

REQUEST FOR COUNCIL ACTION

Date: 11/28/11
Item No.: 13.a

Department Approval



City Manager Approval



Item Description: Consider Revised Joint Powers Agreement Regarding Grass Lake Water Management Organization and Funding Request

BACKGROUND

The Grass Lake Water Management Organization Board met with the City Council on November 21, 2011 to discuss their Task force findings regarding future governance issues. They recommended GLWMO remain as a joint powers organization funded equally by the City of Roseville and the City of Shoreview. They presented a funding request for 2012 through 2014 for the organization. To remain a joint powers WMO the agreement needs to be revised to limit the budgetary control of the cities. The revised draft agreement attempts to limit the city budgetary authority. (Attachment A)

The Grass Lake WMO was created in 1983 through a joint powers agreement between Roseville and Shoreview as a result of legislation requiring watershed management separate from city operations. It was created to manage water resources in the most cost effective and efficient manner with city technical staff supporting the Board and carrying out the business of the WMO.

Water regulation has changed significantly since the creation of Grass Lake WMO. The Board is currently working with an engineering consultant on its third generation Water Management Plan. This plan is required to be updated every 10 years to bring it in compliance with current water regulation and to update their goals and policies. The Minnesota Board of Soil and Water Resources (BSWR) has been monitoring watershed organization activity for several years as a result of a Legislative audit in 2007 and have been communicating with those organizations they feel have not taken an active enough role in protecting water resources. The Grass Lake Board is committed to a more proactive role in to ensure they are improving the resources and meeting water regulation requirements. They have completed studies of water quality in response to action levels triggered by declining water quality in Lake Owasso. The draft Plan has regulatory standards similar to the surrounding watershed districts. The new draft Plan will also contain a capital improvement plan to help achieve the WMO goals.

The WMO hired part time administrative staff in 2009 to help manage the increased expectations and activity of the Board as the two city staff's could not absorb the increased workloads. They are currently meeting at least on a monthly basis. The new draft Plan will require significantly more administrative and board activity than years past. This has raised the question of governance and whether the cities will respond positively to additional revenue requests. The Board discussed an alternative financing option with the Council in June that would create a surcharge on Stormwater fees for those properties in the GLWMO jurisdiction for GLWMO funding.

Grass Lake WMO is the smallest organized watershed in geographic size in the state. This is one reason it has been managed as a joint powers WMO rather than a watershed district with its own

taxing authority. As a joint powers WMO, its board members are appointed at the local level by city councils rather than the county board level. This theoretically allows for a higher level of local input into the management of the resources. The Board has created a task force to study what governance structure is best suited to manage the WMO into the future. The options studied are: Remain with the current governance structure or merge with another WMO such as the Vadnais Lake WMO or Ramsey Metro Washington Watershed District. The need to discuss governance is driven by the need for additional financial resources to carry out its new draft plan and the state requiring the city's to revise the Joint Powers Agreement to remove the city's financial control over the organization. We have attached a copy of the proposed revised Joint Powers agreement. (Attachment A) We have asked the City Attorney to review the proposed revisions to the agreement and the comments are attached. (Attachment B)

City staff has raised concerns with the Board regarding significantly higher level of support through our city wide storm water fees due to competing capital and operational needs of the city. There is also an equity issue within both cities regarding how watersheds are funded. Both Rice Creek Watershed District and Capital Region Watershed District have taxing authority and collect approximately \$20-25 per \$100,000 property valuation to fund their operations and capital programs. They collect the taxes only from the properties within their boundaries. These same properties also pay a portion of their citywide storm water fees to fund the Grass Lake WMO. If significantly higher amounts of revenue are required to fund the Grass Lake WMO the Council may want to consider the alternative funding option to address the equity issue between properties in the city's two watershed districts and Grass Lake WMO properties.

The cities can revise their storm water rates to collect the annual Grass Lake WMO budget request only in the Grass Lake WMO boundary. This would eliminate the non Grass Lake WMO properties from subsidizing this WMO in addition to paying watershed district taxes. The cities have contributed \$20,000-\$25,000 per year over recent years for Grass Lake WMO operations. The 2011 contribution is approximately \$37,000. The new draft Plan is contemplating an annual budget of \$370,000-\$416,000 for the next three years to carry out its activity.

Staff is supportive of the WMO operating more independently of the cities. In meeting today's water regulations it is a difficult position to be both the regulator and the responsible party for meeting those regulations.

The City Council had some questions for the Board at the last presentation. A question was asked whether a smaller organization could be as cost effective as a merger option with a larger organization. Members of the Board are scheduled to update the Council on the task force findings and subsequent Board recommendation regarding governance and the 2012 funding request from the cities.

POLICY OBJECTIVE

The City Comprehensive Plan and Comprehensive Surface Water Management Plans support environmental stewardship and compliance watershed organizations and with current water quality regulatory goals. The city is obligated to comply with state and federal water regulations.

BUDGET IMPLICATIONS

The City of Roseville currently funds 50% of the Grass Lake WMO budget through its Storm Utility Fund which is fee supported across the entire city. If the GLWMO continues to operate

under a revised JPA and implements the draft Watershed Management Plan the costs to Roseville residents will increase significantly. The current preliminary budget request will require an increase from \$37,000 to \$150,000 from each of the two cities for 2012. Staff has commented on their draft plan in that the costs for implementation are significantly understated and there for in our opinion the eventual costs will be even higher. This should be considered when comparing the merger options. Staff also believes the Council should consider the implications of the revised JPA language as it relates to the city not having budgetary control over the organization as the City Council may still be perceived as the accountable for the costs of the organization if the funds are collected via city storm water utility bills.

STAFF RECOMMENDATION

Staff recommends that the City Council carefully consider the implications of the revised JPA language and the funding options for the Grass Lake WMO that would collect the revenue from within the boundaries of the watershed. Staff does not support the revised Joint Powers Agreement language. The setting of storm utility rates within the Grass Lake WMO area to reflect the additional annual support for the WMO budget over and above the citywide storm utility fee would be feasible to implement but perception may be that the City Council is responsible for rate increases. If the Council is supportive of the revised JPA language, staff recommends establishing a GLWMO line item storm water utility fee.

REQUESTED COUNCIL ACTION

Discuss the revised Joint Powers Agreement with the City of Shoreview regarding the Grass Lake Water Management Organization and their 2012 budget request.

Prepared by: Duane Schwartz, Public Works Director
Attachments: A. Report of Governance and Financing Task Force
B. Draft 2012 GLWMO Budget
C. Proposed Revised Joint Powers Agreement
D. City Attorney Opinion

A Report of the Governance and Financing Task Force for the Grass Lake Watershed Management Organization

15 November, 2011

Grass Lake Watershed Management Organization
Ramsey County, Minnesota

Recommendation: The Board of the Grass Lake Watershed Management Organization recommends remaining an independent organization and asking the cities of Roseville and Shoreview to institute a GLWMO specific stormwater utility fee to finance the improved organization rather than merging with either the Ramsey Washington Metro Watershed District or the Vadnais Lake Area Watershed Management Organization. The board finds that this option retains the greatest amount of local control over the waters of the Grass Lake Watershed. This option will also ensure that all resources gathered for watershed management in the Grass Lake Watershed will be used to address concerns that are directly relevant to the Grass Lake Watershed, and not put towards programs that are of little benefit to Grass Lake.

Task Force

Karen Eckman – Chair GLWMO Board
Steve Barrett – GLWMO Board Member
Jon Miller – GLWMO Board Member
Mary Kay Von De Linde – GLWMO Board Member
Chuck Westerberg – GLWMO Board Member
Jim DeBenedet – Citizen Advisor
Joanna LaBresch – Citizen Advisor
John Moriarty – Citizen Advisor
Steve Solomonson – Citizen Advisor

A Report of the Governance and Financing Task Force for the Grass Lake Watershed Management Organization

Purpose

The Governance and Financing Task Force (Task Force) for the Grass Lake Watershed Management Organization (GLWMO) was convened on October 6, 2011 with the purpose of researching and recommending a future governance strategy for GLWMO, specifically whether GLWMO should merge with either Ramsey Washington Metro Watershed District (RWMWD) or Vadnais Lake Area Watershed Management Organization (VLAWMO) or if GLWMO should remain an independent organization with an improved financing strategy.

Process

After the first meeting, analysis criteria were developed to focus the fact finding of teams studying RWMWD, VLAWMO and GLWMO. These criteria, with preliminary weighting and suggestions for measurement are shown in table 1. This set of criteria became the basis for further discussions about criteria and weighting at later meetings.

Criteria	Weight	Suggested Measures
Program Effectiveness	14.13%	Score of High, Medium, Low
Monitoring Capability	13.52%	Number and Frequency of Waterbodies Monitored
Education	13.20%	Frequency of Educational Programs
Success for Grants	9.35%	Ratio of Grants received to Grants Applied for, weighted by number of grants applied for
Outstanding accomplishments	6.98%	Number of Awards
Citizen Input	6.65%	Score of High, Medium, Low or No Input based on citizen interviews or survey
Local Control	5.92%	Score of High, Medium, Low or No Control based on interviews or survey of City Staff/Councils
Citizen Awareness	5.92%	Score of High, Medium, Low or No Awareness based on citizen interviews or survey
City cost	5.56%	Annual cost to cities through direct funding or program cost share with Watershed
Resident's cost	5.56%	Cost to residents through fees or taxes
Staff Number	3.89%	Number of FTEs
Staff retention	3.34%	Average Tenure of FTEs
Admin Cost (percent of budget)	3.10%	Percent of Annual Budget devoted to administration
Board Turnover	1.54%	Average Tenure of Board Members
Board Qualifications	1.34%	Score as High, Medium, Low or No Qualification required of Board Members

Table 1. Initial criteria and weightings used for fact finding

These criteria were assessed by each team through studies of the publications of the organizations including plans, budgets, websites and educational materials and through

interviews with the organizations' administrators. After the relevant facts were gathered, board members met with the citizen advisors on the task force to refine the weighting of the criteria. First, some of the criteria determined to be irrelevant were eliminated. The criteria were weighted using a rank order process that resulted in a final set of criteria weighted as shown in table 2.

Criteria	Weight
Program effectiveness	16.67
Monitoring Capability	14.77
Local Control	12.88
Education	12.50
Citizen Input	9.47
City cost (per city, No Cost =1)	8.33
Additional Resident's cost (per parcel)	6.44
Staff #	6.44
Grants Awarded	6.44
Staff Continuity	4.17
Board Continuity	1.89

Table 2. Final Criteria and weighting

Based on the facts gathered by each of the task force teams, the board members evaluated, with input from the citizen task-force members, each of the criteria for each alternative – RWMWD, VLAWMO and improved GLWMO – giving the alternatives scores of high (1), medium (.67) or low (.33) by consensus. Scores of .75 indicated a split in board opinions between high and medium. The weights were applied to the scores and they were summed for each alternative. The resulting scores (Table 3) became the basis for discussion when a motion was made to remain an independent watershed management organization. **It should be noted that the board intended the scoring of the alternatives to be a basis for discussion only, and it was never intended that the highest scoring alternative would necessarily be the recommended alternative.**

Relevant Characteristics of each Watershed Organization

Ramsey Washington Metro Watershed District

The Ramsey Washington Metro Watershed is a 56 square mile watershed that includes eleven lakes – among them the Phalen chain of lakes – and five creeks. Waters of RWMWD discharge into the Mississippi River. RWMWD has a staff of 15 full time employees with an average tenure of 10 years and a 5 member board appointed by the Ramsey and Washington county commissioners with an average tenure of 22 years. The district is funded with an ad valorem tax authority and its budget is about \$7 million yearly. This tax assessment would amount to a roughly \$50 average increase in the property taxes of GLWMO residents if a merger were pursued. Part of the district's budget comes from grants: the district has received \$3 million in grants over the past five years. The district is highly involved in monitoring its waters including using 10 automatic monitors for storm flow measurement and making water quality measurements of nine of the eleven lakes twice monthly through the open water months. Two staff members are charged with maintaining and analyzing the monitoring data. RWMWD

engages in outreach and education through its website, an e-newsletter, Waterfest – an annual family event, and outreach in the schools and local communities. The district constantly monitors its programs for effectiveness in its annual Signs of Success document. The district is involved in a Best Management Practices (BMP) cost share program – similar but on a larger scale than the BMP cost share in GLWMO. They also undertake much bigger capital projects, for example the stormwater volume reduction project at Maplewood Mall, and maintain the Beltway Interceptor stormwater system.

Vadnais Lake Area Watershed Management Organization

The Vadnais Lake Area Watershed is a 25 square mile watershed that includes eleven major lakes. Among them is Vadnais Lake, which is a drinking water reservoir for St. Paul Regional Water Services. VLAWMO has a staff of three full time employees with an average tenure of six years, and they are in the process of hiring a full time education coordinator. The board consists of six members, each a member of one of the six city councils that are signatories to the VLAWMO Joint Powers Agreement. The average board tenure is greater than four years. The organization is funded with a utility fee and its budget is about \$430,000 yearly. This utility fee would amount to a roughly \$25 average increase in fees paid by GLWMO residents if a merger were pursued. Part of the organization's budget comes from grants: the organization has received several grants in recent years ranging from \$6,000 to \$50,000. The organization is highly involved in monitoring its waters and makes water quality measurements of the eleven lakes and six locations on Lambert Creek twice monthly through the open water months. VLAWMO engages in outreach and education through its website, three major workshops a year, joint classes with GLWMO and participation in Blue Thumb. The organization pursues projects in line with its watershed management plan. These projects are of a smaller scale than some of those pursued in RWMWD, with their budgets indicating that none exceed \$150,000 per year. These projects focus on shoreline and creek restoration – similar in nature to the projects traditionally undertaken by GLWMO.

Grass Lake Watershed Management Organization

The Grass Lake Watershed is a nine square mile watershed that includes seven major lakes and many smaller wetlands and ponds. Among them are Owasso and Snail Lakes, which significant regional recreational lakes. GLWMO currently has a staff of one part time administrator, though the organization intends on retaining or hiring two full time employees following state approval of the Third Generation Watershed Management Plan. The board consists of five members appointed by the city councils of Roseville and Shoreview. The average board tenure is two years. The organization is funded with stormwater utility fees from Roseville and Shoreview, and its budget is about \$150,000 yearly. To fund projects necessary to meet state mandates, GLWMO is asking to implement a utility fee specific to residents of the Grass Lake Watershed. This utility fee would amount to a roughly \$25 average increase in fees paid by GLWMO residents. The organization has received one \$32,000 Legacy Fund grant to construct a stormwater bio-infiltration project as part of a road maintenance project on Roseville's Aladdin Street. The organization's involvement in water quality monitoring is inconsistent, and monitoring has been done by the cities or county in the past. As an improved organization, GLWMO will take a greater role in monitoring its waters, monitoring five lakes once per month during open water and reporting on eight lakes (the three largest lakes still being monitored by the county). GLWMO conducts two workshops per year and three joint classes with VLAWMO. As education will be a priority for an improved GLWMO, the organization intends to hold eight education programs yearly in the future, improve its website, and pursue

outreach through the member cities. The organization pursues projects in line with its watershed management plan. These projects are the smaller scale than some of those pursued in RWMWD, and focus on shoreline restoration and stormwater infiltration through cost sharing with private land owners for construction Best Management Practices and coordination with public works projects in the member cities. An improved GLWMO will expand the implementation of these projects and pursue some larger shoreline restoration and stormwater infiltration projects.

Result of the Criteria Scoring

When the board members scored the criteria for each alternative, based on the characteristics of each organization described above, the alternatives scored very close ranging from 82.1 on a scale of 100 to 89.9. VLAWMO was the highest scoring alternative due to its combination of high program effectiveness and relatively high local control (compared to RWMWD). RWMWD, while scoring well in program effectiveness, monitoring capability and education, scored low in both local control and cost to residents. GLWMO scored slightly lower than RWMWD predominantly on slightly lower scores in program effectiveness and monitoring capability that were the result of a concern by a board member about future effectiveness of GLWMO (described below under Points of Debate among the Board). This scoring highlighted the relative strengths and weaknesses of each alternative, and became the basis for discussion among the board members about which option to recommend.

Criteria	Weight	GLWMO IMPROVED	VLAWMO	RWMWD
Program effectiveness	16.67	0.75	1.00	1.00
Monitoring Capability	14.77	0.75	1.00	1.00
Local Control	12.88	1.00	0.67	0.33
Education	12.50	1.00	1.00	1.00
Citizen Input	9.47	0.67	0.67	0.67
City cost	8.33	1.00	1.00	1.00
Additional Resident's cost (per parcel)	6.44	1.00	1.00	0.33
Staff #	6.44	0.67	0.67	1.00
Grants Awarded	6.44	0.67	1.00	1.00
Staff Continuity	4.17	0.67	1.00	1.00
Board Continuity	1.89	0.33	0.67	0.67
Criteria	Weight	GLWMO IMPROVED	VLAWMO	RWMWD
Program effectiveness	16.67	12.5	16.66667	16.66667
Monitoring Capability	14.77	11.07955	14.77273	14.77273
Local Control	12.88	12.87879	8.628788	4.25
Education	12.50	12.5	12.5	12.5
Citizen Input	9.47	6.344697	6.344697	6.344697
City cost (per city, No Cost =1)	8.33	8.333333	8.333333	8.333333
Additional Resident's cost (per parcel)	6.44	6.439394	6.439394	2.125
Staff #	6.44	4.314394	4.314394	6.439394

Grants Awarded	6.44	4.314394	6.439394	6.439394
Staff Continuity	4.17	2.791667	4.166667	4.166667
Board Continuity	1.89	0.625	1.268939	1.268939
Sum		82.12121	89.875	83.30682

Table 3. Scored criteria and sums for each possible alternative

Citizen Concerns

Cost

One citizen voiced the concern that fees or taxes collected by VLAWMO or RWMWD would fund projects that would not benefit residents within the boundaries of GLWMO. The Beltway Interceptor stormwater infrastructure of RWMWD in St. Paul was given as an example of an expensive program whose benefits would not be readily seen by GLWMO residents.

Future Flexibility

One citizen voiced the concern that if GLWMO underwent a merger, this action could not be reversed in the future if it were found to be ineffective. However, were GLWMO to remain an independent organization it could reconsider the option of merging in the future.

Points of Debate among the Board

Local Control

The difference in the level of local control among the three organizations was clear: RWMWD, being county appointed, had the least local control; GLWMO, being appointed by Roseville and Shoreview City Councils, had the most local control; and VLAWMO, having six other members in a Joint Powers Agreement, had moderate local control. The focus of the debate on local control was on its weight as a criterion for recommending an alternative. The majority view was that local control should be heavily weighted because an organization with greater local control will use its resources more on addressing the needs of water bodies within the current boundaries of GLWMO. The minority view was that local control should be less heavily weighted because greater local control leads decision-making to be driven more by cost concerns than by benefit concerns.

Program Effectiveness

All board members agreed that program effectiveness was the most important criterion in making a recommendation. There was also agreement that both RWMWD and VLAWMO have high levels of program effectiveness. The focus of the debate on program effectiveness was on the ability of an improved GLWMO to achieve high levels of program effectiveness. The majority view was that with an improved financing strategy and a reasonable scope of activity focused on four program areas that address water quality – Education and Outreach, Monitoring, Technical Support, and Cost-Share Incentive – GLWMO can be highly effective as an organization in the future. The minority view was that since GLWMO has not had higher levels of program effectiveness in the past and since economies of scale led GLWMO to contract for services with VLAWMO and RWMWD in the past and GLWMO is still discussing contracting with these organizations for services, GLWMO on its own cannot be as highly effective as RWMWD or VLAWMO and economies of scale favor a merger.

Conclusions

The Board of the Grass Lake Watershed Management Organization recommends remaining an independent organization and asking the cities of Roseville and Shoreview to

institute a GLWMO specific stormwater utility fee to finance the improved organization¹. The board finds that this option retains the greatest amount of local control over the waters of the Grass Lake Watershed. This option will also ensure that all resources gathered for watershed management in the Grass Lake Watershed will be used to address concerns that are directly relevant to the Grass Lake Watershed, and not put towards programs that are of little benefit to Grass Lake. Further, the board believes that an improved GLWMO can achieve high program effectiveness. This will be done first and foremost by focusing the organization on addressing surface water quality through four programs: Education and Outreach, Monitoring, Technical Support, and Conservation BMP Cost-Share Incentives. This limited scope is a result of recognizing that GLWMO will remain a small watershed with a small resource base. The board will convene a Citizen's Advisory Committee (CAC) and a Technical Advisory Committee (TAC) to help GLWMO stay abreast of emerging concerns in the watershed. The board plans to retain consultant expertise in the equivalent of two full time employees to assist with technical consulting and project management. These concrete steps will help GLWMO become a highly effective organization while maintaining local control.

Acknowledgements

A special thanks to Jim DeBenedet, Joanna LaBresch, John Moriarty and Steve Solomonson – the citizen advisors on the task force for their indispensable help on gathering facts and focusing the decision making process of the board.

¹ The board chose to recommend the option that scored the lowest in analysis of the criteria. This should not be considered odd, when it is understood that this option scored lowest because of the concern of one board member about the future effectiveness of the organization. Had there been consensus about the future effectiveness of GLWMO and the criteria of program effectiveness and monitoring capability been scored 'high' GLWMO would have emerged as the highest scoring alternative. Since this concern about effectiveness was a minority view, it was outvoted in the final decision for recommendation.

Revised Draft 2012 Budget to be Approved by GLWMO Board on 11/17/11
v. 11.15.11tp

All figures are in dollars		2010 Actual	2011 Budget	2011 Projected (as of 11/1/11)	2012 Proposed Budget	2013 Proposed Budget	2014 Proposed Budget
Operation Expenses							
1	Liability Insurance		1,200	1,200	1,200	1,200	1,200
2	Bd. Member. Education Exp.	228	1,000		500	500	500
3	Audit & Account Services	1,500	2,000	2,000	2,750	2,750	2,750
4	Web-site Server Fees	420	420	450	450	450	450
5	Web-site technician services				3,000	3,000	3,000
6	Meeting-Minute Services	1,982	1,600	3,100	3,000	3,000	3,000
7	General clerical serv.				3,000	3,000	3,000
8	Photo Copy/Printing/misc.			900	500	500	500
9	General Admin./Project Admin./Finance Mgt./ Tech. support	30,567	32,580	29,000	33,000	33,000	33,000
10	CAC and TAC Coordination				3,000	3,000	3,000
11	Strategic Planning		5,000				
Sub-Total		34,697	43,800	36,650	50,400	50,400	50,400
Project Expenses							
1	WRAPP- Admin./Coor. Serv.				2,500	2,500	
2	3rd Generation Plan Admin./coor.		65,801	70,100	1,000		5,000
3	BWSR Grant/Aladdin St. Project		32,000	32,000	0		
5	Water quality monitoring/WRAPP				35,000		
6	Over-all Monitoring programs			8,000		30,000	30,000
7	In coop. with VLWMO, water qual. & landscape BMP workshops				5,000	5,000	5,000
8	Up grade web-site water quality data				5,000		
9	Geodatabase/GIS Serv.				5,000	5,000	5,000
			10,000	0			
10	Lk. Owasso Sub-watershed Analysis				17,000		
11	Shoreline Stability Studies				15,000	15,000	15,000
12	Annual Phosphorous budget for Lake Owasso						7,500
13	Misc. Eng. Serv. On retainer				50,500	50,500	43,000
14	Facilitate Rule Making				8,500	5,000	4,000
15	Major Plan amendment (2014)						80,000
16	Capital Improvement Projects (CIP)				0	65,000	65,000
17	Match for Potential BWSR Grants		30,000	0	0	20,000	20,000
18	Other Educ. & Outreach Act.		3,000	250	12,000	20,000	20,000
19	Cost Share Grant Funding	2,403	12,597	12,597	25,000	30,000	30,000
20	Cost ShareBMP Technical Assistance	6,500	6,500	8,000	10,000	10,000	10,000
21	Cost Share Program Admin. Serv.				1,500	1,500	1,500
Sub-Total		8,903	159,898	130,947	193,000	259,500	341,000
Grand Total		43,600	203,698	167,597	243,400	309,900	391,400
Revenue/Balance Fwd.							
1	Balance from previous Yr.	121,576	160,245	160,245	69,573	126,173	116,273
2	Cities' Support	50,000	73,725	73,725	300,000	300,000	300,000
3	BWSR Grant/ Aladdin St. Project	28,800	3,200	3,200			
Total		200,376	237,170	237,170	369,573	426,173	416,273

AMENDED
JOINT POWERS AGREEMENT
CITY OF SHOREVIEW, MINNESOTA
CITY OF ROSEVILLE, MINNESOTA
ESTABLISHING AND EMPOWERING
THE GRASS LAKE WATER MANAGEMENT ORGANIZATION

THIS AGREEMENT is made and entered into the ____ day of _____,
20~~11~~¹⁰~~05~~ by and between THE CITY OF ROSEVILLE, a municipal corporation and
political subdivision of the State of Minnesota and THE CITY OF SHOREVIEW, a
municipal corporation and political subdivision of the State of Minnesota.

WHEREAS, each City has the authority to manage surface waters within its
boundaries pursuant to M.S.A. 412.221, Subd. 6; 444.075 and 462.357, Subd. 1; and

WHEREAS, each City may jointly exercise common authority by adopting a joint
powers agreement pursuant to M.S.A. 471.59; and

WHEREAS, by means of a joint powers agreement, the Cities may establish a
water management organization pursuant to M.S. 103B.211 and 103B.227-103B.252,
inclusive; and

WHEREAS, a portion of each City lies within the geographical area hereinafter
referred to as the "Grass Lake Watershed", which watershed is illustrated and described
on **Exhibit A** attached hereto; and

WHEREAS, each City is desirous of jointly conducting a water management
organization that would adopt, finance and implement a watershed management plan
for the Grass Lake Watershed which plan would preserve and use natural water storage
and retention systems.

NOW, THEREFORE, in consideration of the mutual undertakings herein
expressed, the City of Roseville and the City of Shoreview agree as follows:

Subdivision 3. "Council" means the governing body of the City of Roseville and/or the governing body of the City of Shoreview.

Subdivision 4. "Grass Lake Watershed" means the geographical area described and/or illustrated on Exhibit "A" attached and made a part of this Agreement.

Subdivision 5. "Commissioner" means a member of the Board of Commissioners.

Subdivision 6. "Comprehensive Plan" means a plan adopted by either the City of Roseville or the City of Shoreview pursuant to M.S.A. 473.858 to 473.862, inclusive, and any amendments to such plan.

Subdivision 7. "Capital Improvement Program" means an itemized program for at least a five-year period, and any amendments thereof, subject to at least biennial review, setting forth the schedule, timing and details of the specific contemplated capital improvements on an annual basis, together with their estimated costs, the need for each improvement, the financial sources for the payment of such improvements and the financial effect that the program will have on the City of Roseville, the City of Shoreview or the Organization.

Subdivision 8. "Local Water Management Plan" means a plan adopted by the City of Roseville or the City of Shoreview pursuant to M.S. 103B.235.

Subdivision 9. "Watershed Management Plan" means a plan adopted by the organization pursuant to M.S. 103B.231.

SECTION III

BOARD OF COMMISSIONERS

Subdivision 1. Appointment. The Organization shall be governed by a five member Board of Commissioners. Each City shall make appointments in such a manner so that the Cities will alternate each having three members of the Board every other year by making two or three year appointments. Notice shall be given of vacancies on the Board in the official newspaper of the City making the appointment. Persons employed as staff by the Cities will not be eligible for appointment to the Board. Appointments will be made within 90 days of a vacancy on the Board. The Cities will give written notice to the Minnesota Board of Water and Soil Resources of appointments within 30 days of making such appointments.

Subdivision 2. Eligibility. Each City Council shall determine its own eligibility or qualification standards for its appointments to the Board of Commissioners, provided that city staff may not be a member of the Board.

106 Subdivision 3. Term of Office. Each Commissioner shall serve at the will and
107 consent of the City Council who appointed the Commissioner or until the
108 Commissioner's designated term of office expires, whichever event occurs first.

109 Subdivision 4. Vacancy. Any vacancy shall be filled for the unexpired term of
110 any Commissioner by the City Council who appointed said Commissioner. Vacancies
111 will be filled by the same procedure as for making regular appointments as provided in
112 Sec. III sub. 1.

113 Subdivision 5. Record of Appointment. Each City shall, within thirty (30) days
114 following the appointment of a Commissioner, file a written notice of such appointment
115 with the Secretary of the Board.

116 Subdivision 6. Compensation. Each City may compensate the Commissioners it
117 appoints, but the Commissioner shall not be compensated by the Organization ~~or have~~
118 ~~expenses reimbursed by the Organization,~~ except that the Organization shall
119 compensate Commissioners for any out of pocket expenses as pre-approved by the
120 Board.

121 Subdivision 7. Officers of the Board. At the first meeting of the Board in each
122 year, the Board shall elect from its Commissioners a chairperson, a vice chairperson
123 and a secretary and such other officers as it deems necessary to conduct its meetings
124 and affairs. ~~In the absence of the chairperson, the vice chairperson shall preside and~~
125 ~~perform the duties of the chairperson.~~ It shall be the duty of the chair to:

126 a. Serve as chairperson for all meetings;

127
128 b. Sign, in the name of the Organization, any contracts, correspondence,
129 or other instruments pertaining to the business of the Organization as
130 so authorized by a majority vote of the Board;

131
132 c. Be a signatory to the Organization accounts; oversee development of
133 meeting agendas; have full voting privileges at all times, may vote on
134 any issue, and need not confine his/her voting to break ties in voting by
135 the Commissioners;

136
137 d. The Chair shall assume no other duties or responsibilities except as
138 granted by majority vote of the Board.

139
140 It shall be the duties of the Vice Chair to:

e. Discharge the Chair's duties in the event of the absence or disability of the Chair;

f. Be a signatory to certain instruments and accounts of the Organization;

g. In the absence of Chair and Vice Chair, a Chair Pro Tempore shall be elected by the Commissioners in attendance to serve as Chair for the duration of that meeting.

It shall be the duties of the Secretary to:

h. Oversee the preparation and distribution, in a timely manner, of the minutes of all meetings of the Organization;

i. Distribute draft minutes to the Commissioners in advance of meetings;

j. Oversee the official records of the Organization.

In the case of vacancy of any officers of the Board, a replacement shall be elected by a majority of the Commissioners to serve for the remainder of the vacated term.

Subdivision 8. Rules and Regulations of the Board. ~~The Board shall adopt rules and regulations governing its meetings. Such rules and regulations may be amended from time to time in either a regular or special meeting of the Board provided that notice of such proposed amendment has been given to each Commissioner at least ten (10) day prior to the meeting at which the proposed amendment will be considered.~~All meetings of the Joint Powers Board are subject to Minn. Stat. Chapter 13D (Minnesota Open Meeting Law), and shall be governed by Robert's Rules of Order, Newly Revised 10th Edition or later. The Board may adopt other rules and regulations as it deems necessary to carry out its duties and the purpose of this Agreement. Such rules and regulations may be amended from time to time in either a regular or special meeting of the Board provided that notice of such proposed amendment has been given to each Director at least ten (10) day prior to the meeting at which the proposed amendment will be considered. The initial rules and regulations shall be submitted to the Members for their review. Members shall submit their comments to the Board within 45 days. These rules and regulations, after adoption, shall be recorded in the Organization's bylaws.

Subdivision 9. Quorum. A majority of the entire Board shall constitute quorum, but less than a quorum ~~may~~ shall adjourn a scheduled meeting.

Subdivision 10. Voting Requirements. All financial and policy actions of the Board shall require three (3) affirmative votes. All other actions shall require a simple majority of Commissioners present.

Subdivision 11. Meetings. Whenever possible, Regular-regular meetings of the Board shall be held a least ~~quarterly~~ monthly on days selected by the Board. A schedule of regular meeting dates shall be adopted annually by the Board. The notice of regular meeting dates, times and places will be posted on the website of the Organization (and in the official newspapers^[1] of the member cities). Special meetings may be held at the request of the Board Chairman or at the request of two (2) Commissioners provided that such special meeting shall be preceded by not less than three (3) days written notice of the time, place and purpose of the special meeting. The notice of the special meeting shall be delivered ~~or~~ or e-mailed to the residence or e-mail address of each commissioner and to each person who has filed a written request for notice of special meetings with the Board. All meetings of the Board shall be subject to the provisions of the Minnesota Open Meeting Law.

Subdivision 12. Location of Board Office. The Board shall maintain a business office at 2660 Civic Center Drive within the City of Roseville. All notices to the Board shall be delivered or served to such office. Each City shall be compensated for administrative services rendered to the Organization.

SECTION IV

WATERSHED MANAGEMENT TAX DISTRICT

Each City may establish a watershed management tax district for the portion of its corporate boundaries which lie within the Grass Lake Watershed pursuant to the provisions of M.S. 103B.245. Neither the provisions of this Agreement nor the establishment of a watershed management tax district shall prevent the Councils of the City of Roseville or the City of Shoreview from electing to finance the planning for water management; financing of capital improvements; or for providing the normal and routine maintenance of capital improvements within the Grass Lake Watershed by other resources.

SECTION V

POWER AN DUTIES OF THE BOARD OF COMMISSIONERS

Subdivision 1. Organization. The Organization, acting by its duly appointed Board of Commissioners, shall have the powers and duties set forth in this section.

Subdivision 2. Watershed Management Plan. The Board shall prepare, finance and implement a watershed management plan for the Grass Lake Watershed. The plan shall:

- a. describe the existing physical environment and land usages within the Grass Lake Watershed and shall further describe the environment and land usages proposed for the Grass Lake Watershed by the existing Comprehensive Plans for the Cities of Roseville and Shoreview and by the Comprehensive Plan adopted by the Metropolitan Council;
- b. present information on the hydrologic system in the Grass Lake Watershed, the system's components and existing and potential problems relating thereto;
- c. state establish objectives ~~and, policy policies, regulations and rules~~ (including those relating to management principles, alternatives and modifications) concerning water quality and to protect the natural characteristics of the Grass Lake Watershed;
- d. set forth a management plan that includes a statement of the hydrologic and water quality conditions to be sought and that shall further itemize significant opportunities for improvement such conditions;
- e. describe conflicts between the surface water management plan of the Grass Lake Watershed and existing management plans of the Cities of Shoreview and Roseville;
- f. set forth and implement an implementation program consistent with the management plan that includes a capital improvement program and standards and schedules for amending the Comprehensive Plans and official controls of the Cities of Roseville and Shoreview in order to bring about conformance with the water surface watershed management plan for the Grass Lake Watershed;
- g. ~~get out~~ establish a procedure for amending the water surface management plan.

~~Subdivision 3. Annual Operating Budget. On or before June 1 of each year the Board shall prepare a proposed operating budget and recommend its approval to the Cities. Each City will review the operating budget for the following fiscal year and shall~~

~~either approve the proposed operating budget or a budget as amended by the Cities within sixty (60) days of receipt of the Board recommendation. Upon City approval of the Organization's operating budget, each City shall pay to the Organization an amount equal to one-half (1/2) of the approved operating budget in the following manner:~~

~~a. One-half (1/2) of each City's obligation shall be paid to the Organization on or before July 1 of the fiscal year approved; and~~

~~b. One-half (1/2) of each City's obligation shall be paid to the Organization on or before December 1 of the fiscal year approved.~~

Subdivision 3A . Annual Operating and capital improvements Budget. On or before June 1 of each year the Board shall prepare and adopt a proposed preliminary operating and capital improvements budget and recommend its approval and submit this preliminary budget to the Cities for financing. Each City shall review the preliminary operating budget for the following fiscal year and shall provide written comment to the Board of Commissioners by July 1 citing any and all concerns it may have with the budget. On or before August 1 of each year, the Board of Commissioners shall adopt and publish its operating and capital improvements budget for the following fiscal year .Each City shall pay to the Organization an amount equal to one-half (1/2) of the approved operating budget in the following manner:

a. One-half (1/2) of each City's obligation shall be paid to the Organization on or before July 1 of the fiscal year approved; and

b. One-half (1/2) of each City's obligation shall be paid to the Organization on or before December 1 of the fiscal year approved.

Subdivision 3B.Operations Cash flow finance.The cities shall provide cash flow finance if necessary as determined by the Board of commissioners and the cities.

Subdivision 3C. Appeals of Budget by Cities. In the event a member objects to the allocation of the Member's share of the operating and/or Capital Improvement Budgets, for the next fiscal year, it may appeal the determination of the Board to final

290 and binding arbitration by filing a written appeal with an officer of the Board, within 30
291 days of receipt of the Board's preliminary budget. The arbitration procedure set forth as
292 follows shall be followed:

- 293 a. Appeals of Determinations by the Board of Commissioners. Members
294 shall comply with Commissioners' determinations as to the force and
295 effect of the Watershed Management Plan, the Local water
296 Management Plan, or improvements initiated pursuant to these Plans.
297 Any member unit which disputes a determination of the
298 Commissioners' as to the force and effect of the Plan, Local Plan, or
299 the cost allocations for the implementation of the Plan, may appeal the
300 decision of the commissioners' within 30 days of receipt of written
301 notice of such determination. Should the appeal not be completed to
302 the satisfaction of all parties, a party may submit the dispute to
303 arbitration. Arbitration shall be conducted in the following manner:
304 Arbitration shall be conducted in accordance with the Uniform
305 Arbitration Act (MN Statute Chapter 572).

306 Subdivision 4. Capital Improvement Project. On or before June 1 of each year
307 the Board shall prepare a capital improvements program and recommend its approval
308 by the Cities. Each City agrees to review and approve or disapprove the capital
309 improvement program within sixty (60) days of receipt of the Board's recommendations.
310 Each City agrees to contribute its proportionate share of the cost of constructing capital
311 improvements approved by the Cities for projects within the Grass Lake Watershed.

312 Subdivision 5. Committees. The Board ~~may~~ shall appoint such committees and
313 subcommittees, establishing terms and conditions for such committees, as it deems
314 necessary and as are mandated. The Board shall invite members with special expertise
315 in Hydrology, Geology, Limnology, Freshwater Biology and other fields of study
316 pertaining to the management of a watershed, as well as concerned members of the
317 general public to serve on a Technical and Citizens Advisory Committee. Members of
318 this committee shall be approved by a majority of the Commissioners

319 Subdivision 6. Reserved.

320 Subdivision 7. Review and Recommendations. Where the Board is authorized
321 or requested to review and make recommendations on any matter, the Board shall act
322 on such matter within ninety (90) days or within the statutory time requirement,
323 whichever is shorter. Failure to act within such time periods shall constitute a waiver of
324 the Board's authority to make recommendations.

Subdivision 8. Local Water Management Plan. After consideration but before adoption by its governing body, each City shall submit its watershed management plan or any amendment thereof to the Board for review of its consistency with the water surface management program of the Grass Lake Watershed. The Board shall approve or disapprove each City's management plan or parts thereof. The Board shall have ninety (90) days to complete its review. If the Board fails to complete its review within the prescribed time period, unless an extension is agreed to by the City, the City's plan shall be deemed approved. All provisions as specified in MN Statute 103B.235 subds. 1,2,3, and 3a and MN rules chapter 8410.0030, subpart 1,g shall govern the process of Local Water Management Plan content and review by GLWMO.

Subdivision 9. Data. The Board may establish and maintain devices for acquiring and recording hydrological-relevant data for the management of water resources within the Grass Lake Watershed.

Subdivision 10. Claims. The Board may enter upon lands within or without the Grass Lake Watershed to make surveys and investigations to accomplish the purposes of the Board. The Board shall be liable for actual damages resulting therefrom, but every person who claims damages shall serve the Chairman or Secretary of the Board with a notice of claim as required by M.S.A. 466.05.

Subdivision 11. Legal and Technical Assistance. The Board may provide legal and technical assistance in connection with litigation or other proceedings between one or more of its members and any other political subdivision, commission, board or agency relating to the planning or construction of facilities to drain or pond storm watersimplement the Watershed Management Plan within the Grass Lake Watershed.

Subdivision 12. Reserve Funds. The Board may accumulate reserve funds for the purpose herein mentioned and may invest funds of the Board not currently needed for its operations in the manner and subject to the laws of Minnesota applicable to statutory cities.

Subdivision 13. Monies Collectable. The Board may collect monies, subject to the provisions of this Agreement, from the Cities and from any other source approved by a majority three Commissioners of its Board.

Subdivision 14. Contracts. The Board may make and enter into contracts, incur expenses and make expenditures necessary and incidental to the effectuation of these purposes and powers and may disburse therefor in the manner hereinafter provided. Every contract for the purchase or sale of merchandise, materials or equipment by the Board shall be let in accordance with the Uniform Municipal Contracting Law. No

member or employee of the Board or officer or employee of any of the Cities shall have a direct or indirect financial interest in any contract made by the Board.

Subdivision 15. Surveys. The Board may make necessary surveys or utilize other reliable surveys and data and develop projects to accomplish the purposes for which the Board is organized.

Subdivision 16. Other Governmental Units and Agents. The Board may cooperate or contract with the State of Minnesota or any subdivision thereof or Federal agency or private or public organization to accomplish the purposes for which it is organized.

Subdivision 17. Water Conveyances. The Board may order any City, governmental unit or units to construct, clean, repair, alter, abandon, consolidate, reclaim or change the course of terminus of any ditch, drain, storm sewer, water course, natural or artificial, that affects the Grass Lake Watershed in accordance with adopted plans. [The Board may also acquire and/or assume operational authority for any or all Ramsey County Drainage Ditches within the Grass Lake watershed.](#)

Subdivision 18. Watershed Operations. The Board may order any City to acquire, operate, construct or maintain dams, dikes, reservoirs and appurtenant works in accordance with adopted plans.

Subdivision 19. Storm and Surface Waters. The Board shall regulate, conserve and control the use of storm and surface water within the Grass Lake Watershed pursuant to its adopted plan.

Subdivision 20. Insurance. The Board may contract for or purchase such insurance as the Board deems necessary for the protection of the Organization.

Subdivision 21. Audit. The Board shall cause to be made an annual audit of the books and accounts of the Organization and at least once each year shall make and file a report with the Cities including the following information

- a. the financial condition of the Organization;
- b. the status of all Organization projects and work within the Grass Lake Watershed and
- c. the business transacted by the organization and other matters that affect the interests of the Organization.

Subdivision 22. Records. The Board's books, reports and records shall be available for and open to inspection by the Cities at all times.

Subdivision 23. Reserved.

Subdivision 24. Other Powers. The Board may exercise all other powers necessary and incidental to the implementation of the purposes and powers set forth herein as authorized by the [by MN Statute 103B .231 and MN rules 8410.Cities](#).

Subdivision 25. Permits. The Board shall cooperate with the State of Minnesota, its agencies and other political subdivisions in obtaining all required permits. It shall review permits issued by the Cities to accomplish the purposes of the Organization.

Subdivision 26. Local Studies. Each City reserves the right to conduct separate or concurrent studies on any matter under study by the Organization.

Subdivision 27. Gifts, Grants, Loans. The Organization may, within the scope of this Agreement, accept gifts, apply for and use grants or loans of money or other property from the United States, the State of Minnesota, a unit of government or other governmental unit or organization, or from any person or entity for the purposes described herein and may enter into any reasonable agreement required in connection therewith; it ~~may~~ shall comply with any laws or regulations applicable thereto; and it may hold, use and dispose of such money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.

SECTION VI

DURATION

Subdivision 1. The Joint Powers Agreement shall continue until terminated by the Cities as herein provided.

Subdivision 2. Reserved

Subdivision 3. Any City may petition the Board to dissolve the Organization. The Board shall hold a meeting preceded by thirty (30) days' written notice to the Clerks of each City, [Ramsey County and the Minnesota Board of Water and Soil Resources](#). Upon a favorable vote of a majority of the entire Board, the Board may recommend that the Organization be dissolved. Such recommendation shall be submitted to each City and, if ratified by each City Council within sixty (60) days, the Organization shall be dissolved following expiration of a reasonable time to complete the work in progress and following compliance with the provisions of M.S. 103B.221 and M.S. 103B. 225.

SECTION VII

DISSOLUTION

433 Upon dissolution of the Organization, all property of the Organization shall be
434 sold and the proceeds hereof, together with the monies on hand, shall be distributed to
435 the Cities in proportion to the contributions made by the Cities to the Organization in its
436 last annual budget.

437
438 **SECTION VIII**
439 **EFFECTIVE DATE**
440

441 This Agreement and any amendments thereto shall be in full force and effect
442 upon the filing of a certified copy of the resolution approving this Agreement by each
443 City. Said resolutions shall be filed with the Roseville City Engineer who shall notify
444 each City in writing of its effective date.

445
446 **SECTION IX**
447 **COUNTERPARTS**
448

449 This Agreement may be executed in several counterparts, and all so executed
450 shall constitute one Agreement, binding on each City notwithstanding that each City
451 may not be a signatory to the original of the same counterpart.

452
453 IN WITNESS WHEREOF, the Cities have hereunto set their hands the day and
454 year first above written.

455
456 CITY OF ROSEVILLE

457
458
459 By: _____
460 Mayor

461
462 SEAL

463
464 | DATED: _____, 2011¹⁰⁵

465
466 ATTEST:

467
468 _____
469 City Clerk

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CITY OF SHOREVIEW

By: _____
Mayor

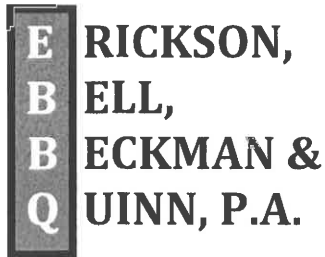
SEAL

DATED: _____, 2011⁰⁵

ATTEST:

City Clerk

F:\users\Janice\Jerry\SV\Grass Lakes Joint Powers Agreement-4.doc



1700 West Highway 36
Suite 110
Roseville, MN 55113
(651) 223-4999
(651) 223-4987 Fax
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James C. Erickson, Sr.
Caroline Bell Beckman
Charles R. Bartholdi
Kari L. Quinn
Mark F. Gaughan
James C. Erickson, Jr.

Robert C. Bell – *of counsel*

Via Electronic Mail

November 2, 2011

Mr. Duane Schwartz
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

RE: Grass Lake Watershed Management Organization
Our File No.: 1011-00192

Dear Mr. Schwartz:

Previously you forwarded to me for review documents regarding proposed amendments to the Joint Powers Agreement (“JPA”) governing the Grass Lake Watershed Management Organization (“GLWMO”). You and I have discussed the proposed JPA amendments in person. This correspondence simply memorializes my impressions upon review of the documents, copies of which are enclosed.

I do not have much concern over the proposed amendments relating to organization composition and procedure, as set forth in the redlined entries to Sections I and III of the JPA. However, I have significant concern regarding the redaction of Section V, Subdivision 3, in its entirety and insertion of new Subdivisions 3A, 3B, and 3C in its stead. This portion of the JPA involves the establishment of the GLWMO annual operating budget. Here, the proposed amendments seek to erase the authority of the municipalities to approve the budget and place such authority squarely within the discretion of the GLWMO Board of Commissioners. As a matter of common sense, above all else, I cannot approve of the City of Roseville ceding budgetary control to an outside organization for obvious reasons. In addition, I note from the email cover letter accompanying the proposed amendments the assertion that “several sections of the current JPA needed to be modified to comply with current rules, etc. We believe we have accomplished this in the attached revised draft...” Please note that no statute or administrative rule requires municipalities to cede budgetary authority to a WMO. Minnesota Statutes section 103B.211, subd. 1(a)(5), does allow a municipality to do so, but does not mandate such concession. Further, proposed new Section V, Subdivision 3C, sets forth an appeal process that ultimately funnels any disputes over the Boards actions to mandatory binding arbitration. In my experience, arbitration processes such as those contained in the Uniform Arbitration Act are extraordinarily costly and too often lead to arbitrary, if not biased, results. For the foregoing reasons, I encourage the City to reject the proposed amendments to Section V, Subdivision 3, as

Duane Schwartz
November 2, 2011
Page 2

well as the "finance and implement" language inserted into the Preamble and Section V, Subdivision 2, of the JPA.

In order to avoid any further confusion on the issues, I also encourage the addition of qualification language to the beginning of Section V, Subdivision 24, as follows: "**To the extent not otherwise addressed in this Agreement**, the Board may exercise all other powers necessary and incidental to the implementation of the purposes and powers set forth herein as authorized by Minnesota Statutes section 103B.231 and Minnesota Rules section 8410."

Finally, I note that the signature page only provides a line for the Mayor's signature. A signature line for the City Manager will also be necessary. Please let me know if you have any further questions or concerns regarding the proposed amendments.

Very truly yours,

ERICKSON, BELL, BECKMAN & QUINN, P.A.



Mark F. Gaughan

MFG/kmw

Enclosure

Mark Gaughan

From: Duane Schwartz [duane.schwartz@ci.roseville.mn.us]
Sent: Wednesday, November 02, 2011 1:57 PM
To: Mark Gaughan
Subject: FW: City Attorney Review of GLWMO JPA
Attachments: Jon's final glwmo joint powers agreement DRAFT JM 8192011[1].doc

Mark,
See attached proposed JPA.

Duane

-----Original Message-----

From: Thomas Petersen [<mailto:tompetersenjr@gmail.com>]
Sent: Friday, August 26, 2011 11:26 AM
To: Duane Schwartz; MARK MALONEY
Cc: Karen Eckman; Jonathan Miller
Subject: City Attorney Review of GLWMO JPA

Mark and Duane:

At our August 18th meeting, the GLWMO Board directed me to send you a proposed revised Joint Powers Agreement for the GLWMO.

Please submit to your respective City Attorneys' for their review and comment. You may also want to review for yourself before sending it to your attorney's

As you know, the BWSR is requiring that we update our JPA as part of our 3rd Generation Watershed Plan update. We were told by BWSR staff that several sections of the current JPA needed to be modified to comply with current rules, etc. We believe we have accomplished this in the attached revised draft, but having an attorney review to make sure is critical.

You will see that reference to both State Statutes (103B and others) and MN Rule Chapter 8410 has been added to some sections of the revised Draft JPA. It may be, and it seems logical that this would be the attorney's prerogative, that specific statutory and Rule language be added to the JPA?

We are not attorneys, so in addition to review of the new content, formatting may also need to be reworked by an attorney.

Sorry for the delay, but I wanted to make sure I referenced the necessary legal statutes and rules in an attempt to make the attorney's' job easier.

If you or your attorneys' have any questions, please have them call either Jonathan Miller, Karen Eckman, or myself.

Thank you for your assistance.

Sincerely,

Tom Petersen

Confidentiality Statement: The documents accompanying this transmission contain confidential information that is legally privileged. This information is intended only for the use of the

individuals or entities listed above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.

**AMENDED
JOINT POWERS AGREEMENT
CITY OF SHOREVIEW, MINNESOTA
CITY OF ROSEVILLE, MINNESOTA**

**ESTABLISHING AND EMPOWERING
THE GRASS LAKE WATER MANAGEMENT ORGANIZATION**

THIS AGREEMENT is made and entered into the ____ day of _____, 2005 by and between THE CITY OF ROSEVILLE, a municipal corporation and political subdivision of the State of Minnesota and THE CITY OF SHOREVIEW, a municipal corporation and political subdivision of the State of Minnesota.

WHEREAS, each City has the authority to manage surface waters within its boundaries pursuant to M.S.A. 412.221, Subd. 6; 444.075 and 462.357, Subd. 1; and

WHEREAS, each City may jointly exercise common authority by adopting a joint powers agreement pursuant to M.S.A. 471.59; and

WHEREAS, by means of a joint powers agreement, the Cities may establish a water management organization pursuant to M.S. 103B.211 and 103B.227-103B.252, inclusive; and

WHEREAS, a portion of each City lies within the geographical area hereinafter referred to as the "Grass Lake Watershed", which watershed is illustrated and described on **Exhibit A** attached hereto; and

WHEREAS, each City is desirous of jointly conducting a water management organization that would adopt, finance and implement a watershed management plan for the Grass Lake Watershed which plan would preserve and use natural water storage and retention systems.

NOW, THEREFORE, in consideration of the mutual undertakings herein expressed, the City of Roseville and the City of Shoreview agree as follows:

SECTION I
ESTABLISHMENT/PURPOSE OF WATER MANAGEMENT ORGANIZATION

The Grass Lake Watershed Management Organization is a public agency ~~that manages the watershed in Ramsey county shown on the map set forth in Exhibit "A", of the Cities of Roseville and Shoreview.~~ The purposes of the Grass Lake Watershed Management Organization are as follows:

1. to protect, preserve and use natural surface and ground water storage and retention systems;
2. minimize public capital expenditures needed to correct flooding and water quality problems;
3. ~~identify and plan and implement a plan for means to~~ effectively protect and improve surface and ground water quality;
4. to establish a more uniform local policies and official controls for surface and ground water management;
5. to prevent erosion of soil and surface water systems;
6. to promote ground water recharge ~~and protect groundwater quality;~~
7. to protect and enhance fish and wildlife habitat, and water recreational facilities; and
8. to secure the other benefits associated with the proper management of surface and ground water.

SECTION II
DEFINITIONS

For purposes of this Agreement, the terms used herein shall have the meanings as defined in this Section.

Subdivision 1. The "Organization" means the Grass Lake Watershed Management Organization.

Subdivision 2. "Board" or "Board of Commissioners" means the governing body of the Organization.

Subdivision 3. "Council" means the governing body of the City of Roseville and/or the governing body of the City of Shoreview.

Subdivision 4. "Grass Lake Watershed" means the geographical area described and/or illustrated on Exhibit "A" attached and made a part of this Agreement.

Subdivision 5. "Commissioner" means a member of the Board of Commissioners.

Subdivision 6. "Comprehensive Plan" means a plan adopted by either the City of Roseville or the City of Shoreview pursuant to M.S.A. 473.858 to 473.862, inclusive, and any amendments to such plan.

Subdivision 7. "Capital Improvement Program" means an itemized program for at least a five-year period, and any amendments thereof, subject to at least biennial review, setting forth the schedule, timing and details of the specific contemplated capital improvements on an annual basis, together with their estimated costs, the need for each improvement, the financial sources for the payment of such improvements and the financial effect that the program will have on the City of Roseville, the City of Shoreview or the Organization.

Subdivision 8. "Local Water Management Plan" means a plan adopted by the City of Roseville or the City of Shoreview pursuant to M.S. 103B.235.

Subdivision 9. "Watershed Management Plan" means a plan adopted by the organization pursuant to M.S. 103B.231.

SECTION III

BOARD OF COMMISSIONERS

Subdivision 1. Appointment. The Organization shall be governed by a five member Board of Commissioners. Each City shall make appointments in such a manner so that the Cities will alternate each having three members of the Board every other year by making two or three year appointments. Notice shall be given of vacancies on the Board in the official newspaper of the City making the appointment. Persons employed as staff by the Cities will not be eligible for appointment to the Board. Appointments will be made within 90 days of a vacancy on the Board. The Cities will give written notice to the Minnesota Board of Water and Soil Resources of appointments within 30 days of making such appointments.

Subdivision 2. Eligibility. Each City Council shall determine its own eligibility or qualification standards for its appointments to the Board of Commissioners, provided that city staff may not be a member of the Board.

Subdivision 3. Term of Office. Each Commissioner shall serve at the will and consent of the City Council who appointed the Commissioner or until the Commissioner's designated term of office expires, whichever event occurs first.

Subdivision 4. Vacancy. Any vacancy shall be filled for the unexpired term of any Commissioner by the City Council who appointed said Commissioner. Vacancies will be filled by the same procedure as for making regular appointments as provided in Sec. III sub. 1.

Subdivision 5. Record of Appointment. Each City shall, within thirty (30) days following the appointment of a Commissioner, file a written notice of such appointment with the Secretary of the Board.

Subdivision 6. Compensation. Each City may compensate the Commissioners it appoints, but the Commissioner shall not be compensated by the Organization or have expenses reimbursed by the Organization, except that the Organization shall compensate Commissioners for any out of pocket expenses as pre-approved by the Board.

Subdivision 7. Officers of the Board. At the first meeting of the Board in each year, the Board shall elect from its Commissioners a chairperson, a vice chairperson and a secretary and such other officers as it deems necessary to conduct its meetings and affairs. In the absence of the chairperson, the vice chairperson shall preside and perform the duties of the chairperson. It shall be the duty of the chair to:

- a. Serve as chairperson for all meetings;
- b. Sign, in the name of the Organization, any contracts, correspondence, or other instruments pertaining to the business of the Organization as so authorized by a majority vote of the Board;
- c. Be a signatory to the Organization accounts; oversee development of meeting agendas; have full voting privileges at all times, may vote on any issue, and need not confine his/her voting to break ties in voting by the Commissioners;
- d. The Chair shall assume no other duties or responsibilities except as granted by majority vote of the Board.

It shall be the duties of the Vice Chair to:

e. Discharge the Chair's duties in the event of the absence or disability of the Chair;

f. Be a signatory to certain instruments and accounts of the Organization;

g. In the absence of Chair and Vice Chair, a Chair Pro Tempore shall be elected by the Commissioners in attendance to serve as Chair for the duration of that meeting.

It shall be the duties of the Secretary to:

h. Oversee the preparation and distribution, in a timely manner, of the minutes of all meetings of the Organization;

i. Distribute draft minutes to the Commissioners in advance of meetings;

j. Oversee the official records of the Organization.

In the case of vacancy of any officers of the Board, a replacement shall be elected by a majority of the Commissioners to serve for the remainder of the vacated term.

Subdivision 8. Rules and Regulations of the Board. The Board shall adopt rules and regulations governing its meetings. Such rules and regulations may be amended from time to time in either a regular or special meeting of the Board provided that notice of such proposed amendment has been given to each Commissioner at least ten (10) day prior to the meeting at which the proposed amendment will be considered. All meetings of the Joint Powers Board are subject to Minn. Stat. Chapter 13D (Minnesota Open Meeting Law), and shall be governed by *Robert's Rules of Order, Newly Revised 10th Edition* or later. The Board may adopt other rules and regulations as it deems necessary to carry out its duties and the purpose of this Agreement. Such rules and regulations may be amended from time to time in either a regular or special meeting of the Board provided that notice of such proposed amendment has been given to each Director at least ten (10) day prior to the meeting at which the proposed amendment will be considered. The initial rules and regulations shall be submitted to the Members for their review. Members shall submit their comments to the Board within 45 days. These rules and regulations, after adoption, shall be recorded in the Organization's bylaws.

Subdivision 9. Quorum. A majority of the entire Board shall constitute quorum, but less than a quorum ~~may shall~~ adjourn a scheduled meeting.

Subdivision 10. Voting Requirements. All ~~financial and policy~~ actions of the Board shall require three (3) affirmative votes. ~~All other actions shall require a simple majority of Commissioners present.~~

Subdivision 11. Meetings. ~~Whenever possible, Regular-regular~~ meetings of the Board shall be held at least ~~quarterly-monthly~~ on days selected by the Board. A schedule of regular meeting dates shall be adopted annually by the Board. ~~The notice of regular meeting dates, times and places will be posted on the website of the Organization (and in the official newspapers of the member cities).~~ Special meetings may be held at the request of the Board Chairman or at the request of two (2) Commissioners provided that such special meeting shall be preceded by not less than three (3) days written notice of the time, place and purpose of the special meeting. The notice of the special meeting shall be delivered ~~or, mailed or e-mailed~~ to the residence ~~or e-mail address~~ of each commissioner and to each person who has filed a written request for notice of special meetings with the Board. All meetings of the Board shall be subject to the provisions of the Minnesota Open Meeting Law.

Comment [J1]: Do we post in Papers?

Subdivision 12. Location of Board Office. The Board shall maintain a business office at 2660 Civic Center Drive within the City of Roseville. All notices to the Board shall be delivered or served to such office. Each City shall be compensated for administrative services rendered to the Organization.

SECTION IV

WATERSHED MANAGEMENT TAX DISTRICT

Each City may establish a watershed management tax district for the portion of its corporate boundaries which lie within the Grass Lake Watershed pursuant to the provisions of M.S. 103B.245. Neither the provisions of this Agreement nor the establishment of a watershed management tax district shall prevent the Councils of the City of Roseville or the City of Shoreview from electing to finance the planning for water management; financing of capital improvements; or for providing the normal and routine maintenance of capital improvements within the Grass Lake Watershed by other resources.

SECTION V

POWER AND DUTIES OF THE BOARD OF COMMISSIONERS

Subdivision 1. Organization. The Organization, acting by its duly appointed Board of Commissioners, shall have the powers and duties set forth in this section.

Subdivision 2. Watershed Management Plan. The Board shall prepare, ~~finance~~ and implement a watershed management plan for the Grass Lake Watershed. The plan shall:

- a. describe the existing physical environment and land usages within the Grass Lake Watershed and shall further describe the environment and land usages proposed for the Grass Lake Watershed by the existing Comprehensive Plans for the Cities of Roseville and Shoreview and by the Comprehensive Plan adopted by the Metropolitan Council;
- b. present information on the hydrologic system in the Grass Lake Watershed, the system's components and existing and potential problems relating thereto;
- c. ~~state establish objectives and, policy policies, regulations and rules~~ (including those relating to management principles, alternatives and modifications) concerning water quality and to protect the natural characteristics of the Grass Lake Watershed;
- d. set forth a management plan that includes a statement of the hydrologic and water quality conditions to be sought and that shall further itemize significant opportunities for improvement such conditions;
- e. describe conflicts between the surface water management plan of the Grass Lake Watershed and existing management plans of the Cities of Shoreview and Roseville;
- f. set forth and implement an implementation program consistent with the management plan that includes a capital improvement program and standards and schedules for amending the Comprehensive Plans and official controls of the Cities of Roseville and Shoreview in order to bring about conformance with the ~~water surface~~watershed management plan for the Grass Lake Watershed;
- g. ~~get out establish~~ a procedure for amending the water surface management plan.

~~Subdivision 3. Annual Operating Budget. - On or before June 1 of each year the Board shall prepare a proposed operating budget and recommend its approval to the Cities. Each City will review the operating budget for the following fiscal year and shall~~

~~either approve the proposed operating budget or a budget as amended by the Cities within sixty (60) days of receipt of the Board recommendation. Upon City approval of the Organization's operating budget, each City shall pay to the Organization an amount equal to one-half (1/2) of the approved operating budget in the following manner:~~

~~a. One-half (1/2) of each City's obligation shall be paid to the Organization on or before July 1 of the fiscal year approved; and~~

~~b. One-half (1/2) of each City's obligation shall be paid to the Organization on or before December 1 of the fiscal year approved.~~

Subdivision 3A. Annual Operating and capital improvements Budget. On or before June 1 of each year the Board shall prepare and adopt a proposed preliminary operating and capital improvements budget and recommend its approval and submit this preliminary budget to the Cities for financing. Each City shall review the preliminary operating budget for the following fiscal year and shall provide written comment to the Board of Commissioners by July 1 citing any and all concerns it may have with the budget. On or before August 1 of each year, the Board of Commissioners shall adopt and publish its operating and capital improvements budget for the following fiscal year. Each City shall pay to the Organization an amount equal to one-half (1/2) of the approved operating budget in the following manner:

a. One-half (1/2) of each City's obligation shall be paid to the Organization on or before July 1 of the fiscal year approved; and

b. One-half (1/2) of each City's obligation shall be paid to the Organization on or before December 1 of the fiscal year approved.

Subdivision 3B. Operations Cash flow finance. The cities shall provide cash flow finance if necessary as determined by the Board of commissioners and the cities.

Subdivision 3C. Appeals of Budget by Cities. In the event a member objects to the allocation of the Member's share of the operating and/or Capital Improvement Budgets, for the next fiscal year, it may appeal the determination of the Board to final

and binding arbitration by filing a written appeal with an officer of the Board, within 30 days of receipt of the Board's preliminary budget. The arbitration procedure set forth as follows shall be followed:

- a. Appeals of Determinations by the Board of Commissioners. Members shall comply with Commissioners' determinations as to the force and effect of the Watershed Management Plan, the Local water Management Plan, or improvements initiated pursuant to these Plans. Any member unit which disputes a determination of the Commissioners' as to the force and effect of the Plan, Local Plan, or the cost allocations for the implementation of the Plan, may appeal the decision of the commissioners' within 30 days of receipt of written notice of such determination. Should the appeal not be completed to the satisfaction of all parties, a party may submit the dispute to arbitration. Arbitration shall be conducted in the following manner: Arbitration shall be conducted in accordance with the Uniform Arbitration Act (MN Statute Chapter 572).

Subdivision 4. Capital Improvement Project. On or before June 1 of each year the Board shall prepare a capital improvements program and recommend its approval by the Cities. Each City agrees to review and approve or disapprove the capital improvement program within sixty (60) days of receipt of the Board's recommendations. Each City agrees to contribute its proportionate share of the cost of constructing capital improvements approved by the Cities for projects within the Grass Lake Watershed.

Subdivision 5. Committees. The Board ~~may shall~~ appoint such committees and subcommittees, establishing terms and conditions for such committees, as it deems necessary and as are mandated. The Board shall invite members with special expertise in Hydrology, Geology, Limnology, Freshwater Biology and other fields of study pertaining to the management of a watershed, as well as concerned members of the general public to serve on a Technical and Citizens Advisory Committee. Members of this committee shall be approved by a majority of the Commissioners

Subdivision 6. Reserved.

Subdivision 7. Review and Recommendations. Where the Board is authorized or requested to review and make recommendations on any matter, the Board shall act on such matter within ninety (90) days or within the statutory time requirement, whichever is shorter. Failure to act within such time periods shall constitute a waiver of the Board's authority to make recommendations.

Subdivision 8. Local Water Management Plan. After consideration but before adoption by its governing body, each City shall submit its watershed management plan or any amendment thereof to the Board for review of its consistency with the water surface management program of the Grass Lake Watershed. The Board shall approve or disapprove each City's management plan or parts thereof. The Board shall have ninety (90) days to complete its review. If the Board fails to complete its review within the prescribed time period, unless an extension is agreed to by the City, the City's plan shall be deemed approved. All provisions as specified in MN Statute 103B.235 subds. 1,2,3, and 3a and MN rules chapter 8410.0030, subpart 1,g shall govern the process of Local Water Management Plan content and review by GLWMO.

Subdivision 9. Data. The Board may establish and maintain devices for acquiring and recording hydrological-relevant data for the management of water resources within the Grass Lake Watershed.

Subdivision 10. Claims. The Board may enter upon lands within or without the Grass Lake Watershed to make surveys and investigations to accomplish the purposes of the Board. The Board shall be liable for actual damages resulting therefrom, but every person who claims damages shall serve the Chairman or Secretary of the Board with a notice of claim as required by M.S.A. 466.05.

Subdivision 11. Legal and Technical Assistance. The Board may provide legal and technical assistance in connection with litigation or other proceedings between one or more of its members and any other political subdivision, commission, board or agency relating to the planning or construction of facilities to drain-or-pond-storm watersimplement the Watershed Management Plan within the Grass Lake Watershed.

Subdivision 12. Reserve Funds. The Board may accumulate reserve funds for the purpose herein mentioned and may invest funds of the Board not currently needed for its operations in the manner and subject to the laws of Minnesota applicable to statutory cities.

Subdivision 13. Monies Collectable. The Board may collect monies, subject to the provisions of this Agreement, from the Cities and from any other source approved by a-majoritythree Commissioners-of-its-Board.

Subdivision 14. Contracts. The Board may make and enter into contracts, incur expenses and make expenditures necessary and incidental to the effectuation of these purposes and powers and may disburse therefor in the manner hereinafter provided. Every contract for the purchase or sale of merchandise, materials or equipment by the Board shall be let in accordance with the Uniform Municipal Contracting Law. No

member or employee of the Board or offer or employee of any of the Cities shall have a direct or indirect financial interest in any contract made by the Board.

Subdivision 15. Surveys. The Board may make necessary surveys or utilize other reliable surveys and data and develop projects to accomplish the purposes for which the Board is organized.

Subdivision 16. Other Governmental Units and Agents. The Board may cooperate or contract with the State of Minnesota or any subdivision thereof or Federal agency or private or public organization to accomplish the purposes for which it is organized.

Subdivision 17. Water Conveyances. The Board may order any City, governmental unit or units to construct, clean, repair, alter, abandon, consolidate, reclaim or change the course of terminus of any ditch, drain, storm sewer, water course, natural or artificial, that affects the Grass Lake Watershed in accordance with adopted plans. The Board may also acquire and/or assume operational authority for any or all Ramsey County Drainage Ditches within the Grass Lake watershed.

Subdivision 18. Watershed Operations. The Board may order any City to acquire, operate, construct or maintain dams, dikes, reservoirs and appurtenant works in accordance with adopted plans.

Subdivision 19. Storm and Surface Waters. The Board shall regulate, conserve and control the use of storm and surface water within the Grass Lake Watershed pursuant to its adopted plan.

Subdivision 20. Insurance. The Board may contract for or purchase such insurance as the Board deems necessary for the protection of the Organization.

Subdivision 21. Audit. The Board shall cause to be made an annual audit of the books and accounts of the Organization and at least once each year shall make and file a report with the Cities including the following information

- a. the financial condition of the Organization;
- b. the status of all Organization projects and work within the Grass Lake Watershed and
- c. the business transacted by the organization and other matters that affect the interests of the Organization.

Subdivision 22. Records. The Board's books, reports and records shall be available for and open to inspection by the Cities at all times.

Subdivision 23. Reserved.

*To the extent not otherwise
set forth in this Agreement,*

Subdivision 24. Other Powers. The Board may exercise all other powers necessary and incidental to the implementation of the purposes and powers set forth herein as authorized by the by MN Statute 103B.231 and MN rules 8410.~~Cities.~~

Subdivision 25. Permits. The Board shall cooperate with the State of Minnesota, its agencies and other political subdivisions in obtaining all required permits. It shall review permits issued by the Cities to accomplish the purposes of the Organization.

Subdivision 26. Local Studies. Each City reserves the right to conduct separate or concurrent studies on any matter under study by the Organization.

Subdivision 27. Gifts, Grants, Loans. The Organization may, within the scope of this Agreement, accept gifts, apply for and use grants or loans of money or other property from the United States, the State of Minnesota, a unit of government or other governmental unit or organization, or from any person or entity for the purposes described herein and may enter into any reasonable agreement required in connection therewith; it ~~may shall~~ comply with any laws or regulations applicable thereto; and it may hold, use and dispose of such money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.

SECTION VI

DURATION

Subdivision 1. The Joint Powers Agreement shall continue until terminated by the Cities as herein provided.

Subdivision 2. Reserved

Subdivision 3. Any City may petition the Board to dissolve the Organization. The Board shall hold a meeting preceded by thirty (30) days' written notice to the Clerks of each City, Ramsey County and the Minnesota Board of Water and Soil Resources. Upon a favorable vote of a majority of the entire Board, the Board may recommend that the Organization be dissolved. Such recommendation shall be submitted to each City and, if ratified by each City Council within sixty (60) days, the Organization shall be dissolved following expiration of a reasonable time to complete the work in progress and following compliance with the provisions of M.S. 103B.221 and M.S. 103B. 225.

SECTION VII

DISSOLUTION

Upon dissolution of the Organization, all property of the Organization shall be sold and the proceeds hereof, together with the monies on hand, shall be distributed to the Cities in proportion to the contributions made by the Cities to the Organization in its last annual budget.

SECTION VIII
EFFECTIVE DATE

This Agreement and any amendments thereto shall be in full force and effect upon the filing of a certified copy of the resolution approving this Agreement by each City. Said resolutions shall be filed with the Roseville City Engineer who shall notify each City in writing of its effective date.

SECTION IX
COUNTERPARTS

This Agreement may be executed in several counterparts, and all so executed shall constitute one Agreement, binding on each City notwithstanding that each City may not be a signatory to the original of the same counterpart.

IN WITNESS WHEREOF, the Cities have hereunto set their hands the day and year first above written.

CITY OF ROSEVILLE

By: _____
Mayor

SEAL

DATED: _____, 2005

ATTEST:

City Clerk

CITY OF SHOREVIEW

By: _____
Mayor

SEAL

DATED: _____, 2005

ATTEST:

City Clerk

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