. In their June 3, 2016 memo* they recommend the following comments:

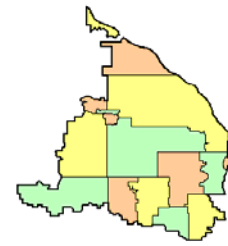
1. Update WMWA's website reference: westmetrowateralliance.org/
2. Eliminate the following programs which are no longer offered: Educate Policymakers, Workshop Series, and Patrick Henry High School Program
3. Add the following programs:
 - a. Citizens Assisted Lake Monitoring Program (CAMP) - Shingle Creek (same description as Bassett Creek; Ryan Lake is monitored through CAMP.)
 - b. Watershed PREP - A fourth-grade elementary school program developed and delivered by WMWA educators to meet science standards in classroom curricula and teach kids how to help improve the quality of their local lakes and streams. (Audience is students and metrics are number of classrooms and students served.)
 - c. Pledge to Plant for Pollinators and Clean Water, a campaign developed by WMWA to encourage landowners to replace turf grass and impervious surface with native vegetation. (Audience is property owners and metrics are number and size of plantings.)

Motion by Roach, second by Wills directing Staff to forward the comments and the 2015 WMWA Annual Report to Minneapolis and MPRB. *Motion carried unanimously.*

VIII. Water Quality.

A. Matthiesen provided a brief update of the May 26, 2016 **Technical Advisory Committee (TAC) meeting**. The members focused on the 5-Year reviews of the Crystal Lake TMDL and Bass-Schmidt-Pomerleau Lakes TMDL.

*items are included in meeting packet



B. New Buffer Law.

The Buffer Law signed into law by Governor Dayton in June 2015 is intended to help protect and improve water quality in the state. The Buffer Program was enacted in 2015 and includes the following provisions:

1. Requires landowners to establish and maintain buffers adjacent to public waters and public drainage ditches;
2. Requires soil and water conservation districts to identify other waters for inclusion in local water plans;
3. Exempts certain land uses and areas from the buffer requirement;
4. Allows landowners to meet the buffer requirements through other conservation practices that will protect water quality;
5. Requires soil and water conservation districts to assist landowners in complying; and
6. Provides for enforcement by counties, watershed districts or BWSR.

The law requires the DNR to develop a Buffer Map for the state identifying the waters where buffers will be required, and BWSR is developing standards and practices for the counties, SWCD's and watershed districts to follow when enforcing the Buffer Law. However, most importantly for the Commissions, among the exemptions from the law, is:

Land adjacent to waters...is exempt...if it is regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) permit under Minnesota Rules, chapter 7090, and provides water resources riparian protection, in any of the following categories:

- (i) municipal separate storm sewer system (MS4);*
- (ii) construction storm water (CSW); or*
- (iii) industrial storm water (ISW)*

In recent conversations with Randy Anhorn of Hennepin County Environment and Energy, which acts as the SWCD for Hennepin County, BWSR staff have noted that "exempt" is not likely to mean "you don't have to do anything to enforce the Law." BWSR is still discussing just what that means. It is likely that lands that are exempted must have to have some program or regulation, as yet undefined, in place as an alternative to the strict requirements of the Law. At this point it is likely that they will choose one of three options:

OPTION 1. MS4s are exempt but subject to some other regulation.

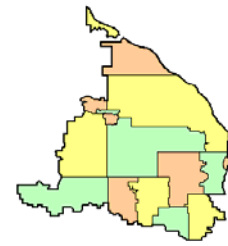
OPTION 2. MS4 lands within the Census Defined Urban Area are exempt but subject to some other regulation, outside the CDUA must meet the Buffer Law. So, if you're half in, half out, the half in is exempt, the half out must meet the Law. All of the area within SCWM is within the CDUA, but Maple Grove has area outside the CDUA in the Elm Creek watershed, and several of the MS4s in the Elm Creek watershed have lands outside the CDUA. (Note, the CDUA is *not* the MUSA.)

OPTION 3. MS4 lands within some other boundary BWSR defines are exempt but subject to some other regulation, outside must meet the Buffer Law.

Staff will continue to monitor this regulatory situation. More information is available at bwsr.state.mn.us/buffers/.

The DNR has released its Preliminary Buffer Map, which was compiled from the Public Waters Inventory (PWI) and Public Ditch information. Anhorn recommends reviewing the draft buffer map and submitting corrections even if the watercourse is in an MS4 because it is unclear at this time which regulations will apply.

*items are included in meeting packet



A copy of the Preliminary Buffer Map is included in Staff's June 3, 2016 memo.* Some of the watercourses shown on the map are no longer extant. The original PWI was completed in the 1970s, and many of the smaller tributary streams in the Metro Area have been replaced with storm sewer pipe. In some cases, such as Oxbow Creek or parts of Ryan Creek, development has changed the drainage area to the stream and surficial groundwater flow, and the stream no longer supports a base flow. Those streams typically only convey flow in the spring or during large events. The DNR does not amend the PWI map for these types of changes unless the watercourse was originally placed on the PWI in error. However, it is useful to distinguish these streams because requiring a buffer would be inappropriate or impossible.

The watercourses on the map are shown in three classes, two of which are shown in SCWM. Public Waters watercourses that are not Public Ditches under MS 103E must be provided a 50-foot buffer, and Public Ditches under MS 103E must be provided a 16.5-foot buffer. The only Public Ditch under MS 103E in the watersheds is Shingle Creek from Xerxes Avenue in Brooklyn Park to Webber Park in Minneapolis. The map shows all of Shingle Creek, as well as Eagle Creek and Pike Creek, as a Public Ditch.

Motion by Roach, second by Stelmach directing Staff to submit the Public Ditch corrections to Hennepin County/DNR, and provide the locations of no longer extant streams to Hennepin County for their information and use. *Motion carried unanimously.*

Motion by Roach, second by Stelmach directing Staff to submit the Public Ditch corrections to Hennepin County/DNR, and provide the locations of no longer extant streams to Hennepin County for their information and use. *Motion carried unanimously.*

C. Included in the meeting packet is the **Crystal Lake TMDL Five Year Review**,* reporting the progress toward meeting the load reductions identified in the Crystal Lake Nutrient TMDL. It includes an assessment of actions that have been implemented and the water quality trends that have been observed. The report also describes the actions planned for the next five years of the implementation plan and sets forth how progress toward the TMDL will be measured.

Crystal Lake was formally designated an Impaired Water for excess nutrients in 2002. The TMDL and Implementation Plan were approved in 2008 and 2009, respectively. The TMDL determined that a phosphorus load reduction of 69% is necessary to ensure the lake meets water quality standards for nutrients.

Since the TMDL was approved, a number of implementation actions have been taken by the Cities of Robbinsdale and Minneapolis and Hennepin County. The most significant of these was the flocculation treatment plant constructed by Robbinsdale to treat lake internal load. These BMPs have achieved 49% (251 of 511 lbs/year) of the required reduction in annual loading.

The TAC reviewed this report at their May meeting and recommends to the Commission and the MS4s in the lakeshed that the priorities for the next five years should be:

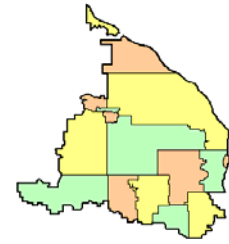
1. Continue to implement BMPs as opportunities arise.
2. Target the flocculation plant treatment to hypolimnetic withdrawals to maximize annual load reduction.
3. Work with the DNR to get an updated fish survey and, as water clarity improves, develop a vegetation management plan to address any invasive aquatic vegetation should it occur.

Motion by Stelmach, second by Wills to accept the 5-Year Review report and forward it on to the stakeholders and interested parties. *Motion carried unanimously.*

IX. Education and Outreach.*

The next **WMWA meeting** is scheduled for 8:30 a.m., Tuesday, June 14, 2016, Plymouth City Hall.

*items are included in meeting packet



X. Grant Opportunities and Updates.

The project team will meet with the three artists chosen to submit designs for the **Connections project**.

XI. Communications.

The May **communications log*** was included in the meeting packet. No action required.

XII. Other Business.

XIII. Adjournment.

There being no further business before the Shingle Creek Commission, motion by Jaeger, second by Moore to adjourn. *Motion carried unanimously.*

There being no further business before the West Mississippi Commission, motion by Roach, second by Mulla to adjourn. *Motion carried unanimously.*

The meeting was adjourned at 2:25 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Judie A. Anderson".

Judie A. Anderson
Recording Secretary
JAA:tim

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*items are included in meeting packet