



Community Development Committee

Meeting date: May 16, 2011

Business Item

Item: 2011-119

ADVISORY INFORMATION

Date:	May 11, 2011
Subject:	City of Crystal – Comprehensive Plan Update Public Hearing on A Proposed Plan Modification Metropolitan Council Review File No. 20598-1
District(s), Member(s):	District 6, Council Member James Brimeyer
Policy/Legal Reference:	Minnesota Statutes Section 473.175
Staff Prepared/Presented:	Phyllis Hanson, Manager Local Planning Assistance (651-602-1566) Connie Kozlak, Manager Transportation Systems Planning (651-602-1720) Guy Peterson, Director Community Development Division (651-602-1418)
Division/Department:	Community Development / Local Planning Assistance

Proposed Action

That the Metropolitan Council:

1. Adopts by resolution and transmit to the City of Crystal (City), Table 1: Required Changes to the 2030 Crystal Comprehensive Plan Update (*Attachments 1 and 2*); and
2. Notifies the City that it may not put its 2030 Comprehensive Plan Update (CPU) into effect until the CPU is modified as described in proposed action number 1 and the Council formally reviews the document.

Issue

Should the Metropolitan Council find that the City's 2030 Comprehensive Plan Update is more likely than not to contain a substantial departure from the regional aviation system plan?

Statutory Authority

Pursuant to Minnesota Statutes section 473.175, subdivision 1, the Council may require a local governmental unit to modify its comprehensive plan or part thereof that is inconsistent with the metropolitan system plan if the Council concludes that the local plan is more likely than not to have either a substantial impact on, or to contain a substantial departure from, the Council's adopted policy plans and capital budgets for metropolitan transportation service.

Background

The City of Crystal submitted its Comprehensive Plan Update (CPU) on May 29, 2009. The CPU was initially found "incomplete" for review on June 16, 2010, (*Attachment 3*). Supplemental information was received by the Council on August 13, 2010, in which the City made some of the needed changes and provided a portion of the incomplete information. A second incomplete letter was sent to the City on September 3, 2010 (*Attachment 4*). Supplemental information was received on March 15, 2011, and the CPU was found complete for review on April 4, 2011 (*Attachment 5*). The Council has 120 days or until July 13, 2011 to complete its review of the CPU.

In the Council's completeness determination letters of June 16, 2009, September 3, 2010, and April 4, 2011, the City was advised that the CPU was not in conformance with the *2030 Transportation Policy Plan* (TPP) for the aviation system. The letters indicated that the CPU substantially departs from the Council's adopted metropolitan system plan for aviation. The April 4, 2011 letter also stated that Council staff will recommend that the Metropolitan Council: (1) find that the City's 2030 Comprehensive Plan Update is more likely than not to contain a substantial departure from the metropolitan aviation system plan contained in the *2030 Transportation Policy Plan* adopted in 2004, (which incorporates the 1996 Aviation Policy Plan), and (2) require the City to modify its 2030 Comprehensive Plan Update.

Council staff has met with City representatives to resolve outstanding issues. The City and the Council have not been able to come to agreement on these issues. For these reasons, consistent with the April 4, 2011 letter, Council staff recommends that the Metropolitan Council:

- 1) Find that the City's 2030 Comprehensive Plan Update is more likely than not to contain a substantial departure from the Metropolitan Aviation System Plan contained in the 2030 Transportation Policy Plan adopted in 2004, (which incorporates the 1996 Aviation Policy Plan); and
- 2) Require the City to modify its 2030 Comprehensive Plan Update.

Issue Identification and Analysis Documenting Substantial Departure from 2030 Aviation System Plan

There are three issues that the City must address in relation to the plan modification: 1) References to closure of the Crystal Airport; 2) City Land Use Requirements on and zoning of Crystal Airport; and 3) Land Use Compatibility Guidelines for Aircraft Noise. These required modifications are addressed in *Attachment 2* and are discussed below.

1) References to Closure of the Crystal Airport

The City's 2030 CPU contains several references to closure and redevelopment of the Crystal airport, which are a substantial departure from the 2030 metropolitan aviation system plan contained in the TPP. The bases for this conclusion are outlined as follows.

Crystal's 2030 Comprehensive Plan Update was prepared in response to the 2005 System Statement prepared for the City, which summarized the metropolitan aviation system plan contained in the *2030 Transportation Policy Plan (TPP)* adopted by the Metropolitan Council in 2004. The 2004 TPP defines the regional aviation system as one major airport, one intermediate airport, six minor airports and three special purpose airports. It contains a map of the regional airport system (Fig 2-15), which identifies Crystal airport as one of the minor airports. It includes a summary of facility characteristics and status for all of the airports in the regional system (Table 2-5), which also includes Crystal airport and its characteristics. The 2005 Crystal Systems Statement says, "The Crystal Airport functions as a general aviation reliever for MSP International Airport, and will continue its regional system role as a "Minor" airport."

The 2030 TPP adopted in 2004 states: "The 1996 Aviation Policy Plan remains in effect with the exception of the *Land Use Compatibility Guidelines*. These guidelines have been revised to reflect the MSP Part 150 Update for 2007 and are included in Appendix H." Since this revision to the noise guidelines only affected MSP, not the Crystal Airport, all portions of the 1996 metropolitan aviation system plan are also applicable to the Crystal Airport.

The 1996 Aviation Policy Plan shows Crystal airport as part of the Regional Airport System. Under the discussion of "The Reliever Airports" the Plan states that the FAA has designated Crystal airport as a reliever airport for MSP. The 1996 Plan specifically discusses Crystal Airport as follows:

In a 1992 amendment to Crystal's long-term comprehensive plan, the city indicated a preference to put the airport land into non-airport use. This is not consistent with the Aviation Policy Plan, and the Council required the city to make a plan modification. The MAC has no plans to abandon Crystal Airport. Such a move would exert strong pressure on future development at Flying Cloud and Anoka County-Blaine Airports and increase the need to locate a new northwest metropolitan reliever airport. Development of a long-term comprehensive plan was recommended in 1993 to address the city's concerns with airport safety and land-use compatibility.

Although a draft was prepared in 1995, an updated Long Term Comprehensive Plan (LTCP) for the Crystal Airport was not fully completed and adopted by MAC until 2008. It was reviewed by the Metropolitan Council on October 22, 2008 (Business Item 2008-282) and included in the updated aviation system plan adopted by the Council as part of the 2030 TPP in November, 2010. The City of Crystal was involved in, and commented on, the preparation of this LTCP. The LTCP recommends that some runways be closed, but it does not recommend closure of the Crystal airport. Although the City of Crystal is not required to address in their current comprehensive plan update any regional aviation plan updates adopted after the 2005 system statement was issued, the City did choose to include some information from the 2008 LTCP in its CPU.

In summary, Crystal airport is shown throughout the 1996 and 2004 metropolitan aviation system plans in maps, tables and text as a minor airport in the Regional Airport System; the plans have no discussion of and give no indication of closing the airport. Even the Council's most recent metropolitan aviation system plan, adopted in 2010, gives no indication that the airport may close. When the Region makes infrastructure improvements, whether they are roads, bridges, parks, sewer lines or airports, the presumption is that they will be in perpetuity, even if the plan is described as the 2030 plan. Therefore, there is no basis for the City's plan to make any reference to closure or redevelopment of the Crystal Airport.

In order to conform to the 2030 metropolitan aviation system plan, the City of Crystal needs to modify the language in Chapters H and M of its plan as shown in *Attachment 2*. The City also needs to change the key on the 2030 Planned Land Use map by removing reference to low density residential following the Airport designation. All references to closure or redevelopment of the airport in the CPU, they must be removed.

2) Proposed City Land Use Restrictions on Crystal Airport

The City's Comprehensive Plan Update (CPU) text and policies refer to the airport as being accommodated by an airport overlay that allows the airport to continue operating; prohibits expansion of runways; permits landside facilities only as low-density residential development (LDR) and requires City Council approval for other types of uses. The CPU states, "In Crystal, the airport is zoned R-1 Low Density Residential for future planning purposes with an Airport Overlay district recognizing the continued operation of the Crystal Airport." In the land use section of the CPU, the land use categories for the 2030 planned land use map includes a definition of "Airport (LDR) as "Property owned by the MAC for the operation of the Crystal Airport. In the event that all or part of the airport is redeveloped for non-aviation uses, then the underlying guidance would be low-density residential until such time as a Comprehensive Plan Amendment is adopted which reclassifies all or part of the airport site for other uses."

In the seven county metropolitan area, no fiscal device or official control (zoning ordinance, etc.) can conflict with a comprehensive plan. All official controls must conform with the local plan. Minnesota Statute 473.858 subdivision 1 states:

Within three years following receipt of the metropolitan system statement, every local governmental unit shall have prepared a comprehensive plan in accordance with sections its comprehensive plan in accordance with sections 462.355, 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the Metropolitan Council for review....If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance shall be brought into conformance with the plan by local governmental units in conjunction with the review and, if necessary, amendment of its comprehensive plan.

As noted in the previous issue, the only appropriate guiding in the plan for the Crystal Airport is "airport." There is no rationale or planning basis for qualifying that designation, since there are no plans to discontinue its primary function—airport. Federal grant assurances require MAC to operate its system of airports so as to make them as "self-sustaining" as possible. Under state law, MAC has been granted broad statutory authority to enter into contracts or leases for the use of airport property for any purpose which in MAC's opinion furthers the interests of aeronautics in the state or the metropolitan area, or for the provision of any services or accommodations which in its opinion are desirable for airport users.

With the Crystal Airport designated as "airport" only in the City's CPU, it follows, based on Minnesota Statute section 473.858 subdivision 1, that the City must amend its zoning ordinance to be consistent with its CPU which is in conformance with the Council's 2030 Transportation Policy Plan (TPP) and the Council's 2004 Aviation Systems Statement. If the Crystal airport remains an airport indefinitely, and if there are no plans to abandon the airport, and there are no plans to redevelop the airport, there is no basis for zoning the airport R-1 Low Density Residential.

3) Land Use Compatibility Guidelines for Airport Noise

The airport noise portion of the CPU is not in conformance with the Aviation System Plan. The City's CPU states: "...the city does not intend to adopt ordinance revisions implementing the Land Use Compatibility Guidelines for Aircraft Noise"; and the city's submittal states, "The city elects not to adopt or implement the Land Use Compatibility Guidelines for Aircraft Noise; neither the Transportation Policy Plan nor the enabling statute requires that the city do so."

However, Appendix H of the *2030 Transportation Policy Plan* adopted in 2004 (TPP) requires that "Communities should assess their noise impact areas and include a noise program in their 2008 comprehensive plan." The 2004 TPP includes the 1996 Aviation System Plan, which is still applicable. The 1996 Aviation System Plan includes the following "Mandatory Elements" for local comprehensive plans:

Adopted land-use compatibility guidelines for aircraft noise:

- Map depicting aircraft noise zones of any adjacent airport(s) impacting the community.
- Identification of incompatible land use activities, recommended plan and strategy to remove incompatibility.
- Description of overlay zoning ordinance to be adopted for attenuation of aircraft noise.
- Description of local building codes as part of a strategy to implement noise attenuation of aircraft noise.

Minnesota Statute section 473.175 provides the foundation for the finding of substantial departure. It charges the Council with responsibility to review local comprehensive plans to determine conformity with metropolitan system plans

(including the aviation plan). The Council may require a local governmental unit to modify a part of its comprehensive plan if the Council “concludes that the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans.’ In the Crystal case, the City, by refusing “...to adopt or implement the Land Use Compatibility Guidelines for aircraft noise...” has not included these guidelines in the City’s CPU, which constitutes a substantial departure from the metropolitan aviation system plan.

The City, in a letter from its attorney to Phyllis Hanson dated April 14, 2011, among other issues, maintains that noise attenuation cannot be required. As shown above, the Council has required this since 1996. Noise attenuation has been included in the Aviation System Plan, and local communities are required to be in conformance with system plans. For these reasons, failure to adopt ordinance revisions implementing Land Use Compatibility Guidelines for Aircraft Noise represents a substantial departure from the 2030 Transportation Policy Plan adopted in 2004, the 1996 Aviation System Plan and the 2005 System Statement for Crystal. Therefore, the Council should require Crystal to modify its CPU by adopting noise guidelines that meet the requirements of these plans.

Plan Modification Timetable

May 11, 2011	Post public hearing notice
May 16, 2011	Hold public hearing at Community Development Committee at 4:30 PM
May 23, 2011	Close public hearing record at 4:30 PM
June 6, 2011	Review of hearing record by Community Development Committee with action forwarding recommendations to the Metropolitan Council
June 22, 2011	Formal action by the Metropolitan Council on the City’s proposed Plan Update

Attachments

1. Proposed Council resolution regarding plan modification
2. Table 1: Required Changes to the 2030 Crystal Comprehensive Plan Update
3. Incomplete Letter, dated June 16, 2009
4. Incomplete Letter, dated September 3, 2010
5. Complete Letter, dated April 4, 2011
6. Background 1992—2004
7. 2005 Transportation Systems Statement for City of Crystal (Pages 1-4)

8. Minnesota Statutes Regarding Plan Modification
 - a. Minn. Stat. 473.175 Review of Comprehensive Plans (Plan Modification)
 - b. Minn. Stat. 473.608 Powers of Corporation (Metropolitan Airports Commission)
 - c. Minn. Stat. 473.192 Aircraft Noise Attenuation
 - d. Minn. Stat. 473.858 No Conflicting Zoning, Fiscal Device, Official Control

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**Attachment 1
Proposed Resolution**

METROPOLITAN COUNCIL
390 Robert Street North, Saint Paul, Minnesota 55101

RESOLUTION NO. 2011-__

**RESOLUTION FINDING THE CRYSTAL COMPREHENSIVE PLAN UPDATE (CPU)
CONTAINS A SUBSTANTIAL DEPARTURE FROM METROPOLITAN SYSTEM
PLANS AND REQUIRING PLAN MODIFICATIONS TO ENSURE CONFORMITY WITH
METROPOLITAN SYSTEM PLANS**

WHEREAS, Minnesota Statutes section 473.175 requires the Metropolitan Council (“Council”) to review comprehensive plans of local governmental units to determine their compatibility with each other and conformity with metropolitan system plans; and

WHEREAS, Minnesota Statutes section 473.175 authorizes the Council to require a local governmental unit to modify any comprehensive plan or part thereof if, upon the adoption of findings and a resolution, the Council concludes the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans; and

WHEREAS, the City of Crystal (“City”) submitted to the Council for review a proposed comprehensive plan update identified as Metropolitan Council Review File No. 20598-1; and

WHEREAS, at the May 16, 2011 meeting of the Council’s Community Development Committee, the Council held a public hearing on the City’s comprehensive plan update, at which meeting City representatives and others presented information on the City’s proposed comprehensive plan update and responded to the Council staff report on the City’s proposed comprehensive plan update; and

WHEREAS, based on its review and consideration of the City’s proposed comprehensive plan update and other planning documents, file documents, metropolitan system plans and policy plans, Council staff recommendations, public hearing comments and submissions, and other information in the record pertinent to the comprehensive plan amendment submitted by the City, the Council makes the following findings and conclusions:

FINDINGS

Statutory Background

1. Minnesota Statutes section 473.851 reflects the Legislature’s recognition that local governmental units within the metropolitan area are interdependent, that the growth and patterns of urbanization within the metropolitan area create the need for additional state, metropolitan and local public services and facilities and increase the danger of air and water pollution and water shortages, and that development in one local governmental unit may affect the provision of regional capital improvements for sewers, transportation, airports, water supply, and regional recreation open space.
2. Minnesota Statutes section 473.145 requires the Council to adopt a comprehensive development guide for the seven-county metropolitan area that must include policy

statements, goals, standards, programs, and maps prescribing guides for the orderly and economical development, public and private, of the metropolitan area.

3. Minnesota Statutes sections 473.146, 473.1465 and 473.147 require the Council to adopt long-range comprehensive policy plans for transportation (aviation), wastewater treatment and regional recreation open space. In 1996 the Council adopted its Regional Blueprint and its Aviation Policy Plan, and subsequently adopted its 2030 Regional Development Framework (January 2004) and 2030 Transportation Policy Plan (May 2005) which, together with other policy and system plans, were part of the Council's comprehensive development guide for the metropolitan area.
4. Minnesota Statutes section 473.852 defines the policy plans and capital budgets for metropolitan wastewater service, transportation (aviation), and regional recreation open space as "metropolitan system plans."
5. Minnesota Statutes sections 473.858 to 473.865 requires local units of government within the metropolitan area to prepare comprehensive plans and updates every 10 years and to submit those comprehensive plan updates to the Council for review.
6. Minnesota Statutes section 473.856 requires that those comprehensive plans conform with metropolitan system plans.
7. Minnesota Statutes section 473.858, subdivision 1 requires metropolitan-area cities to prepare and adopt local comprehensive plans in accordance with the Metropolitan Land Planning Act. The Act prohibits cities from adopting any fiscal device or official control which conflicts with their local comprehensive plans or which permits activity in conflict with metropolitan system plans.
8. Minnesota Statutes section 473.852, subdivision 9 defines "official controls" or "controls" as "ordinances and rules which control the physical development of a city" that "implement the general objectives of the comprehensive plan," including "ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps."
9. Minnesota Statutes section 473.854 requires the Council to "prepare and adopt guidelines and procedures relating to the requirements and provisions of sections 462.355, 473.175, and 473.851 to 473.871 which will provide assistance to local governmental units in accomplishing the provisions of sections 462.355, 473.175, and 473.851 to 473.871 and [the Metropolitan Land Planning Act]." In 1997 and 2005, the Council prepared and adopted a Local Planning Handbook that provides guidance to metropolitan-area cities on their planning obligations under the Metropolitan Land Planning Act.
10. Minnesota Statutes section 473.175 states that the Council shall review plans of local governmental units and comment on the apparent consistency of the comprehensive plans with adopted plans of the Council. The Council may require a local governmental unit to modify any comprehensive plan or part thereof if, upon the adoption of findings and a resolution, the council concludes that the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans.

11. Minnesota Statutes section 473.192 states that a municipality in the metropolitan area that, in part or in whole, is within the aircraft noise zones designated in the transportation policy plan “may adopt and enforce ordinances and controls to regulate building construction methods for the purpose of attenuating aircraft noise in habitable buildings in and around the noise zone.” “An ordinance adopted by the municipality must be adequate to implement the Metropolitan Council’s guidelines for land use compatibility with aircraft noise.”

City Comprehensive Planning and Council Directives

1. On June 1, 1992 the City of Crystal submitted a Comprehensive Plan Amendment (CPA) to the Council that amended several elements of the City’s plan including the Crystal airport area. The Council took action on the CPA at its January 14, 1993 meeting and required the City of Crystal to modify the CPA. Part of the required plan modifications addressing the Crystal airport were as follows:

That the Metropolitan Council:

1. *Adopt the staff report and findings as described in the staff report as part of these recommendations.*
 2. *Inform the city of Crystal that pursuant to the Metropolitan Land Planning Act (Minnesota Statutes sec. 473.175 Subd. 1), the city may not place its plan amendment into effect until it has been modified in the following manner:*
 - a. *Incorporate as part of its comprehensive plan the aviation system development priorities as found in the Council’s Aviation Development Guide...*
 - b. *Remove all references opposing long-term and land use compatibility planning activities associated with the Crystal Airport;*
 - c. *Remove all references to rezoning the Crystal Airport site and all references to designating the site a legal nonconforming use*
2. In a letter to the Council dated February 23, 1993 the City indicated that Crystal agreed with all of the requested modifications except those specifically regarding the Crystal airport. The City’s concern centered on the MAC’s being responsible for preparing the long term comprehensive plan for the airport and as such, would only look at two alternatives—maintenance or expansion of the airport and that consideration of closure of the airport would not be given appropriate consideration.
3. On October 12, 1993, the City submitted a modified plan to the Council. As stated in the submittal letter, “All modifications, with the exception of those relating to the Crystal airport, were completed as requested by the Metropolitan Council.”
4. On January 6, 1994, the Metropolitan Council acted on the Crystal Comprehensive Plan Amendment. This amendment and review were to determine if the required modifications to the Crystal plan had been made. Excerpts from the report including findings and recommendations follow:

Analysis

Of the eight required modifications, five have been met: The City has satisfactorily modified its aviation policies related to structural height restrictions; aircraft flight paths; regulation of seaplane surface water activities; has removed references to rezoning the airport site and designating it a legal nonconforming use, and has removed references to light rail transit....

In addition to the modifications, the Council also made a recommendation regarding preparation of a long-term comprehensive plan for the airport. The City and the MAC have agreed to prepare a long-term plan for the airport as a means to address safety and land use compatibility issues.

Recommendations:

That the Council adopts the attached staff report with the following recommendations:

- 1. Inform the City of Crystal that it may not adopt the amended community comprehensive plan until all the plan modifications, as previously recommended by the Council are made.*
- 2. Recommend the City continue to work with the Metropolitan Airports Commission and Metropolitan Council on a long-term comprehensive plan for the Crystal airport.*

The City did not submit an amendment to its CPU that responded to the 1994 Council action.

5. In 1996 the Council adopted the 1996 Regional Blueprint and sent out system statements in January 1997.
6. The City of Crystal submitted its Comprehensive Plan Update to the Council for review on November 19, 1999.
7. On July 26, 2000, the Council took action on the City of Crystal's Comprehensive Plan Update. That review included the following:

Findings and Conclusions

The potential impacts and mitigation measures concerning issues related to relocating the Crystal Airport cannot be established until a long-term comprehensive airport plan is prepared/submitted by the MAC and approved by the Council. The Council will prepare an issues paper addressing the airport plan and community issues as part of the year 2000 Aviation Policy/System Plan Update.

Recommendations

That the Metropolitan Council adopts the Executive Summary and Review Record with the following recommendations:

1. *That the City of Crystal may place its 2020 Comprehensive Plan into effect with no plan modifications.*
 2. *That the plan meets all of the Metropolitan Land Planning Act requirements for 1998 plan updates.*
8. On May 29, 2009, the City submitted its 2030 Comprehensive Plan Update to the Council for review.
9. On June 16, 2009, the Council sent an “incomplete” letter to the City regarding the City’s 2030 Comprehensive Plan Update. It states:

The Update is incomplete for aviation. The City needs to clarify whether notification to protect the region’s general airspace resource is included in a local ordinance. While the Update (chapter M, item 1a) recognizes this need, it is not clear that the ordinance supports this. The Update needs to include a figure and associated text concerning the aircraft noise contours and application of the Land Use Compatibility Guidelines for Aircraft Noise as defined in the Transportation Policy Plan (TPP).
10. The June 16, 2009 letter also included advisory comments regarding aviation:

The Council staff finds that the Update is not in conformance with the TPP’s Aviation system plan. The Update’s policies reference the airport as being a non-conforming use, prohibit certain airside development, require conditional use permits for landside development, and require city council approvals for on-airport lands. The Update also indicates that the airport has a base zoning as low-density residential and identifies the airport as a redevelopment area. The Council may determine that the Update is, more likely than not, a substantial departure from the Aviation System Plan. The City needs to revise its policies to be in conformance with the aviation system plan.
11. On August 13, 2010, the Council received supplemental information regarding the City’s 2030 Comprehensive Plan Update. A second incomplete letter was sent to the City on September 3, 2010. With this letter, the Council found the Update complete for aviation, among other areas. However, the Update was still incomplete for housing, implementation, land use and regional parks.
12. The September 3, 2010 letter again included advisory comments related to aviation. It stated:

Council staff finds that the Update is not in conformance with the 2030 Transportation Policy Plan for the Aviation System....The Update needs revisions to conform to the TPP for the Aviation system. If the required revisions are not submitted, Council staff will recommend that the Metropolitan Council: 1) find that the Update is more likely than not to have a substantial impact on or contain a substantial departure from the TPP; and 2) require the City to modify the Update to:

- *Recognize that the MAC, designated in state law as an Airport Authority, has jurisdiction over its airport property and system operation that precludes City controls. For example:*

- *In Chapter F: Land use, the land use categories for the 2030 planned land use map includes a definition of “Airport LDR” as “Property owned by the MAC for the operation of the Crystal Airport. In the event that all or part of the airport is redeveloped for non-aviation uses, then the underlying guidance would be low density residential until such time as a Comprehensive Plan Amendment is adopted which reclassifies all or part of the airport site for other uses.”*

The Update correctly identifies boundaries of the airport property owned by the MAC and correctly guides it as “Airport”. However, the base zoning of the airport by the City is not within its purview, the MAC, within its own legal parameters and federal and state requirements, determines appropriate on-site development.

- *Remove references indicating that the airport is a potential redevelopment site. Chapter H: Redevelopment describes potential redevelopment areas. Area #2 is described as “Crystal Airport”. A LTCP has been approved for this airport and for the next twenty years or longer the facility is not planned to be closed. The results of the LTCP are included in the current TPP.*
- *Revise/remove the Aviation Policies city code section 515.69 and remove the “Established Residential Neighborhoods” safety criteria as a method of addressing aircraft noise.”*

Please see Attachment A for additional information regarding the aviation concerns discussed above.

13. On March 15, 2011 the Council received the City’s revised 2030 Comprehensive Plan Update.
14. In a letter to the City from the Council dated April 4, 2011, the Council found the City’s 2030 Comprehensive Plan Update complete for review. In that letter to the City, the Council again included advisory comments related to aviation. This letter stated:

The City’s Update substantially departs from the Council’s adopted metropolitan system plans for Aviation and, if implemented, will have a substantial impact on the regional Aviation system. Council staff, therefore, will recommend that the Metropolitan Council: 1) find that the City’s 2030 Comprehensive Plan Update is more likely than not to contain a substantial departure from the Aviation System Plan contained in the 2030 Transportation Policy Plan adopted in 2004 (which incorporates the 1996 Aviation Policy Plan) and 2) require the City to modify its 2030 Comprehensive Plan Update.

The letter also stated:

Council staff finds that the Update is not in conformance with the regional 2030 Aviation System Plan, which shows Crystal airport to be a part of the

regional aviation system through 2030. The Update identifies the airport land use as an overlay district with an underlying residential use. The Update also identifies the airport property as a future redevelopment site. To be in conformance with the regional Aviation System Plan, the airport must be guided in the City's Update as an airport without any qualifications. In addition, the aircraft noise portion of the Update is not in conformance with the regional Aviation System Plan. The Update states: "the city does not intend to adopt ordinance revisions implementing the Land Use Compatibility Guidelines for Aircraft Noise"; and the City's submittal information states: 'The city elects not to adopt or implement the Land Use Compatibility Guidelines for Aircraft Noise; neither the Transportation Policy Plan nor the enabling statute require the city to do so.' However, Appendix H of the 2004 Transportation Policy Plan does require that "Communities should assess their noise impact areas and include a noise program in their 2008 comprehensive plan," and no other noise program has been included in lieu of the Land Use Compatibility Guidelines for Aircraft Noise.

Metropolitan System Plan Impacts and Departures

1. According to the Council's 2030 Transportation Policy Plan (p.6), "each city and township in the seven-county metropolitan area is required, at least every 10 years, to review, and if necessary, amend its local comprehensive plan to ensure that the local plan—and local fiscal devices and official controls—are consistent with the Council's metropolitan system plans."
2. Pursuant to Minnesota Statute 473.864 these local plans are reviewed by the Council for conformance with metropolitan system plans, consistency with Council policies and compatibility with adjacent and affected governmental units.
3. According to the Council's 2030 Transportation Policy Plan, " a local comprehensive plan generally will conform with the metropolitan system plans if the local plan...accurately incorporates and integrates the components of the metropolitan system plans as required by Minnesota Statutes 473.851 to 473.871...for airports, aviation facilities, noise and safety zones and appropriate land uses surrounding these features."
4. The City of Crystal has submitted plan amendments and comprehensive plan updates to the Council. Since 1993, the City has been placed on notice that its actions or inactions, if not remedied, were bases for a plan modification.
5. The City has consistently failed to address these concerns by including references to closure of the Crystal airport, by maintaining references to low-density residential zoning for the Crystal airport, and by failing to adopt land use compatibility guidelines for aircraft noise.

CONCLUSION

In order to protect the regional aviation system, especially the Crystal airport, the Council finds that the City of Crystal's actions and non-actions with regard to language addressing closure of the Crystal airport, references to low density residential zoning for the Crystal airport and failure to adopt land use compatibility guidelines for aircraft noise constitute a substantial departure from the Council's 2030 Transportation Policy Plan (TPP) for Aviation.

NOW THEREFORE, BE IT RESOLVED that the Metropolitan Council:

1. Adopts the Metropolitan Council staff report dated April 28, 2011, as supplemented on May 11, 2011.
2. Finds that the City's proposed comprehensive plan update is more likely than not to have a substantial impact on or contain a substantial departure from the Council's metropolitan system plan for metropolitan transportation (aviation).
3. Requires the City of Crystal to modify its comprehensive plan to ensure conformity with metropolitan system plans. To ensure the City's plan conforms with the 1996 and 2005 policy plans for metropolitan transportation (aviation), the City must:
 - (a) Modify its comprehensive plan update by modifying the language in Chapters H and M of its plan as shown in Attachment 1. The City also needs to change the key on the 2030 Planned Land Use map by removing reference to low density residential following Airport designation. All references to closure or redevelopment of the airport in the CPU must be removed.
 - (b) Amend its zoning ordinance to be consistent with its CPU (which will designate Crystal airport as "airport" only), which is in conformance with the Council's 2030 Transportation Policy Plan (TPP) and the Council's 2004 Aviation Systems Statement.
 - (c) Adopt land-use compatibility guidelines for aircraft noise:
 - Map depicting aircraft noise zones of any adjacent airport(s) impacting the community
 - Identification of incompatible land use activities, recommended plan and strategy to remove incompatibility
 - Description of overlay zoning ordinance to be adopted for attenuation of aircraft noise
 - Description of local building codes as part of a strategy to implement noise attenuation of aircraft noise
 - (d) Address issues and changes included in Table 1: Required Changes to the 2030 Crystal Comprehensive Plan Update.
4. Directs Council staff to work cooperatively with the City and its staff and provide assistance to the City so the City can amend its comprehensive plan update with the required plan modifications consistent with the nine-month requirement specified in Minnesota Statutes sections 473.175, subdivision 3 and 473.864, subdivision 1.

Adopted this ____ day of ____, 2011.

Susan Haigh, Chair

Dawn Hoffner, Recording Secretary

05/11/2011

Attachment 2

Table 1: Required Changes to the 2030 Crystal Comprehensive Plan Update

Reference No.	Text to be Modified	Chapter/Section
	Text to be modified is in indicated in <i>Italics</i>. All text references are to the March 8, 2011 2030 Crystal Comprehensive Plan Update 'marked changes' version, received by the Metropolitan Council on March 15, 2011.	
1.	Remove: <i>In the event that all or part of the airport is redeveloped for non-aviation uses, then the underlying guidance would be Low Density Residential until such time as a Comprehensive Plan Amendment is adopted which reclassifies all or part of the airport site for other uses.</i>	Land Use/ Land Use Categories
2.	Remove: All references to Low Density Residential (LDR) associated with the Airport land use guiding designation in <i>Figures F-1(a & b), F-2(a & b), and F-3(a & b)</i> as well as in any other maps, tables and text.	Land Use/ Land Use Categories; other sections & chapters as needed
3.	Remove (under Descriptions of Specific Potential Redevelopment Areas): <i>Area # 2. The Crystal Airport is one of six 'reliever airports' owned and operated by the Metropolitan Airports Commission ("MAC"). Closure and redevelopment of the Crystal Airport site are preferred by the city under the current Comprehensive Plan, mainly due to safety concerns (hundreds of housing units in the safety zones) and little local benefit from the facility. MAC has adopted a Long Term Comprehensive Plan (LTCP) for the facility which would eliminate two of the four runways (one primary and one crosswind) and attempt to redevelop a small share of the site for as-yet-undetermined non-aviation purposes. MAC has not indicated they intend to close the facility, but the type of aviation using this airport is in decline, regionally and nationally. At any point in the future, it is conceivable that MAC may determine that the continued operation of the Crystal Airport is no longer warranted. The 436 acre airport site (336 in Crystal) offers the greatest opportunity in the northwest suburbs and along the Bottineau transit corridor for significant infill development including new employment centers and housing. For this reason the entire airport site remains a potential redevelopment area, though any such redevelopment would depend on future decisions by MAC regarding the continued operation of the Crystal airport and conversion of all or part of the property to non-aviation use. For the purposes of this plan, it is assumed that the Crystal Airport will still be in operation in 2030 and no non-aeronautical development will have occurred on the site.</i>	Redevelopment/ Descriptions of Potential Redevelopment Areas
4.	Remove: <i>This chapter addresses the role of the Crystal Airport in the regional aviation system, describes the city's policies for accommodating the continued operation of the facility by the Metropolitan Airports Commission, and reaffirms the city's position favoring closure of the airport and redevelopment of the site.</i> OR Leave text in document and add qualifying sentence to the statement: <i>"The City recognizes that its position on closure of the airport does not conform to the adopted metropolitan aviation system plan adopted by the Metropolitan Council as part of its 2030 Transportation Policy Plan, nor is it consistent with MAC's Long Term Comprehensive Plan (LTCP) for the airport.</i>	Aviation/ Overview
5.	Remove: <i>However, the City does not intend to adopt ordinance revisions implementing the Land Use Compatibility Guidelines for Airport Noise.</i> Add text adopting noise standards based upon the following requirement: Appendix H of the 2004 Transportation Policy Plan requires that "Communities should assess their noise impact areas and include a noise program in their 2008 comprehensive plan." (No other noise program has been included in lieu of the Land Use Compatibility Guidelines for Aircraft Noise.)	Aviation/ Background
6.	Remove: <i>In Crystal, the airport is zoned R-1 Low Density Residential for future planning purposes with an Airport Overlay district recognizing the continued operation of the Crystal Airport.</i>	Aviation/ Background
7.	Remove: <i>One of the goals of MAC's LTCP is to allow some small parts of the airport to be used for non-aeronautical, revenue generating business property. Such use would require City Council approval in the form of an amendment to the city's Comprehensive Plan, revisions to the Zoning Map and possibly a Conditional Use Permit depending on the specific use proposed.</i>	Aviation/ Background
8.	Remove: <i>However, the city recognizes that it does not have the authority to close the Crystal Airport. For this reason, the city's aviation policies are as follows: c) If MAC proposes non-aeronautical uses on part of the airport site, the city will consider such Comprehensive Plan amendments, Zoning Map revisions and Conditional Use Permits in accordance with the city's normal exercise of its land use authority for such uses.</i>	Aviation/ Policies



June 16, 2009

John Sutter, Planner, Assistant Community Development Director
City of Crystal
4141 Douglas Drive North
Crystal, MN 55422

RE: **City of Crystal 2030 Comprehensive Plan Update
Incomplete for Review**
Metropolitan Council Review File No. 20598-1
Metropolitan Council District 6, Peggy Leppik

Dear Mr. Sutter:

Thank you for the submittal of the City of Crystal's 2030 Comprehensive Plan Update (Update) received on May 29, 2009. Council staff finds the City's Update incomplete for review. The Council's review will be suspended until the City submits the requested materials, and Council staff has an opportunity to evaluate them.

REQUIRED MATERIALS

Aviation (Chauncey Case, 651-602-1724)

The Update is incomplete for aviation. The City needs to clarify whether the "notification" to protect the region's general airspace resource is included in a local ordinance. While the Update (chapter M, item 1a) recognizes this need, it is not clear that the ordinance supports this.

The Update needs to include a figure and associated text concerning the aircraft noise contours and application of the *Land Use Compatibility Guidelines for Aircraft Noise* as defined in the *Transportation Policy Plan (TPP)*.

Advisory Comments:

The Update (item 1b) recognizes that the airspace and land use safety zones for the Crystal Airport, as developed by the joint airport/community zoning board in 1983, continue to need protection. The Council has approved the *Crystal Airport 2025 Long-Term Comprehensive Plan (LTCP)*. It is anticipated that the Metropolitan Airports Commission (MAC) and affected communities will review and update current ordinance to reflect the runway changes. Therefore, the Update needs to remove Figure M-2.

The Council staff finds that the Update is not in conformance with the *TPP's* Aviation system plan. The Update's policies reference the airport as being a non-conforming use, prohibit certain airside development, require conditional use permits for landside development, and require city council approvals for on-airport lands. The Update also indicates that the airport has a base zoning as low-density residential and identifies the airport as a redevelopment area. The Council may determine that the Update is, more likely than not, a substantial departure from the Aviation System Plan. The City needs to revise the policies to be in conformance with the aviation system plan.

Forecasts (Todd Graham, 651-602-1322)

The Update is incomplete for forecasts review. While the City proposes population, household and employment forecasts that are lower than the Council's 2005 System Statement, the forecasts need to be consistent throughout the document.

The revised forecasts are based on the full development, limited land supply, and redevelopment constraints imposed by state law (eminent domain for redevelopment). The Council staff finds these reasonable and acceptable. Therefore, the Metropolitan Council's forecasts will be officially revised (shown below) effective on the Council's final action on the Update. The City needs to:

- Resolve inconsistency between the forecasts in Chapter E and Chapter "O." The Chapter "O" forecasts need to be replaced with the accepted forecasts shown below.
- Reflect these forecasts in the Transportation Analysis Zones table.
- Reflect the household forecast in the City's affordable housing needs calculation.

	POP 2010	POP 2020	POP 2030	HH 2010	HH 2020	HH 2030	EMP 2010	EMP 2020	EMP 2030
TOTAL	22,500	22,200	22,500	9,700	9,900	10,200	5,900	6,300	6,600
Metro System	22,500	22,200	22,500	9,700	9,900	10,200	5,900	6,300	6,600

Housing (Linda Milashius, 651-602-1541)

The Update is incomplete for housing review. The Update needs to acknowledge the City's share of the regional affordable housing need for 2011 to 2020 which is 87 units to reflect a lower household forecast. The Update needs to provide the allowable density ranges for residential land use categories, and clarify whether the additional 21 acres of high density residential development (Table F-2) includes the anticipated residential use in the redevelopment sites.

Please use the *Land Use table* discussed below in the Land Use comments to enable the Council to determine if the City will accommodate the affordable units at the appropriate densities.

Implementation (Tori Dupre, 651-602-1621)

The Update is incomplete for implementation. The Update needs to include the City's CIP, a zoning map and description of official controls.

Individual Sewage Treatment Systems (ISTS) (Jim Larsen, 651-602-1159)

The Update is incomplete for ISTS review. While the City's current (2000) comprehensive plan indicates that there was one ISTS in operation, the Update is silent on ISTS. The City needs to indicate whether the one remaining ISTS present in 2000 has been connected to the local sanitary sewer system, or continues to operate. If the ISTS is operational, the City needs to discuss its ISTS program criteria, and how it monitors ISTS operation and maintenance.

Land Use (Tori Dupre, 651-602-1621)

The Update is incomplete for land use. The Update needs to include the table entitled *Land Use in 5-Year Stages* available at <http://www.metrocouncil.org/planning/LPH/forms/LandUse5year.xls>.

The City needs to confirm that Table F-1, showing future land use categories and acreages based on the current version of the future land use map, is a substitute for the City's existing land use. The Update needs to include a description of existing and future land use categories shown on the maps, the gross and net acres, and the residential density range (minimum and maximum) for each residential land use.

Local Surface Water Management (Judy Sventek 651-602-1156)

The Update is incomplete for surface water management review. The City lies within the Bassett Creek and Shingle Creek watersheds. The latest watershed management plans prepared by the Bassett Creek and Shingle Creek Watershed Management Commissions were approved by the Board of Water and Soil Resources in 2004. Crystal was required to prepare a local surface water management plan (SWMP) update in 2006. The Update states that the SWMP is being prepared and will be submitted as a separate document to the Council for review. The SWMP was due in 2006, and the Update will be incomplete until the Council receives the SWMP.

Parks (Jan Youngquist, 651-602-1029)

The Update is incomplete for regional parks review. The *2030 Regional Parks Policy Plan* identifies two proposed regional trails in Crystal: the Crystal Lake Regional Trail and the Bassett Creek Regional Trail. The Update needs to revise the following:

- The regional trails are described in the Non-Motorized Transportation Chapter (Chapter K, page 76), but are referred to as multi-use paths instead of regional trails. The regional trails need to be described and referenced, with a notation that Three Rivers Park District will be the implementing agency for these trails. The regional trail described in the Non-Motorized Transportation Implementation Items section, Number 4, is known as the Crystal Lake Regional Trail. The regional trail described in Number 5 of that section is known as the Bassett Creek Regional Trail.
- The Update indicates that it is the policy of the City to consider a combined bike lane and sidewalk to be an acceptable substitute for a multi-use path. It refers to regional trails as multi-use paths. Since regional trails are typically a minimum 10 feet wide to safely accommodate multiple uses, the Update needs to make a distinction between a regional trail and a multi-use path.
- The proposed Crystal Lake Regional Trail needs to be labeled on the Non-Motorized Transportation Maps (Figures K-1 and K-2).
- The proposed Bassett Creek Regional Trail needs to be labeled on the Non-Motorized Transportation Maps (Figures K-3 and K-4).
- The proposed Crystal Lake Regional Trail and Bassett Creek Regional Trail need to be labeled on the Planned Ultimate Trails System Maps (Figures N-8, N-10, N-12 and N-14).

Three Rivers Park District will be working with affected jurisdictions to plan the alignment of the Bassett Creek Regional Trail. Since a master plan finalizing the alignment for the regional trail has not been completed and subsequently approved by the Metropolitan Council, the general alignment of the trail is shown in the Council's Parks Policy Plan. To be in conformance with the *2030 Regional*

Parks Policy Plan, the Update needs to acknowledge the general trail alignment, as shown in the Parks System Statement, generally following 32nd Avenue through Crystal.

It is understood that the City of Crystal prefers an alternate alignment for the trail and has been discussing the trail alignment with Three Rivers Park District. Council staff encourages the City and Three Rivers Park District to explore options for the regional trail alignment during the master planning process. A notation may be added to the Update that the City and Three Rivers Park District will work together to determine the final trail alignment. If the final alignment of the regional trail changes during the master planning process, the comprehensive plan will need to be amended.

Resource Protection (Tori Dupre, 651-602-1621)

The Update is incomplete for resource protection. The Update needs to address the protection of historic sites, solar access and aggregate deposits. The Local Planning Handbook provides resource protection assistance at <http://www.metrocouncil.org/planning/LPH/LPHSect3.pdf#page=10>.

Transportation (Ann Braden, 651-602-1705)

The Update is incomplete for transportation and transit. The Update needs to describe, designate and schedule the location, extent, function and capacity of facilities for all transportation modes within the municipality. To ensure the rational and economical development of the regional transportation system, the local transportation plan must include or address the following components:

- An allocation of 2030 socioeconomic forecasts by TAZ that total the forecasts agreed upon between the city and the Council's Research unit.
- Forecasted 2030 traffic volumes and a narrative explaining how the local forecasts were developed.
- Access Management Guidelines of MnDOT and/or Hennepin County.
- The statement that Crystal is in Transit Market Area II, which may include regular route locals, all day expresses, small vehicle circulators, special needs paratransit and ridesharing.
- A list of the non-fixed route providers serving Crystal, such as Metro Mobility, PRISM, and Five Cities Transportation.

Advisory Comments:

The Update includes non-motorized transportation policies and public transit policies, but provides no overall transportation policies. The Update's Roadway functional classification identifies Winnetka Avenue (north of Bass Lake Rd) as a "**minor collector**"; This segment is identified as a "**B-Minor Arterial**" in the TAB-adopted map. The Update identifies a number of "collector" roadways that are not identified on the TAB-adopted map. To include these "collectors" on the TAB map, the City needs to formally request that they be added through the TAC-Planning Committee, which is a separate process outside the Update review.

Transit:

- Metro Transit route changes were implemented on May 30, 2009. Route 715 no longer exists. New Route 705 and Route 717 now serve the City.

- The system statement from the Metropolitan Council indicates there is a park and ride at Praise Christian, but that facility closed a few years ago. The City is correct in not including it in their Plan.

Wastewater (Roger Janzig, 651-602-1119)

The Update is incomplete for wastewater and needs to include the map of an updated sanitary sewer map that shows the current and future trunk sewer system for the City. The map needs to be a readable size.

The City and the Metropolitan Council agreed to lower the growth projections for the City based on the numbers shown in the informal Plan submittal. Table O-1 in the sanitary sewer section of the plan is still based on the Council's original numbers. The City needs to revise the table to reflect the accepted lower growth projections and respective lower flow projections.

Water Supply (Sara Smith, 651-602-1035)

The Update is incomplete for water supply. The Update needs to reference the Joint Water Commission's (JWC) water supply plan. The City is a member of the (JWC), a partnership that includes the cities of Golden Valley and New Hope, which jointly own and operate the water supply that stores and transmits potable drinking water through the three-City service area. The JWC completed and submitted a single water supply plan that meets the Council's water supply plan requirements.

To expedite the Council staffs' review of supplemental materials submitted in response to incomplete items, please provide a cover memo that outlines how the City addresses these items in the new material. Send one hard copy and one electronic copy (PDF) on disc to Cheryl Olsen, Reviews Coordinator. Please contact Tori Dupre, Sector Representative, at 651-602-1621 or the technical review staff with questions.

Sincerely,



Phyllis Hanson, Manager
Local Planning Assistance

CC: Peggy Leppik, Metropolitan Council District 6
Tori Dupre, Principal Reviewer / Sector Representative
Cheryl Olsen, Reviews Coordinator

Attachment 4



September 3, 2010

Mr. John Sutter, Planner, Assistant Community Development Director
City of Crystal
4141 Douglas Drive North
Crystal, MN 55422

RE: **City of Crystal 2030 Comprehensive Plan Update – Incomplete for Review**
Metropolitan Council Review File No. 20598-1
Metropolitan Council District 6, Peggy Leppik

Dear Mr. Sutter:

Thank you for sending supplemental information regarding the City of Crystal's 2030 Comprehensive Plan Update (Update), which the Council received on August 13, 2010. Staff appreciated the very clear presentation of the revised materials.

The Metropolitan Council originally received the Update on May 29, 2009. On June 16, 2009, Council staff found the Update to be incomplete for review in the areas of *aviation, forecasts, housing, implementation, ISTS, land use, local surface water management, regional parks, resource protection, transportation, wastewater and water supply*. The supplemental information has allowed Council staff to find the Update complete for review for *aviation, forecasts, ISTS, local surface water management, resource protection, transportation, wastewater and water supply*. However, the Update remains incomplete for *housing, implementation, land use and regional parks*. For this reason, the Council has suspended formal review of the Update until it receives the additional material discussed below. Please note important advisory comments for *aviation* as well as comments for *forecasts* and *land use* that were identified in the evaluation.

REQUIRED INFORMATION

Housing - Linda Milashius, (651-602-1541)

The Update is incomplete for Housing. The Update acknowledges the City's share of the region's affordable housing need for 2011-2020 (87 units), and cites the City's official controls and the implementation programs it will use to assist in the development of affordable housing. However, to complete the evaluation of the housing component, the Update needs to provide consistent mapped and tabular land use information and provide additional information on redevelopment areas (see the reviewer comments for land use).

Implementation - Denise Engen (651-602-1513)

The Update is incomplete for implementation. The Council's letter of June 16, 2009 requested information on the City's zoning ordinance, capital improvement program (CIP) and official controls. The supplemental materials included a copy of the City's zoning ordinance and CIP program as appendices. In addition, the main body of the Update needs to include a short section summarizing the city's controls and fiscal devices. Staff can provide you with examples of how other communities have presented this information.

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Land Use - Denise Engen (651-602-1513)

The Update is incomplete for land use. To complete its review of the City's land use plan, Council staff needs additional detail in the areas discussed following.

- *Consistency of mapped and tabular information.* The Update indicates that the City has guided land into 17 land use categories. The Update also indicates that these are described in the Chapter overview, mapped in Figures F-3(a) and F-3(b) and quantified in Table F-1, which is based upon the Council's Land Use Table in Five-Year Stages. However, the categories do not fully correspond between the description, figures and the table. (There are categories, such as "Other Undev (LDR)" which are described in the overview and mapped, but are not found in the table and vice versa.) The table should only use the categories from the City's Planned Land Use map; if there are categories "leftover" from the Council's example table that the City does not use, they should be deleted from the table. Please clarify what are the City's land use guiding categories and ensure that the categories are used consistently throughout the Update.
- *Assigning a minimum density to all residential land uses.* Currently, the Low Density Residential (LDR) category has a minimum allowed density of zero. Please assign a minimum density figure to LDR. The Council's review for regional land use policy requires numeric information be provided in the Update on the minimum and maximum units per net developable acre for each land use category that allows residential uses. These figures must be greater than zero. (In the urban area, a minimum density of 1 or 1.5 units per acre needs to be considered as the lowest of the Low Density Residential range.) If desired, a footnote may be added to the table if clarifying that the value is an assumption used for planning purposes.
- *Meeting the City's proposed forecasts.* The planned land use does not appear to accommodate the City's forecasted household growth of approximately 851 units, achieving approximately half the forecasted households even at the highest allowable densities. A further reduction of forecasts may be appropriate. For more information, please see the advisory comment section of this letter.
- *Redevelopment/Infill Development Information.* The Update gives a good description of redevelopment areas in Chapter H: Redevelopment. Some clarification is requested on how to apply that information in the Council's review.
 - Summary information included in Chapter F: Land Use indicated that, of the 23 potential redevelopment areas in the City, 20.8 acres would be mixed-use development, with a High-Density Residential (HDR) component. Are these 20.8 mixed-use acres that are developed with a partial HDR component (if so, what percent of the area is expected to be residential), or are the 20.8 acres all HDR at 100 percent residential? Staff notes that the Update does not have a mixed-use land use category.
 - Which redevelopment areas does the 20.8 acres draw from? Is any of the acreage from redevelopment area #2 - Crystal airport? If so, please provide information for redevelopment areas that does not include the airport. It would be helpful to provide a table with acreage by redevelopment area and the land use category of potential re-use. Staff can provide examples of how other communities have presented this information.
 - The information in Table F-2 would be better provided as discussed above. Staff recommends deleting Table F-2.

Regional Parks – Jan Youngquist, (651-602-1029)

The Update is incomplete for regional parks review. In order to be complete for review and conform to the *2030 Regional Parks Policy Plan*, the alignment of the proposed Bassett Creek Regional Trail, as depicted in the City's System Statement, needs to be shown on the Non-Motorized Transportation Map (Figure K-1(b)) and the Planned Ultimate Trails System Map (Figure N-8(a) South Half).

Three Rivers Park District will be working with affected jurisdictions to plan the alignment of the Bassett Creek Regional Trail. However, since a master plan finalizing the alignment for the regional trail has not been approved by the Metropolitan Council, the general alignment of the trail as shown in the Council's *2030 Regional Parks Policy Plan* and in the City's System Statement needs to be acknowledged in the Update.

Council staff acknowledges that the City of Crystal prefers an alternate alignment for the trail, which is shown on Figures K-1(b) and N-8(a) South Half. This proposed alignment may also be shown on these maps and labeled as the City's preferred alignment. Council staff encourages the City and Three Rivers Park District to explore options for the regional trail alignment during the master planning process. If the trail alignment changes based on the completion of a master plan, the Update may be amended.

ADVISORY INFORMATION

Aviation - Chauncey Case, (651-602-1724)

The Update is complete for aviation. However, Council staff finds that the Update is not in conformance with the *2030 Transportation Policy Plan (TPP)* for the Aviation system. The Update's text and policies refer to the airport as being accommodated by an airport overlay that allows the airport to continue operating; prohibits expansion of runways; permits landside facilities only as low-density residential development (LDR) and requires City Council approval for other types of uses; applies safety criteria to address aircraft noise compatibility; and raises airport need, safety and redevelopment issues, which were addressed in the Metropolitan Airport Commission's (MAC) recent Long Term Comprehensive Plan (LTCP) for the Crystal Airport.

The Update needs revisions to conform to the *TPP* for the Aviation system. If the required revisions are not submitted, Council staff will recommend that the Metropolitan Council: 1) find that the Update is more likely than not to have a substantial impact on or contain a substantial departure from the *TPP*; and 2) require the City to modify the Update to:

- Recognize that the MAC, designated in state law as an Airport Authority, has jurisdiction over its airport property and system operation that precludes City controls. For example:
 - In Chapter F: Land Use, the land use categories for the 2030 planned land use map includes a definition of "Airport (LDR)" as "Property owned by the MAC for the operation of the Crystal Airport. In the event that all or part of the airport is redeveloped for non-aviation uses, then the underlying guidance would be low density residential until such time as a Comprehensive Plan Amendment is adopted which reclassifies all or part of the airport site for other uses".

The Update correctly identifies boundaries of the airport property owned by the MAC and correctly guides it as "Airport". However, the base zoning of the airport by the City is not within its purview, the MAC, within its own legal parameters and federal and state requirements, determines appropriate on-site development.

- Remove references indicating that the airport is a potential redevelopment site. Chapter H: Redevelopment describes specific potential redevelopment areas. Area #2 – is described as “Crystal Airport”. A LTCP has been approved for this airport and for the next twenty years or longer the facility is not planned to be closed. The results of the LTCP are included in the current *TPP*.
- Revise/remove the Aviation policies city code section 515.69 and remove the “Established Residential Neighborhoods” safety criteria as a method of addressing aircraft noise.


Please see Attachment A for additional information regarding the aviation concerns discussed above.

Land Use and Forecasts - Denise Engen (651-602-1513), Todd Graham (651-602-1322)

- *Meeting the City's proposed forecasts.* The planned land use does not appear to accommodate the City's forecasted household growth of approximately 851 units, even at the highest allowable densities. The Update contains a thorough discussion of redevelopment areas, but does fully not address how the City, as guided, will be able to grow from 9,349 households (the Council's 2009 estimate) to 10,200 households (the City proposed 2030 forecast). Council staff would like to discuss these concerns meet with City staff. A further reduction of forecasts may be appropriate at the City's request.

City of Crystal – Forecasts as Proposed in Update				
	2000	2010	2020	2030
Population	22,698	22,000	22,200	22,500
Households	9,389	9,700	9,900	10,200
Employment	5,638	5,900	6,300	6,600

Council staff is happy to work with you to resolve these issues. Once staff finds the information in the Update is sufficiently complete to determine its impact to regional systems and adjacent communities, the Council's formal review process will be restarted. To expedite Council staff's review of supplemental materials submitted in response to incomplete items, once again please provide a cover memo that outlines where and how the incomplete items are addressed in the new material. If you have any questions about the information requested in this letter or about the review process, you may either contact the listed technical reviewers directly or Denise Engen, Principal Reviewer (651-602-1513, denise.engen@state.mn.us), or Susan Hoyt (651-602-1330, susan.hoyt@metc.state.mn.us).

Sincerely,

Phyllis Hanson, Manager
Local Planning Assistance

cc: Peggy Leppik, Metropolitan Council District 6
Denise Engen, Sector Representative/Principal Reviewer
Susan Hoyt, Planning Analyst
Cheryl Olsen, Reviews Coordinator

Attachment A

Aviation Information

City of Crystal 2030 Comprehensive Plan Update – Review File No. 20598-1

Review Status:

The Metropolitan Council received the City of Crystal's 2030 comprehensive plan update (Update) submittal on May 29, 2009. Council staff reviewed the Update, and on June 16, 2009 found that that the plan was incomplete for review in a number of areas—including the aviation system. The Council's incomplete letter further indicated that the Council may determine that the Update is, more-likely-than-not, a substantial departure from the Aviation System Plan. The City responded to the Council's comments and resubmitted the Update for review on August 13, 2010. The Update is now complete for aviation review, but various issues remain. The following discussion indicates why a plan modification is being recommended.

Background:

In the review of the City's previous (2020) comprehensive plan in 2000, a number of continuing issues concerning the Crystal Airport (MIC) were raised by the Council. However, no plan modifications were required since the needed aviation information was to be prepared in an update to the MIC long-term comprehensive plan (LTCP), including an evaluation on closure of the facility as requested by the City. The Metropolitan Airports Commission (MAC) established a Reliever Airport Task Force for its airports, reviewed/ revised the rates-and-charges for these airports and initiated updates to the LTCP's. The City participated in the MIC update, which was adopted by the MAC in 2008.

Results of the 2025 Crystal Airport LTCP indicated that:

- An airport closure process was identified, but MIC would not be closed;
- Two runways would be removed;
- Remaining runways not to be extended;
- Portions of the facility are to be used for non-aeronautical* development, as a revenue enhancement measure.

**It should be noted that the term "non-aeronautical" development is somewhat a misnomer in that under the MAC request to FAA the proposed potential development parcels at its reliever airports are to be considered as "concurrent uses", meaning the property is not being released for sale, (which would require a Comprehensive Plan Amendment), but would be leased, and still part of the airport. The concurrent uses are considered to be complementary to aviation needs and support services; residential use is not allowed.*

Legal Authority:

Clarifying the roles and responsibilities of the various local governmental units can help resolve many related issues. The key area of confusion regarding legal authority concerning comprehensive community and airport plans, relates to perceptions and understandings regarding statutory authority/requirements. The Metropolitan Airports Commission enabling legislation gives overall authority to own, operate and control its properties and has primary authority over land use controls on its property (MS 473.608, Sd 17 and 473.655); this authority includes local zoning control.* In leases between MAC and airport tenants, MAC has required tenants at MIC and other Reliever Airports to obtain building permits from local municipalities, but the use allowed on airport property is a MAC decision.

**The Minnesota Attorney General's office has ruled in response to a request made by the City of Eden Prairie, that "...notwithstanding the impact which its acquisition of property for airport uses may have upon legitimate local*

interests, MAC would, nevertheless, be deemed exempt from local zoning and subdivision ordinances purporting to regulate such activities.”)

Therefore, the following Update text should be removed:

- “In Crystal, the airport is zoned R-1 low density residential.” (Pg. 111)
- “Crystal’s zoning ordinance has an Airport Overlay that allows the airport to continue operating”. (Pg. 111)
- “Expansion of runways is prohibited”. (Pg. 111)
- “Expansion of hangar areas or related landside facilities is permitted”. (Pg. 111)
- “Unless such new use would be low density residential, it would require City Council approval in the form of an amendment to the city’s Comprehensive Plan, revisions to the Zoning Map and possibly a Conditional Use permit depending on the specific use proposed”. (Pg. 112)
- “Allow airport facilities, buildings and uses in accordance with City Code Section 515.69 (Zoning-Airport Overlay”. (Pg. 113)
- “If MAC proposes non-aeronautical uses on part of the airport site, the city will consider such Comprehensive Plan amendments, Zoning Map revisions and Conditional Use Permits in accordance with the city’s normal exercise of its land use authority for such uses”. (Pg. 113)
- City policy number two. (Pg. 113)

LTCP Approval:

Since 2000, a number of actions have been taken to address the City’s concerns regarding MIC.

- The MAC Reliever Task Force prepared:
 - new rates and charges, which are now being applied at their reliever airports to improve funding;
 - a separate study to assess the process and costs of closing MIC;
 - new forecasts; and
 - an update to MIC’s LTCP, the *2025 Crystal Airport LTCP*.
- The Council approved the *2025 Crystal Airport LTCP* October 22, 2008. Changes affecting MIC were included in revisions to the Council’s *2030 Transportation Policy Plan (TPP)* by:
 - Retaining the Crystal Airport system role of “Minor” airport,
 - Eliminating General Aviation search area (A) (reflects system demand/capacity conditions)
 - Concurs with fulfillment of Crystal LTCP objectives.

These actions are consistent with the *TPP* aviation goals/principles and aviation Policy 26, which indicates public investments in air transportation facilities should respond to forecast needs and the region’s ability to support the investments over time. Policy Strategy 26a states “airport sponsors should maintain and enhance existing facilities to their maximum capability, consistent with the *Development Framework*, prior to investing in new facilities”. A major consideration in these lengthy and expensive efforts was to reduce system costs, improve capability to be more financially self-sufficient, and restore confidence that the facility would be supported through the 2030 planning horizon and beyond.

The decision on future status of a designated system airport involves a process with many partners. The airport is to remain in place for the foreseeable future. Until a decision is made to the contrary, the community’s comprehensive plan should not be distractive or uncooperative in development and compatibility efforts at the

Crystal Airport. The Update should remove text that talks about closure or redevelopment of MIC, a public facility, to encourage user reinvestment and be consistent with the *TPP*. The text (pg. 48) and the graphics (e.g. pg. 54), defining Crystal Airport as a potential redevelopment area should be removed from the Update.

Airport Safety Compatibility

TPP Aviation Policy 24 concerns the protection of the region's airspace resource and operational safety within both general airspace but also airport-specific airspace. Policy Strategy 24c, on Airport/Community Zoning, indicates that joint airport/community zoning boards should be established at each system airport to develop and adopt an airport safety zoning ordinance. According to MnDOT, a joint airport zoning board ordinance for MIC was approved in 1983. It appears that the current ordinance will have to be updated to reflect the 2025 LTCP plan that removes two existing runways. It is anticipated that a revised ordinance will result in fewer homes being within state and federal safety zones. The airport has an FAA air traffic control tower, adequate landing and navigational aids to fulfill its system role, and is currently operating in a safe manner. The safety zoning ordinance prevents potential obstructions to air navigation.

The Update states "Because the Crystal Airport is embedded in a predominantly residential area and there are hundreds of residences within the safety zones, there shall be no expansion of runways or other changes that would further increase the safety hazard" (pg. 113). This text should be removed since the City has no authority concerning runway expansion, and the approved LTCP includes changes that improve the safety level for what is already a safe airport.

Airport Noise Compatibility

TPP Policy 25 concerns Airports and Land Use Compatibility as regards aircraft noise. Policy Strategy 25e on Aircraft Noise Abatement and Mitigation indicates that communities and aviation interests should work together on noise abatement and mitigation. Local comprehensive plans and ordinances for communities affected by aircraft noise should incorporate the *Land Use Compatibility Guidelines for Aircraft Noise* (*TPP* Appendix M).

City policy states "The city will apply the Land Use Compatibility Guidelines for Aircraft Noise contained in the Council's Transportation Policy Plan, except that the city will not apply said guidelines to 1) additions to existing structures located within [established residential neighborhoods], or 2) scattered site redevelopment of individual parcels within established residential neighborhoods". (Pg. 113)

It should be clarified that "established residential neighborhoods" is a definition of single-family residential housing exempt from state safety zone application. Use of safety related criteria and zones concerning established residential neighborhoods is not germane to application of noise criteria. A home may be safe, but that does not mean it affords sufficient acoustic protection. The City's policy should be revised to reflect the text in the Guidelines and the Builders Guide as relates to items 1 and 2 discussed previously.

Attachment 5



Metropolitan Council

April 4, 2011

Mr. John Sutter
City Planner/Assistant Community Development Director
City of Crystal
4141 Douglas Drive North
Crystal, Minnesota 55422

RE: City of Crystal Comprehensive Plan Update – System Departure & Complete for Review
Metropolitan Council Review File No. 20598-1
Metropolitan Council District 6, James Brimeyer

Dear Mr. Sutter:

Thank you for the revised 2030 Comprehensive Plan Update (Update) which the Metropolitan Council (Council) received on March 15, 2011. The City's original Update was received on May 29, 2009 and on June 16, 2010 was found incomplete for review for aviation, forecasts, housing, implementation, ISTS, land use, local surface water management, regional parks, resource protection, transportation, wastewater and water supply. The Council received supplemental information from the City on August 13, 2010. Council staff found the Update incomplete for housing, implementation, land use and regional parks and provided advisory comments on aviation, forecasts and land use on September 3, 2011. The Council staff review of the supplemental information received on March 15, 2011 finds the Update complete for review.

However, the City should be aware of the following:

Aviation

The City's Update substantially departs from the Council's adopted metropolitan system plans for Aviation and, if implemented, will have a substantial impact on the regional Aviation System. Council staff, therefore, will recommend that the Metropolitan Council: (1) find that the City's 2030 Comprehensive Plan Update is more likely than not to contain a substantial departure from the Aviation System Plan contained in the 2030 Transportation Policy adopted in 2004 (which incorporates the 1996 Aviation Policy Plan) and (2) require the City to modify its 2030 Comprehensive Plan Update.

As permitted by Minnesota Statutes section 473.175, subdivision 1, the Council may require a local governmental unit to modify its comprehensive plan or part thereof that is inconsistent with the metropolitan system plan if the Council concludes that the local plan is more likely than not to have either a substantial impact on, or to contain a substantial departure from, the Council's adopted policy plans and capital budgets for metropolitan transportation service.

The Council staff finds that the Update is not in conformance with the regional 2030 Aviation System Plan, which shows Crystal airport to be a part of the regional aviation system through 2030. The Update identifies the airport land use as an overlay district with an underlying residential use. The Update also identifies the airport property as a future redevelopment site. To be in conformance with the regional Aviation System Plan the airport must be guided in the City's Update as an airport without any qualifications. In addition, the aircraft noise portion of the Update is not in conformance with the regional Aviation System Plan. The Update says, "the city does not intend to adopt ordinance revisions implementing the Land Use Compatibility Guidelines for Aircraft Noise"; and the City's submittal information states, "The city elects not to adopt or implement the Land Use

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Compatibility Guidelines for Aircraft Noise; neither the Transportation Policy Plan nor the enabling statute require that the city do so.” However, Appendix H of the 2004 Transportation Policy Plan does require that “Communities should assess their noise impact areas and include a noise program in their 2008 comprehensive plan,” and no other noise program has been included in lieu of the Land Use Compatibility Guidelines for Aircraft Noise.

The Council staff informed the City of this potential non-conformance to the Aviation System Plan in the two prior incomplete letters dated June 16, 2009 and September 3, 2010. (Attached)

In accordance with state law, the Council has 120 days to complete its formal review of the City’s Update which ends on July 13, 2011. The Update reviews go to the Council’s Community Development Committee (CDC) and then to the Council for action. Council staff will communicate with the City about any action being taken. The tentative schedule for a plan modification hearing and review is:

- April 18 CDC Presentation on the proposed Plan Modification
- May 2 CDC Request to schedule a public hearing on the plan modification
- May 16 CDC Holds public hearing .
- June 6 CDC Considers information and takes action
- June 22 Metropolitan Council considers and takes action

ADVISORY INFORMATION

Housing – Linda Milashius (651-602-1541)

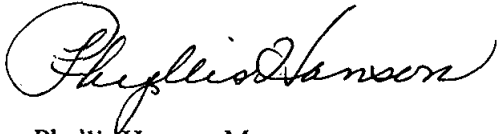
The Update is complete for housing. The Update cites the City’s official controls and the implementation programs it will use to assist in the development of affordable housing, and shows how the City is guiding land for residential development through 2030. The Update acknowledges the City’s share of the region’s affordable housing need for 2011-2020 (87 units). However, the Update does not guide a sufficient amount of residential land at higher densities to provide the opportunity for development to meet that need. Absent enough land guided at densities to facilitate affordable housing development, the Update is inconsistent with Council policy and the requirements of the Land Planning Act. This situation also raises concerns about the city’s ability to pursue its affordable and lifecycle housing goals as a Livable Communities Act participating community. Before final adoption, this comprehensive plan update should be amended to guide a sufficient amount of land that could be developed at higher residential densities to accommodate the city’s share of the region’s affordable housing need. For additional information, also see the reviewer comments for land use.

Land Use – Denise Engen (651-602-1513)

The Update is complete for land use. The revised submittal provides additional information on how the City is guiding land for residential development through 2030. However, staff notes that the future land use as shown in the Update (Figure F-1(a), Figure F-1(b) and Table F-1) is not sufficient to accommodate the 10,000 new households forecasted for the City by 2030. This forecast may be accommodated if an additional 13.5 acres of land are guided for High Density Residential (HDR) land use in the future, as indicated in Table F-2, “2030 Land Use Map + Additional Redevelopment.” However, this capacity will not be realized until such time as the Update is amended to guide more land for HDR.

If you have any questions about this review, please contact me at 651-602-1566.

Sincerely,



Phyllis Hanson, Manager
Local Planning Assistance

cc: Susan Haigh, Chair, Metropolitan Council
James Brimeyer, Metropolitan Council District 6
Roxanne Smith, Metropolitan Council District 1
Lona Schreiber, Metropolitan Council District 2
Jennifer Munt, Metropolitan Council District 3
Gary Van Eyll, Metropolitan Council District 4
Steven Elkins, Metropolitan Council District 5
Gary Cunningham, Metropolitan Council District 7
Adam Duininck, Metropolitan Council District 8
Edward Reynoso, Metropolitan Council District 9
John Doan, Metropolitan Council District 10
Sandra Rummel, Metropolitan Council District 11
Harry Melander, Metropolitan Council District 12
Richard Kramer, Metropolitan Council District 13
Jon Commers, Metropolitan Council District 14
Steven T. Chávez, Metropolitan Council District 15
Wendy Wulff, Metropolitan Council District 16
Dennis Probst, Metropolitan Airports Commission
Bridget Reif, Metropolitan Airports Commission
Patrick Born, Regional Administrator
Guy Peterson, Director, Community Development Division
Connie Kozlak, MTS
Phyllis Hanson, Manager, Local Planning Assistance
Susan Hoyt, Sector Representative
Denise Engen, Principal Reviewer
Cheryl Olsen Reviews Coordinator

Attachment 6

Background 1992-2004

Summary

6/1/1992: The City of Crystal submitted an amendment (CPA) to their existing comprehensive plan.

1/14/1993: Council acted on the proposed CPA, requiring a plan modification.

2/23/1993: The City of Crystal response indicating that the City would not modify the CPA regarding the Crystal airport.

10/12/1993: The City of Crystal submitted a modified comprehensive plan.

1/6/1994: The Council acted to inform the city that it had not made all the plan modifications previously recommended.

11/19/1999: The City submitted its 1998 Comprehensive plan to address the 1996 *Regional Blueprint* and 1997 System Statements.

7/26/2000: The Metropolitan Council allowed the city to place its plan into effect with the understanding that potential impacts could not be determined until a long term plan for the airport is prepared by MAC and approved by the Council. (The Long Term Management Plan (LTMP) for the Crystal airport was adopted by the Metropolitan Council on October 22, 2008.)

1993 Plan Modification

On June 1, 1992, the City of Crystal submitted a Comprehensive Plan Amendment (CPA) to the Council that included amending several elements of the city's plan including the Crystal airport area. The Council took action on the CPA at its January 1/14/1993 meeting and required the City of Crystal to modify the CPA. Part of the required plan modifications concerning the Crystal Airport were as follows:

That the Metropolitan Council:

1. Adopt the staff report and findings as described in the staff report as part of these recommendations.
2. Inform the city of Crystal that pursuant to the Metropolitan Land Planning Act (Minnesota Statutes sec. 473.175.Subd. 1). The city may not place its plan amendment into effect until it has been modified in the following manner:
 - a. incorporate as part of its comprehensive plan the aviation system development priorities as found in the Council's Aviation Development Guide...
 - b. remove all references opposing long-term and land use compatibility planning activities associated with Crystal Airport;
 - c. remove all references to rezoning the Crystal Airport site and all references to designating the site a legal nonconforming use;

1993 City Response

In a letter to the Council from the city dated February 23, 1993 the City indicated that Crystal agreed with the all of the requested modifications except those specifically regarding Crystal Airport. The City's concern centered on the MAC being responsible for preparing the long term comp plan for the airport and as such would only look at two alternatives-maintenance or expansion of the airport and that consideration of closure of the airport would not be given appropriate consideration.

On October 12, 1993, The City of Crystal submitted a modified plan. As stated in the submittal letter "All modifications, with the exception of those relating to the Crystal Airport, were completed as requested by the Metropolitan Council."

1993 Comp Plan Amendment Plan Modification/1994 Council action

On January 6, 1994 the Metropolitan Council acted on the Crystal Comprehensive Plan Amendment. This amendment and review was to determine if the required modifications to the Crystal plan had been made. Excerpts from the report including findings and recommendations are as follows:

Analysis

Of the eight required modifications, five have been met: The city has satisfactorily modified its 'aviation policies related to structural height restrictions; aircraft flight paths; regulation of seaplane surface water activities; has removed references to rezoning the airport site and designating it a legal nonconforming use, and has removed references to Light Rail Transit (LRT).....

In addition to the modifications, the Council also made a recommendation regarding preparation of a long-term comprehensive plan for the airport. The city and the MAC have agreed to prepare a long-term plan for Crystal airport as a means to address safety and land-use compatibility issues. The study is progressing according to schedule.

Recommendations

That the Metropolitan Council adopt the attached staff report with the following recommendations:

- 1. Inform the city of Crystal that it may not adopt the amended community comprehensive plan until all the plan modifications, as previously recommended by the Council are made.*
- 2. Recommend the city continue to work with the Metropolitan Airports Commission and the Metropolitan Council on a long-term comprehensive plan for the Crystal airport.*
- 3. Inform the city, that as part of its next comprehensive plan amendment, it must verify its adoption of the Council's Interim Strategy to Reduce Nonpoint Source Pollution to All Metropolitan Waters'.*

The city of Crystal did not submit an amendment to its CPU for the 1994 Council action.

1998 CPU

The Council adopted the 1996 Regional Blueprint and released system statements in January 1997. The City of Crystal submitted its CPU for review on November 19, 1999. The Council's July 26, 2000 review included the following:

Findings and Conclusions

"The potential impacts and mitigation measures concerning issues related to relocating the Crystal Airport cannot be established until a long-term comprehensive airport plan is prepared/submitted by the MAC and approved by the Council. The Council will prepare an issues paper addressing the airport plan and community issues as part of the year 2000 Aviation Policy/System Plan Update."

Recommendations

That the Metropolitan Council adopt the Executive Summary and Review Record with the following recommendations:

- 1. That the city of Crystal may place its 2020 Comprehensive Plan into effect with no plan modifications.*
- 2. That the plan meets all of the Metropolitan Land Planning Act requirements for 1998 plan updates.*

Attachment 7

Transportation system Statement-- Crystal

Key Changes in the Plan

The revised *Transportation Policy Plan* adopted by the Metropolitan Council in December 2004, is the metropolitan system plan for airports and transportation with which local comprehensive plans must conform. This system statement summarizes significant elements of the metropolitan system plan and highlights those elements that apply specifically to your community. In addition to reviewing this system statement, your community should consult the entire *Transportation Policy Plan*, the *2030 Regional Development Framework* and other pertinent regional planning and policy documents, including the *Aviation Policy Plan*, to ensure your community's local comprehensive plan and plan amendments conform to the metropolitan system plans. A PDF file of the entire revised *Transportation Policy Plan*, the *2030 Regional Development Framework*, the *Local Planning Handbook* and other regional planning and policy documents of the Metropolitan Council are available online at the Metropolitan Council's Web site: <http://www.metrocouncil.org/planning/framework/timeline.htm>. The *Aviation Policy Plan*, adopted in 1996, is not available electronically, but a copy can be obtained by contacting the Metropolitan Council's Data Center at 651-602-1140.

The revised *Transportation Policy Plan* incorporates the following changes:

- The planning period has been extended from 2025 to 2030
- No significant increase in the level of transportation funding was assumed.
- The expenditures shown in the *Transportation Policy Plan* must be constrained by the level of funding that is anticipated. However, the revised plan also examined two alternative scenarios – what could be built if highway revenues were increased by 30% over the next 25 years, and what it would cost to provide enough additional capacity to hold congestion to the 1998 levels.
- The highway expansion projects shown in the plan have changed little since the 2001 plan, due to this lack of additional resources. (See Fig 4-11 for highway expansion proposals.) Metropolitan Highway System Plan investment priorities no longer contain the “Improvements” category. Most improvement corridors are now designated “Management” corridors.
- The new investment timing provisions are contained in the Plan. Table 4-11 contains projects in Mn/DOT's Highway Work Plan (scheduled in 2009-2013) construction, reconstruction, and bridge replacement greater \$10 million. Table 4-12 contains Regional Priority Project to move into the 10-Year Highway Work Plan, if there are resources available in the 2005-2009 time period.
- Funds have also been allocated to obtain right of way for new crossings of the Mississippi River between NW Hennepin and Anoka Counties and of the Minnesota River in the vicinity of Chaska. Construction dollars for these projects are not foreseen before 2030.
- Chapter 5 contains new policies and procedures on managing the scope, cost and revenue sources of projects to insure that sufficient resources are available to implement the region's transportation priorities as shown in this plan. This includes procedures to manage the use of

Federal High Priority Project (HPP) funds and matching funds for these federal dollars. The Council and Mn/DOT will monitor scope and costs to ensure major projects continue to meet regional objectives in a cost effective manner.

- The plan envisions significant improvements in the bus system, including new express bus routes, arterial corridor enhancements, suburb-to-suburb service, transit stations, park-and-ride lots and other features. The goal is to increase transit ridership 50 percent by 2020 and double it by 2030.
- The plan proposes additional express commuter bus corridors as well as enhancement and expansion of existing bus service in freeway corridors. Within each corridor, express bus routes will be supported by park-and-ride facilities, circulator networks, and “transit advantages.”
- The plan includes construction of five new “transitways” on dedicated rights-of-way by 2020 to help slow the growth in traffic congestion and improve mobility, and three additional transitways by 2030. Unlike the 2001 plan, the technology for each corridor was not identified in the Plan; rather the most appropriate and cost-effective mode for any given corridor is best determined after extensive study of the individual corridor. Figure 4-2 (attached) shows the 2030 Transitway System and Express Commuter Bus System.
- The plan now includes detailed information on the facilities needed for transit passengers, such as stations and park and ride lots, as well as facilities needed to support the transit system, such as garages and bus layover sites (Figures 4-5 and 4-6). Communities should plan for development and redevelopment around stations and park-and-ride lots.
- Policy 18 (previously policy 17) on transportation and land use elements in local comprehensive plans was rewritten and more detail provided in some strategies as to what the Council expects in local comprehensive plans.
- The TPP now includes references to the regional aviation system as defined in the *Aviation Policy Plan*. The 1996 Aviation Policy Plan remains in effect with the exception of the *Land Use Compatibility Guidelines for Aircraft Noise*. These guidelines have been updated and included in the TPP as Appendix H.

System Plan Considerations Affecting Your Community

1. Metropolitan Highways

Metropolitan highways and regional highway investment priorities for 2030 are shown in Figure 4-11. The city should refer to Tables 4-9 through 4-12 for major highway projects and proposed timing. TH 100 is the following metropolitan highways located within Crystal, there no plans for expansion beyond the current project.

2. Transit Routes and Facilities

Crystal is within the Metropolitan Transit Taxing District. Crystal is within Market Area II. Service options for Market Area II include regular-route locals, all-day expresses, small vehicle circulators, special needs paratransit (ADA, seniors), and ridesharing.

Crystal should identify existing transit service (available on the Council's website) and desired future transit service options consistent with the Transportation Policy Plan's transit system service areas (Table 4-1 and Appendix M). General public dial-a-ride is provided by PRISM.

Crystal should list transit corridors (express commuter bus corridors and dedicated right-of-way corridors) and identify opportunities to promote higher density initiatives along dedicated transit corridors (see Figure 4-2). Crystal is located along Northwest Corridor/Bottineau Boulevard transitway.

Crystal should identify existing transit passenger and support facilities and future improvements to and expansion of these facilities. Passenger and support facilities include shelters, transit centers, stations, and park-and-ride lots. An existing park-and-ride lot is located at Praise Christian Center.

3. Aviation Plan and Facilities

The TPP/APP includes policies and text on protection of the region's airspace resources. The airspace policy states that both Federal Aviation administration (FAA) and MnDOT Aeronautics safety standards must be a major consideration in the planning, design, maintenance and operation of air transportation facilities and services. Each community has a responsibility to include airspace protection in its comprehensive plan. The protection is for potential hazards to air navigation including electronic interference. Airspace protection should be included in local codes/ordinances to control height of structures, especially when conditional use permits would apply. The comprehensive plan should include policy/text on **notification to the FAA** as defined under code of federal regulations CFR - Part 77, using the FAA Form 7460-1 "Notice of Proposed Construction or Alteration". Instructions can be found at www.faa.gov/arp/ace/part77.cfm.

The City is within the Influence Area of the Crystal Airport. Therefore, it is affected by planning considerations potentially involving the following items: airport zoning, environmental mitigation, airport development and economic impacts, ground access needs, infrastructure requirements and general land use compatibility. The airport is owned and operated by the Metropolitan Airports Commission (MAC) including responsibility for preparing/maintaining a long-term comprehensive plan (LTCP) and development implementation. The Crystal Airport functions as a general aviation reliever for MSP International Airport, and will continue its regional system role as a "Minor" airport. MSP is defined as the region's "Major" airport and is expected to fulfill that role for many years to come. A proposed MSP 2020 development plan is being examined and the city should monitor that planning process for potential implications to the Crystal airport communities.

The TPP/APP identifies the region-wide need for additional runway and hangar area improvements for traditional general aviation users, and the new light sport aircraft and very light jets that will soon be joining the aircraft fleet. Some of that growth is expected to use the Crystal Airport; projects associated with that demand should be included in future capital improvement programs. The airport's airspace is to be protected from potential obstructions and electronic interference to aircraft operations by meeting state requirements. These include

formation of a joint airport -community zoning board, defining an airport zoning district, and implementing an airport zoning ordinance including land use safety zoning. This effort was accomplished in 1983 by the Crystal Airport communities; however, the city should review the recent changes to MnDOT Rules Chapter 8800 to see if revision/updating of the old ordinance is necessary.

The MAC adopted a 2013 long-term comprehensive plan for the Crystal Airport in 1995. The plan included proposed enhancements to the landing aids but no major capital improvements for runway /hangar area capacity. Regional policy calls for all airports to be connected to central sewer service when it is available. The MAC is currently evaluating on-site parcels for potential new [non-aeronautical] revenue opportunities. In addition, the MAC has a task force reviewing their reliever airports, examining such issues as a revenue funding plan, use of outside management, and ability to close and/or sell airports. The city should be involved in those discussions. It is expected that the MAC will also be updating the long-term comprehensive plan and ALP to a new 10 year planning horizon. The city should be involved in that process to ensure local input to the aviation planning process.

**Attachment 8:
Minnesota Statutes Regarding Plan Modification**

473.175 REVIEW OF COMPREHENSIVE PLANS.

Subdivision 1. **For compatibility, conformity.** The council shall review the comprehensive plans of local governmental units, prepared and submitted pursuant to sections 473.851 to 473.871, to determine their compatibility with each other and conformity with metropolitan system plans. The council shall review and comment on the apparent consistency of the comprehensive plans with adopted plans of the council. The council may require a local governmental unit to modify any comprehensive plan or part thereof if, upon the adoption of findings and a resolution, the council concludes that the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans. A local unit of government may challenge a council action under this subdivision by following the procedures set forth in section 473.866.

Subd. 2. **120-day limit.** Within 120 days following receipt of a comprehensive plan of a local governmental unit, unless a time extension is mutually agreed to, the council shall return to the local governmental unit a statement containing its comments and, by resolution, its decision, if any, to require modifications to assure conformance with the metropolitan system plans.

No action shall be taken by any local governmental unit to place any such comprehensive plan or part thereof into effect until the council has returned the statement to the unit and until the local governmental unit has incorporated any modifications in the plan required by a final decision, order, or judgment made pursuant to section 473.866. If within 120 days, unless a time extension is mutually agreed to, the council fails to complete its written statement the plans shall be deemed approved and may be placed into effect. Any amendment to a plan subsequent to the council's review shall be submitted to and acted upon by the council in the same manner as the original plan. The written statement of the council shall be filed with the plan of the local government unit at all places where the plan is required by law to be kept on file.

Subd. 3. **Enforcement to get conforming plan.** If a local governmental unit fails to adopt a comprehensive plan in accordance with sections 473.851 to 473.871 or if the council after a public hearing by resolution finds that a plan substantially departs from metropolitan system plans and that the local governmental unit has not adopted a plan with modifications required pursuant to section 473.866 within nine months following a final decision, order, or judgment made pursuant to section 473.866, the council may commence civil proceedings to enforce the provisions of sections 473.851 to 473.871 by appropriate legal action in the district court where the local governmental unit is located.

History: 1975 c 13 s 19; 1976 c 127 s 14; 1977 c 347 s 68; 1993 c 186 s 10; 1Sp2003 c 16 s 6; 2006 c 194 s 1; 2007 c 113 s 2

473.608 POWERS OF CORPORATION.

Subdivision 1. **General corporate powers, where exercised.** The corporation, subject to the conditions and limitations prescribed by law, shall possess all the powers as a body corporate necessary and convenient to accomplish the objects and perform the duties prescribed by sections 473.601 to 473.679, including but not limited to those hereinafter specified. These powers, except as limited by section 473.622, may be exercised at any place within 35 miles of the city hall of either Minneapolis or St. Paul, and in the metropolitan area, and in the city of Duluth for the purpose of owning, leasing, constructing, equipping, operating, borrowing money from the state for, or otherwise arranging for financing the facility described in section 116R.02, subdivision 5.

Subd. 1a. **Loan terms, conditions.** A state loan to finance the facility described in section 116R.02, subdivision 5, must be made on terms and conditions as the commissioner of management and budget, the commissioner of employment and economic development, and the commission determine to be appropriate. The state loan is not subject to and may not be counted against any limitation on the principal amount of revenue bonds or general obligation revenue bonds that the commission may issue under sections 473.601 to 473.679.

Subd. 2. **Getting airport property.** It may acquire by lease, purchase, gift, devise, or condemnation proceedings all necessary right, title, and interest in and to lands and personal property required for airports and all other real or personal property required for the purposes contemplated by sections 473.601 to 473.679, within the metropolitan area, pay therefor out of funds obtained as hereinafter provided, and hold and dispose of the same, subject to the limitations and conditions herein prescribed except that the corporation may not acquire by any means lands or personal property for a major new airport. Title to any such property acquired by condemnation or purchase shall be in fee simple, absolute, unqualified in any way, but any such real or personal property or interest therein otherwise acquired may be so acquired or accepted subject to any condition which may be imposed thereon by the grantor or donor and agreed to by the corporation, not inconsistent with the proper use of the property by the corporation for the purposes herein provided. Any properties, real or personal, acquired, owned, leased, controlled, used, and occupied by the corporation for any of the purposes of sections 473.601 to 473.679, are declared to be acquired, owned, leased, controlled, used, and occupied for public, governmental, and municipal purposes, and shall be exempt from taxation by the state or any of its political subdivisions, except to the extent that the property is subject to the sales and use tax under chapter 297A. Nothing contained in sections 473.601 to 473.679, shall be construed as exempting properties, real or personal, leased from the Metropolitan Airports Commission to a tenant or lessee who is a private person, association, or corporation from assessments or taxes.

Subd. 2a. **Coldwater Springs property.** (a) The Metropolitan Airports Commission may acquire property, consisting of approximately 27 acres in and around Coldwater Springs in Hennepin County, from the Secretary of the Interior of the United States or any other federal official or agency authorized to transfer the property. If the commission acquires the property, the commission may convey all of its interest in the property, other than the interest permitted to be retained under paragraph (b), to the commissioner of natural resources for park, green space, or similar uses.

(b) To preserve its ability to conduct current or future aviation operations at the Minneapolis-St. Paul International Airport and to protect the commission from potential liability for those aviation operations, the commission may:

(1) retain an easement permitting overflight or another similar property interest in the property; or

(2) impose restrictions on the transferred property's use that would be inconsistent with or may create conflicts with aviation operations.

Subd. 3. **Eminent domain.** It may exercise the power of eminent domain in the manner provided by chapter 117 for the purpose of acquiring any property which it is herein authorized to acquire by condemnation. The fact that the property so needed has been acquired by the owner under power of eminent domain, or is already devoted to a public use, shall not prevent its acquisition by such corporation by the exercise of the power of eminent domain herein conferred. The corporation may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken. When the airports owned by the affected cities are taken over by the corporation under the provisions of Laws 1943, Chapter 500, all persons who are employees of the public body having the management and control of such airport at the time of the taking of the same, shall preserve their status and be entitled to all the rights and privileges under the provisions of any civil service or pension act contained in any charter of any city under which they had been previously employed, or any applicable law of the state of Minnesota.

Subd. 4. **Suits.** It may sue and be sued.

Subd. 5. **Contracts.** It may contract and be contracted within any matter connected with any purpose or activity within the powers of the corporation as specified in sections 473.601 to 473.679.

Subd. 6. **New airports; exception.** It may construct and equip new airports, with all powers of acquisition set out in subdivision 2, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided. It may not construct, equip, or acquire land for a major new airport to replace the existing Minneapolis-St. Paul International Airport, but it may conduct activities necessary to do long-range planning to make recommendations to the legislature on the need for new airport facilities.

Subd. 7. **Existing airports.** In addition to the municipal airports taken over by the corporation under the provisions of Laws 1943, Chapter 500, the corporation may acquire by lease, purchase, gift, devise, or condemnation proceedings any existing airports, equip the same and make additions thereto or improvements thereon, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided; provided, that said corporation shall have no authority to dispose of nor lease municipally owned airports taken over under the provisions of sections 473.601 to 473.679; and provided further, that the corporation shall not acquire a municipally owned airport without the consent of such municipality.

Subd. 8. **Private airports.** It may contract with the owners of existing privately owned airports for the use, equipment, improvement, maintenance, management, and operation by it of such airports, and thereafter use, equip, improve, maintain, manage, operate, regulate, and police them.

Subd. 9. **Air rights.** It may acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of all airports controlled by it, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 10. **Easements, rights for lights, markings.** It may acquire rights or easements for terms of years, or perpetually, to place, operate, and maintain suitable markings and lights for daytime or nighttime marking of buildings or other structures or obstructions, for the safe operation of aircraft utilizing airports to be acquired or maintained under the provisions of sections 473.601 to 473.679, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 11. **Supplies and materials.** It may purchase all supplies and materials necessary in carrying out the purposes of sections 473.601 to 473.679.

Subd. 12. **Bonds, other debt.** It may borrow money and issue bonds for the purposes of acquiring property, the acquisition of which is herein authorized, constructing and equipping new airports, acquiring existing airports, equipping them and making additions thereto or improvements thereon, and making capital improvements to any airport constructed or acquired by the corporation, or for the purpose of making payments on principal or interest of bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction, enlargement or improvement of any airport taken over by the corporation pursuant to the provisions of section 473.621, payment of which has been assumed by the corporation, in the manner and within the limitations herein specified, and pledge any and all property and income of the corporation acquired or received as herein provided to secure the payment of such bonds, subject to the conditions and limitations herein prescribed, and redeem any such bonds if so provided therein or in the mortgage or deed of trust accompanying them, and may assume the payment of existing bonded indebtedness as specifically provided in sections 473.601 to 473.679.

Subd. 12a. **Revenue bonds.** (a) The commission may issue general airport revenue bonds, special facilities bonds, and passenger facility charge bonds to fund:

- (1) airports and air navigation facilities;
- (2) other capital improvements at airports managed by the commission;
- (3) noise abatement and natural resource protection measures, regardless of location and ownership;
- (4) transportation and parking improvements related to airports managed by the commission, regardless of location; and
- (5) the refund of any outstanding obligations of the commission.

The commission may secure the bonds with available revenue in accordance with generally accepted public financial practices under a resolution of the commission or trust indenture for the bonds. The bonds may not be secured by the full faith and credit of the commission or a pledge of the taxing authority of the commission or of any city in or for which the commission has been created.

(b) The commission shall notify the commissioner of management and budget, the chair of the Taxes Committee of the house of representatives, and the chair of the Taxes and Tax Laws Committee of the senate of any proposal to issue bonds under this subdivision and provide them an opportunity to review the proposal.

(c) The commission may obligate itself to establish, revise, and collect rates, fees, charges, and rentals for all airport and air navigation facilities used by or made available to any person, firm, association, or corporation to produce revenues sufficient:

- (1) to pay principal and interest on all obligations of the commission;
- (2) to fund reserves for the bonds;
- (3) to pay other commission expenses in accordance with law.

(d)(1) Any pledge of revenues under this section is subordinate to the pledge of current revenues to cancel taxes levied for general obligation revenue bonds issued under section 473.665.

(2) Subject to clause (1), if the bonds meet the conditions of section 473.667, subdivision 7, the commission may pledge revenues to the revenue bonds issued under this subdivision on a parity with the pledge of revenues to general obligation revenue bonds issued under section 473.667. The pledge of revenues to revenue bonds issued under this subdivision may be prior to the obligation under section 473.667, subdivision 6, to repay any deficiency taxes levied for general obligation revenue bonds.

(3) The commission may pledge revenues of any discrete facility or portions of the airport and air navigation facilities of the commission to the bonds. The commission may establish reserves from any available funds or the proceeds of the bonds and may make other covenants as it deems necessary to protect the holders of the bonds. Passenger facility charge bonds may pledge receipts from passenger facility charges separately or together with a pledge of other revenues.

(e) The commission may use any powers under chapter 475, except the power to issue general obligation bonds.

Subd. 13. Use of money. It may use for the following purposes any available moneys received by it from any source as herein provided, in excess of those appropriated, donated, loaned, or otherwise paid over to the corporation for specific purposes, or received from the sale of bonds, and those required for the payment of any bonds issued by the corporation and interest thereon, according to the terms of such bonds or of any mortgage or trust deed accompanying the same: (a) To pay the necessary incidental expenses of carrying on the business and activities of the corporation as herein authorized; (b) to pay the cost of operating, maintaining, repairing, extending, and improving the properties under the control of the corporation; (c) to pay interest and principal of any bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction or enlargement of any airport referred to in section 473.621, subdivision 2, payment of which has been assumed by it, or by the state of Minnesota; (d) if any further such excess moneys remain, to purchase upon the open market at or above or below the face or par value thereof any bonds issued by the corporation as herein authorized; any bonds so purchased to thereupon be canceled.

Subd. 14. State, federal aid, contracts. It may accept from the United States or the state of Minnesota, or any of their agencies, moneys or other assistance, whether by gift, loan, or otherwise, for the purpose of carrying out the purposes of sections 473.601 to 473.679, and developing airports and other aeronautic facilities, and may enter into such contracts with the United States or the state of Minnesota, or any of their agencies as it may deem proper and consistent with the purposes of sections 473.601 to 473.679.

Subd. 15. Contracts to further aeronautics, for passengers. Without limitation upon any other powers in sections 473.601 to 473.679, it may contract with any person for the use by

the person of any property and facilities under its control, for such purposes, and to an extent as will, in the opinion of the commissioners, further the interests of aeronautics in this state and particularly within the metropolitan area, including, but not limited to, the right to lease property or facilities, or any part thereof, for a term not to exceed 99 years, to any person, the national government, or any foreign government, or any department of either, or to the state or any municipality. The corporation shall not have the authority to lease, in its entirety, any municipal airport taken over by it under the provisions of sections 473.601 to 473.679. The commission may contract with any person for the use or lease in accordance with this subdivision of any property and facilities under its control for motel, hotel and garage purposes, and for other purposes as, in the opinion of the commissioners, are desirable to furnish goods, wares, services and accommodations to or for the passengers and other users of airports under the control of the corporation. Nothing in this subdivision shall be interpreted to permit the sale of intoxicating liquor upon the property or facilities except as authorized in chapter 340.

Subd. 16. **Incident powers.** It may generally carry on the business of acquiring, establishing, developing, extending, maintaining, operating, and managing airports, with all powers incident thereto except it is expressly prohibited from exercising these powers for the purpose of future construction of a major new airport.

Subd. 17. **Ordinances.** (1) It may adopt and enforce rules, regulations, and ordinances it deems necessary for the purposes of sections 473.601 to 473.679, including those relating to the internal operation of the corporation and to the management and operation of airports owned or operated by it, subject to sections 473.601 to 473.679. Any person violating any rule, regulation or ordinance is guilty of a misdemeanor.

(2) The prosecution may be before the district court having jurisdiction over the place where the violation occurs. Every sheriff, police officer, and other peace officer shall arrest offenders. The fines collected shall be paid into the treasury of the corporation. The portion of the fines necessary to cover all costs and disbursements incurred in processing and prosecuting the violations in the court shall be transferred to the court administrator. All persons committed shall be received into any penal institution in the county in which the offense was committed. All persons shall take notice of the rules, regulations, and ordinances without pleading or proof.

(3) A public hearing need not be held on rules, regulations and ordinances relating to the internal operation of the commission or to the management or operation of airports owned or operated by it unless the rule, regulation or ordinance affects substantial rights.

(4) When necessary, the corporation may adopt and enforce without a public hearing all other rules, regulations or ordinances, but it shall hold a public hearing within 30 days after their adoption. Prior to the hearing, the corporation shall give at least 15 days' notice by publication in appropriate legal newspapers of general circulation in the metropolitan area and mail a copy of them to all interested parties who have registered their names with the corporation for that purpose. If the rules, regulations, or ordinances are not deemed immediately necessary, the corporation shall hold a public hearing on them after giving the required notice. The rules, regulations, or ordinances shall not be adopted and enforced until after the hearing.

(5) Notice of the adoption of rules, regulations and ordinances shall, as soon as possible after adoption, be published in appropriate legal newspapers of general circulation in the metropolitan area. Proof of publication and a copy of the rule, regulation, or ordinance shall be filed with the secretary of state. They shall then be in full force and effect.

(6) Any person substantially interested or affected in rights as to person or property by a rule, regulation or ordinance adopted by the corporation, may petition the corporation for reconsideration, amendment, modification, or waiver of it. The petition shall set forth a clear statement of the facts and grounds upon which it is based. The corporation shall grant the petitioner a public hearing within 30 days after the filing of the petition.

Subd. 18. **Hearings and the like.** It shall have the power to conduct investigations, inquiries and hearings concerning matters covered by the provisions of sections 473.601 to 473.679 and orders, rules and regulations of the commission; and shall hold hearings as required by said sections 473.601 to 473.679. Notice of hearings to all interested parties shall be given as specified in said sections 473.601 to 473.679, in the instances specified, and otherwise in accordance with such rules as the commission may adopt. All hearings shall be open to the public, and shall be conducted by the commission itself or a committee or member thereof designated by the commission for such purposes. Where a hearing is conducted by a committee or a member of the commission, such committee or member shall make a full and complete report thereof, together with a transcript of all testimony and evidence taken at the hearing, to the commission and the commission shall proceed to a determination of the subject matter of said hearing and make its findings and conclusions and order with respect thereto. Any member of the commission conducting or participating in the conduct of any hearing shall have the power to administer oaths and affirmations, to issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents. The commission, or its director, shall upon request of any party to a hearing issue subpoenas to compel the attendance and testimony of witnesses, and the production of papers, books and documents. In case of failure of any witness to comply with any served subpoena, the commission may invoke the aid of any court of this state of general jurisdiction. The court may order the witness to comply with the subpoena and any failure so to do may be punished by the court as a contempt thereof. The testimony and other evidence at any and all hearings shall be taken by a reporter employed by the commission, and any party in interest upon payment to said reporter of the going rates therefor shall be entitled to a transcript thereof. Witnesses shall receive the same fees and mileage as in court actions, and a witness before being required to respond to a subpoena shall be given fees and mileage for one day's attendance.

Subd. 19. **Acoustical barriers.** The corporation shall construct an acoustical barrier in or along the perimeter of maintenance areas of the Minneapolis-St. Paul International Airport. It also shall construct acoustical barriers along the perimeter of runways of such airport where it is reasonably necessary, practical and safe to do so according to the standards of the Federal Aviation Administration. All barriers shall conform to specifications approved by the Pollution Control Agency. For purposes of this subdivision, an acoustical barrier is a wall, fence, natural barrier such as an earthen barrier or trees designed to abate noise. The corporation shall also confer and cooperate with any entity which it creates for the purpose of studying and implementing sound abatement programs and with representatives of persons residing in the vicinity of any airport who desire to explore means for relieving the area of the detrimental effects of aircraft noise.

Notwithstanding the provisions of any other law none of the construction authorized by this subdivision shall be subject to review or approval by the Metropolitan Council.

Subd. 20. [Repealed, 1996 c 310 s 1]

Subd. 21. **Airport zoning boards.** The corporation shall establish one joint airport zoning board for each airport operated under its authority in accordance with section 360.063, subdivision 3, paragraph (e). Notwithstanding the provisions of section 360.065, subdivision 1, mailed notice

to property owners is not required for hearings concerning adoption of zoning regulations by a joint airport zoning board for Minneapolis-St. Paul International Airport.

Subd. 22. **TDD phones.** The commission shall provide, in public areas at the international airport, public pay telephones with telecommunications devices, commonly known as "TDD's," that permit a communication-impaired person to communicate with others by telephone. The commission shall provide one such telephone on each concourse of the main terminal, one in the main ticketing area of the main terminal, and one in the Humphrey Terminal. The commission shall place signs at strategic locations in and about the terminals indicating where the telephones are available.

Subd. 23. **Parking privileges.** Except as otherwise provided in this subdivision, the commission may not provide free parking at the Minneapolis-Saint Paul International Airport terminal. The commission may provide free parking to employees and members of the commission who are at the terminal on official business. The commission may provide free parking at the Minneapolis-Saint Paul International Airport terminal for persons who are not employees or members of the commission if those persons are attending a meeting of the commission or performing volunteer work in the terminal. A card or pass issued to provide free parking must have an expiration date of no later than one year after the card or pass is issued. The commission shall require an expired card to be returned to the commission or shall account for it in another manner. The commission shall maintain a record of who receives free parking at the terminal, including the person's name, organization, date, the dollar value of the free parking provided, and the purpose for which the free parking was provided.

Subd. 24. **Certain aircraft prohibited.** After complying with the publication and public comment requirements of United States Code, title 49, section 47524(b), and other applicable federal requirements, the corporation shall prohibit operation at Minneapolis-St. Paul International Airport of aircraft not complying with stage 3 noise levels after December 31, 1999.

Subd. 25. **Implementation of long-term plan.** The corporation shall implement the Minneapolis-St. Paul International Airport year 2010 long-term comprehensive plan.

Subd. 26. **Final environmental impact statement.** The corporation shall not be required to provide environmental or technical analysis of the new airport alternative in the dual track planning process final environmental impact statement.

Subd. 27. **Use of reliever airports.** The corporation shall develop and implement a plan to divert the maximum feasible number of general aviation operations from Minneapolis-St. Paul International Airport to those airports designated by the federal aviation administration as reliever airports for Minneapolis-St. Paul International Airport.

Subd. 28. **Prohibition of replacement passenger terminal.** The corporation is prohibited from constructing a replacement passenger terminal on the west side of Minneapolis-St. Paul International Airport without legislative approval.

Subd. 29. **Construction of a third parallel runway.** (a) The corporation must enter into a contract with each affected city that provides the corporation may not construct a third parallel runway at the Minneapolis-St. Paul International Airport without the affected city's approval. The corporation must enter into the contracts by January 1, 1997.

(b) If a contract with a city as required by this subdivision is not executed by January 1, 1997, as a result of the corporation failing to act in good faith, the amount the corporation must

spend for noise mitigation in the affected city is increased by 100 percent of the amount spent in the most recent year in which an expenditure was made for noise mitigation in the affected city.

(c) A contract entered into by a city and the corporation under this subdivision creates and the contract must provide third-party beneficiary rights on behalf of the affected property owners in the affected cities. These third-party beneficiary rights apply only if a state law changes, supersedes, or invalidates the contract or authorizes or enables the corporation to construct a third parallel runway notwithstanding the contract.

(d) An "affected city" is any city that would experience an increase in the area located within the 60 Ldn noise contour as a result of operations using the third parallel runway.

History: 1975 c 13 s 100; 1976 c 265 s 1; 1977 c 417 s 5-7; 1979 c 302 s 4; 1980 c 450 s 2; 1981 c 27 s 2; 1983 c 330 s 2; 1983 c 359 s 67; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1989 c 111 s 2; 1991 c 350 art 1 s 23; 1996 c 378 s 1; 1996 c 464 art 3 s 2-10; 1996 c 471 art 7 s 19; 1998 c 254 art 2 s 49; 2000 c 418 art 2 s 11; 1Sp2001 c 13 s 17; 2004 c 206 s 52; 2005 c 10 art 2 s 4; 2006 c 214 s 20; 2009 c 101 art 2 s 109

473.192 AIRCRAFT NOISE ATTENUATION.

Subdivision 1. **Citation.** This section may be cited as the "Metropolitan Area Aircraft Noise Attenuation Act."

Subd. 2. **Definitions.** For purposes of this section, "metropolitan area" has the meaning given it in section 473.121, subdivision 2. "Transportation policy plan" means the plan adopted by the Metropolitan Council pursuant to section 473.145. "Municipality" has the meaning provided by section 462.352, subdivision 2.

Subd. 3. **Ordinance.** A municipality in the metropolitan area that, in part or in whole, is within the aircraft noise zones designated in the transportation policy plan may adopt and enforce ordinances and controls to regulate building construction methods and materials for the purpose of attenuating aircraft noise in habitable buildings in and around the noise zone. The ordinance or control shall not apply to remodeling or rehabilitating an existing residential building nor to the construction of an appurtenance to an existing residential building. An ordinance adopted by a municipality must be adequate to implement the Metropolitan Council's guidelines for land use compatibility with aircraft noise. Section 326B.121 does not apply to ordinances adopted under this section.

Subd. 4. **MAC noise abatement.** Nothing in this section shall be construed to diminish the responsibility of the Metropolitan Airports Commission to conduct noise abatement programs under other state or federal law.

History: 1987 c 155 s 1; 1995 c 186 s 84; 2005 c 123 s 4,5; 2007 c 140 art 4 s 61; art 13 s 4

473.858 COMPREHENSIVE PLANS; LOCAL GOVERNMENTAL UNITS.

Subdivision 1. **No conflicting zoning, fiscal device, official control.** Within nine months following the receipt of a metropolitan system statement for an amendment to a metropolitan system plan and within three years following the receipt of a metropolitan system statement issued in conjunction with the decennial review required under section 473.864, subdivision 2, every local governmental unit shall have reviewed and, if necessary, amended its comprehensive plan in accordance with sections 462.355, 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the Metropolitan Council for review pursuant to section 473.175. The provisions of sections 462.355, 473.175, and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute wherever a conflict may exist. If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance shall be brought into conformance with the plan by local government units in conjunction with the review and, if necessary, amendment of its comprehensive plan required under section 473.864, subdivision 2. After August 1, 1995, a local government unit shall not adopt any fiscal device or official control which is in conflict with its comprehensive plan, including any amendments to the plan, or which permits activity in conflict with metropolitan system plans, as defined by section 473.852, subdivision 8. The comprehensive plan shall provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the comprehensive plan. For purposes of this section, a fiscal device or official control shall not be considered to be in conflict with a local government unit's comprehensive plan or to permit an activity in conflict with metropolitan system plans if such fiscal device or official control is adopted to ensure the planned, orderly, and staged development of urbanization or redevelopment areas designated in the comprehensive plan pursuant to section 473.859, subdivision 5.

Subd. 2. **Adjacent review, comment.** Local governmental units shall submit their proposed plans to adjacent governmental units, affected special districts lying in whole or in part within the metropolitan area, and affected school districts for review and comment at least six months prior to submission of the plan to the council and shall submit copies to them on the submission of the plan to the council. For minor plan amendments, the council may prescribe a shorter review and comment period, or may waive the review and comment period if the minor plan amendments involve lands that are not contiguous to other local governmental units.

Subd. 3. **When to council.** The plans shall be submitted to the council following recommendation by the planning agency of the unit and after consideration but before final approval by the governing body of the unit.

Subd. 4. **Status of old, new programs, plans, controls.** Comprehensive plans, capital improvement programs, sewer policy plans and official controls of local governmental units adopted prior to the requirements of sections 462.355, 473.175, and 473.851 to 473.871 shall remain in force and effect until amended, repealed or superseded by plans or controls adopted pursuant to sections 462.355, 473.175, and 473.851 to 473.871. Existing comprehensive plans, capital improvement programs, sewer policy plans, and official controls may be amended and new capital improvement programs and official controls may be prepared and adopted prior to the submission to the council of comprehensive plans required by sections 462.355, 473.175, and 473.851 to 473.871.

History: 1976 c 127 s 8; 1977 c 347 s 68; 1985 c 62 s 4; 1995 c 176 s 5; 2007 c 113 s 8