

Lower St. Croix "One Watershed, One Plan"

Policy Committee		<p>Vision The St. Croix River, groundwater, lakes, streams, rivers, wetlands, and upland habitat in the Lower St. Croix watershed sustain healthy ecosystems, recreation, public health, tourism, agriculture, the economy, and quality of life in our communities.</p>
Meeting #16		
Monday, March 30, 2020 4:00-6:00 PM		
Zoom Virtual Meeting https://zoom.us/j/991045845 or Dial by phone: 312-626-6799 Meeting ID: 991 045 845		
Facilitator:	Angie Hong – EMWREP	Note taker: Cameron Blake
Invited:	Anoka SWCD – Sharon Lemay Brown's Creek WD – Craig Leiser Carnelian Marine St Croix WD – Wade Johnson Chisago County – Chris DuBose Chisago SWCD – Jim Birkholz Comfort Lake Forest Lake WD – Stephen Schmaltz Isanti County - Susan Morris Isanti SWCD – Jerry Schaubach Middle St. Croix WMO – John Fellegly Pine County – Stephen Hallan Pine SWCD – Doug Odegard South Washington WD – Don Pereira Sunrise River JP WMO – Janet Hegland Washington County – Fran Miron Washington CD – Diane Blake Copied: Policy Committee alternates; Ann WhiteEagle – Ramsey CD; Barb Peichel – BWSR; Sue Goepfert – Anoka Co; Caleb Anderson – Pine Co; Craig Mell – Chisago SWCD; Dan Fabian – BWSR; Darrick Wotachek – Isanti Co; Erin Loeffler – BWSR; Jamie Schurbon – Anoka SWCD; Jay Riggs – Washington CD; John Hanson – Valley Branch WD; Karen Kill – Browns Creek WD; Jill Carlier – Pine SWCD; Matt Moore – South Washington WD; Mike Isensee - Carnelian-Marine-St. Croix WD; Matt Downing – Middle St. Croix WMO; Emily Schmitz, Jessica Lindmeyer, Mike Kinney – Comfort Lake – Forest Lake WD; Sharon Schwarze – Brown’s Creek WD; Alyssa Soderlund, Maureen Hoffman, Stephanie Souter – Washington Co; Susanna Willson – Chisago Co; Tiffany Determan – Isanti SWCD; Laura Jester – Keystone Waters LLC; Jen Kader, Kris Meyer – Freshwater	
Pre-work:	<u>Review:</u> <ul style="list-style-type: none"> • Feb. 24 meeting minutes • Draft plan • Attorney memo related to public hearings and plan approval 	

Agenda Items

Topic	Purpose	Lead	Time
Welcome and instructions on how to conduct the meeting in accordance with MN Open Meeting Law	INFO	A Hong	10 min.
Introductions; Approve agenda Roll-call vote	INFO DECIDE	Policy Committee	5 min.
Approve Feb. 24, 2020 meeting minutes Roll-call vote	DECIDE	Policy Committee	5 min.
Review draft plan	INFO	L Jester	30 min.
Update from the March 2nd public meeting in Stillwater	INFO	A Hong	10 min
Approve draft plan for 60-day official review Roll-call vote	DECIDE	Policy Committee	10 min.
Review draft schedule for 60-review and public hearing	INFO	T Determan	20 min.
Review and discuss attorney memo related to public hearings and plan approval	DISCUSS	J Schurbon	
Wrap up and adjourn Roll-call vote	DECIDE	Policy Committee	5 min.

**LOWER ST. CROIX ONE WATERSHED, ONE PLAN
POLICY COMMITTEE, MEETING 15**

FEBRUARY 24, 2020 BOARD MINUTES

PENDING APPROVAL

Call to Order

Meeting called to order at 4:04pm by Secretary Jim Birkholz and introductions were made.

Members Present: Anoka SWCD – Sharon Lemay
Brown’s Creek WD – Craig Leiser
Carnelian Marine St Croix WD – Kristin Tuenge
Chisago County – Chris DuBose
Chisago SWCD – Jim Birkholz
Comfort Lake Forest Lake WD- Jackie Anderson (alt.)
Isanti County – Susan Morris
Isanti SWCD- Jerry Schaubach (alt.)
Middle St. Croix WMO – John Fellegly
Pine County- Steve Chaffee (alt.)
Pine SWCD – Doug Odegard
South Washington WD – Don Pereira
Sunrise River JP WMO - Janet Hegland
Washington County – Fran Miron
Washington SWCD – Diane Blake

Staff Present: Mike Isensee – Carnelian-Marine-St. Croix WD
Angie Hong – EMWREP
Craig Mell – Chisago SWCD
Jaime Schurbon – Anoka SWCD
Maureen Hoffman – Washington County
Matt Moore – South Washington WD
Tiffany Determan – Isanti SWCD
Katie Detzel – Pine SWCD
Mike Kinney – Comfort Lake Forest Lake WD
Susanna Wilson Witkowski – Chisago County

Others attending: Barb Peichel – BWSR
Dan Fabian – BWSR
Laura Jester – Keystone Waters

AGENDA ITEMS

Approve February 24, 2020 agenda

Jim Birkholz convened the meeting until Fran Miron arrived. John Fellegly moved to approve the February 24, 2020 agenda and Craig Leiser seconded this motion. Motion carried.

Approve January 27, 2020 meeting minutes

Jackie Anderson said she had suggested amendments to the minutes, but felt that she needed to speak with Steve Schmatlz before discussing them with the Policy Committee. She felt that Steve Schmatlz's comments needed to be changed to be better representative of what he said.

Jim Birkholz moved to table the January 27, 2020 minutes until the March Policy Committee meeting and Susan Morris seconded this motion. Motion carried.

Update on progress toward completion of draft plan/ Overview of implementation framework

Laura Jester summarized the steps completed in the 1W1P process so far. The organizational arrangement still has to be decided by the Policy Committee. She discussed the prioritization/PTM process and the Advisory Committee's recommendation for development of the annual workplan. The AC is proposing to retain a steering and advisory committee made up of local staff who will score proposed projects based on criteria. The workplan budget is currently broken out as such: 70% of the funds will be for implementation, 25% will be for prioritization and analysis, and 5% will be for administration. Of the 70% for implementation, 25% will be allocated to shared services and 45% for BMPs and restoration activities. Laura presented examples of the logistics and cost of how shared positions could exist. The prioritization and analysis would involve locally led discussion for workplan development and determining where funding is needed. The goal is bringing the entire watershed up to the same level in terms of data and SWA's.

The 45% dedicated to projects and programs will have "gatekeeper questions", which will create minimum requirements and priority levels for watershed based funds. This criteria included desktop modeling, field evaluations, and costs/benefit analysis. The local scoring of projects would be brought to the steering committee for decision making. The Advisory Committee recommends that the scoring criteria be used as guidance and allow flexibility for decision making. This scoring criteria will be included in the draft plan and it is expected that it may need adjustment as issues are caught and changed in the implementation process.

Susan Morris reminded the group of the original concern that smaller/resource poor organizations have difficulty competing for grant funding. Laura Jester acknowledged that the goal of 1W1P was not to create a locally competitive grant process. The shared services created by the plan should help. She noted that the 1W1P process has led to relationship building and collaborative opportunity which could also help.

The group discussed the estimated cost of SWA's with the caveat that urban and rural SWAs have cost differences. The range was \$10,000-\$50,000 with an average of \$30,000. 35% of SWAs have been completed for the watershed. The group discussed how prioritization and analysis activities may be focused on in the early years of the 10 year plan, with more funding going towards implementation activities later on.

Doug Odegard requested more information about how the first new SWAs will be selected, and

whether impaired or protected waters would take priority. The steering committee will discuss this. This question reflects the group's ongoing discussion around protection vs. restoration activities. Laura Jester noted sometimes these activities can both happen at the same time such as ordinances plus preservation.

Jim Birkholz asked if the workplan process would involve the Advisory Committee and Steering Committee developing the line item budget and bringing it back to the Policy Committee. Dan Fabina noted that existing SWAs could be used to begin implementation activities while addition SWAs are being created. Jackie Anderson noted that the group could use phosphorus focused historic studies and data to move forward on projects; possibly with alternative funding sources at the same time. Fran Miron asked if leveraging alternative funding sources was part of the scoring criteria. In this current version, partnerships are included in the criteria but leveraging funding is not explicitly included.

Susan Morris asked if grant writing would be included in the administrative funding portion; however state funds cannot be used to match state funds. Dan Fabian suggested the grant applications would be included in the existing local funds, and Jackie Anderson suggested that there was a lot of grant writing experience within the collaboration that could be used to get non-watershed based funds.

The criteria also takes into account the total cost of the project. Laura suggested breaking criteria #7 into partnership and leveraged funds. She asked the group to consider if this develops the competitive framework the group is trying to avoid. Fran Miron feels that as the group gets experience implementing the scoring criteria things can be adjusted and addressed. Knowing that the group is likely to amend this portion, Laura asked BWSR representatives how the group can write the plan to avoid having to do a minor plan amendment for every adjustment. Barb Peichel explained that there's a middle ground to be found. The group could leave out this level of detail, call out the scoring criteria as something that will be amended every year, or include the criteria in an appendix instead. Craig Mell said he felt the criteria ranked well in practice and believes there is enough flexibility for the scoring to be used as guidance instead of as a "hard and fast" disqualifier.

Laura Jester presented the timeline of remaining 1W1P grant activities. The local boards are to review the draft plan in March (it will be sent out on March 2nd) and provide feedback with the goal of approving the plan to be sent out for 60 day review at the March 30th PC meeting. She noted that the 1W1P workplan is for 2 years. The final local costs in the draft plan should be finalized by the March 30th meeting, and the AC advised leaving the costs broken out by county.

The Policy Committee asked BWSR to clarify who was responsible for holding the required public hearings. The group found it logistically difficult and strange that the PC would be responsible instead of each county or participating organization.

Update on Feb 20. Stakeholder engagement workshop

Angie Hong reported on the feedback gathered at the first stakeholder engagement workshop in North Branch. She shared some of the identified strengths and weaknesses. The final report from the workshop will be made available to the PC when completed by Freshwater. There were 26 participants, many from Lake Associations or LGU staff. Angie felt there was good distribution from the northern half of the watershed district, although not many farmers. The second stakeholder workshop may attract a different group of participants being in Stillwater. The workshop will be on March 2nd at the Stillwater Library from 4-6pm.

Continued conversation about organizational structure and possible decision

Jamie Schurbon led the discussion on how the Policy Committee wanted to decide on an organizational arrangement. Susan Morris motioned that the group start as a JPC with an 18 month review to decide if the group wants to transition into a JPE at that point. Kristin Tuenge seconded this motion. The group decided to review the information first. Jamie Schurbon summarized the main issues as such:

- JPE has been opposed mostly on the basis that it creates a new level of government
- Liability concerns about a JPC arrangement have been addressed with research from the League of MN Cities gathered by Janet Hegland
- An attorney will be needed to write the organizational arrangement sections of the plan
- A JPC would require decisions to be brought back to local boards rather than being made by the PC representatives. The logistics of this can be addressed as part of the workplan

Jackie Anderson also spoke to a CLFLWD attorney. She feels the decision-making process would be more efficient with a JPE. She identified issues she has with the Planning Team Recommendations and Menu of Options document. She asked if the JPC would be able to be part of the limit on statute liabilities. Janet Hegland said no cities liability insurance covers participation in a JPE. She said that JPE-type powers included in the agreement would create issues regardless of the name of the organizational arrangement. Jim Birkholz said he believed elected vs. appointed officials should be treated the same. Jackie Anderson noted that it takes a petition to create a watershed district and that any entity taking responsibility of a project would have the same liability as an engineer etc. Jackie asked if the state/federal lands should be subtracted from the county acreage. The group said that county's and SWCD's commonly work in state/federal lands. Jackie clarified that the concerns of CLFLWD were regarding the voting structure and fractional voting of watershed districts. The group decided to vote on the organizational arrangement and then address the voting structure. The motion from Susan Morris passed with one vote against from Jackie Anderson.

Jamie Schurbon walked through the voting structure options. The AC recommended the condensed voting structure to address the issue of watershed districts being able to outvote the group even though they represent a small minority of land area. Chris Dubose reiterated Chisago county's suggested of adding two more representatives for Chisago county with all other representatives having one vote. This also addresses the metro/non-metro representation of land area. The group agreed with this option number 1 from the document. Fran Miron feels there has been lots of good collaboration and relationship building and wants the group to continue to work together. Chris Dubose said of the two additional Chisago County representatives, one could be from the Lake Improvement District. The other would be intended to represent Rush and Goose Lakes and a farmers perspective. This would give Chisago county 3 representatives with one from the SWCD.

John Fellegly motioned to approve voting structure option one and Chris Dubose seconded this. The group discussed what percentage of votes would be needed for PC decisions and how a quorum would be defined. Susan Morris said Robert's Rules uses 50% plus 1 as a quorum and 2/3rds approval of those present to pass recommendations of the committee. Jackie Anderson motioned to amend the motion to include reference to Robert's Rules in the bylaws. Susan Morris seconded this and the amendment to the motion carried. The PC voted on the motion on the table and it passed with no votes against. Jamie Schurbon asked for some organization to volunteer for their attorney's to review the JPC agreement. Chisago, Isanti, and Washington County volunteered along with the Brown's Creek Watershed District. Jamie will contact them. Craig Leiser thanked Jamie for his role in facilitating the

organizational arrangement discussion.

Adjournment

PC representatives need to receive their local board's authority to approve the draft plan for review by the March 30th PC meeting. Susan Morris asked how this needed to be demonstrated, and Tiffany Determan said as long as their minutes reflected this decision that should be sufficient. Laura Jester requested PC representatives to provide her any needed changes that would prevent them from approving the draft plan for 60 day review before the March 30th PC meeting. The group said two annual Policy Committee Meetings would likely not be adequate.

Craig Leiser motioned that the plan state the Policy Committee meet on a quarterly basis, with a planned review in 18 months, and with special meetings as needed. Kristin Tuenge seconded this motion. The motion carried with no votes against.

The next PC meeting will be on March 30th from 4-6pm at the Wyoming Library. Fran Miron asked for the group's questions on who is responsible for the public hearings to be addressed by then. He asked Jamie Schurbon to consult the attorneys. Susan Morris suggested that each county could have their own public hearing in order to cover the entire population of the watershed. The motion to adjourn was made by Craig Leiser and seconded by John Fellegly. Meeting was adjourned at 5:53 p.m.



ANOKA CONSERVATION DISTRICT

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MEMO

To: Lower St. Croix Policy Committee
From: Jamie Schurbon, Watershed Projects Manager
Date: March 19, 2020
Re: Attorney opinions on public hearings and JPC agreement

A team of attorneys has been examining the topics of:

- (a) Public hearings for the draft comprehensive watershed management plan (the 1W1P plan), &
- (b) The draft joint powers collaboration agreement.

Below is an update on each.

The attorneys involved in the review included:

Michael Welch for the Browns Creek Watershed District
Janet Reiter and Jeffrey Fuge for Chisago County
Jeff Edblad for Isanti County
Sue Tice for Washington County

Additionally, Chuck Holtman for the Forest Lake Comfort Lake Watershed District was copied but not part of the review and input team.

Public hearings

The Policy Committee asked whether the Policy Committee is the appropriate group to hold draft plan public hearings. It was questioned whether the Policy Committee has legal authority to hold a public meeting because it is not a governmental unit. It was also questioned whether a single public hearing would poorly serve the public over such a large geographic area.

Attorneys concluded:

- The Policy Committee has the best focused legal efficacy to do the public hearings, and should do one. This will meet the public hearing requirement, and is consistent with the planning grant agreement. This was checked this verbally with Barb Peichel of BWSR and she agrees.
- Other public hearings at county board meetings are required if the county wishes to adopt the plan in whole or part to serve as a substitute plan as provided in 103B.801, subd. 2(6). These separate hearings must follow the relevant statutory framework -- e.g., Minn. Stat. § 103B.231 for a watershed district.
- Other public hearings at county board meetings, even if the county will not be replacing their county water plan, would not be problematic if the Policy Committee wishes to provide additional local hearings to best accommodate their residents.

I recently asked the attorneys for input on how to conduct a public hearing during a pandemic. I have not yet received feedback, and will provide updates as they are available.

Draft joint powers collaboration agreement

I drafted an agreement in accordance with Policy Committee direction. That draft was provided to the team of attorneys. Review is ongoing and will not be complete until at least April. It will not be ready for any discussion at your March Policy Committee meeting. The agreement does not need to be considered for approval by governing boards until late this year.