



Metropolitan Council Meeting

Wednesday, March 28, 2007

Council Chambers

4:00 P.M.

Table of Contents

Part I - Narrative	1
Call to Order and Approval of Agenda.....	1
Minutes.....	1
Part II - Exhibits	1
Business	1
Committee Consent List.....	1
2007-53 2007 Annual RALF Program Plan and Report	1
2007-73 - City of Woodbury Comprehensive Plan Amendment, 1400 Acres Vacant Land Use Change, Review File 18452-12	1
2007-75 - 28 th Avenue Park-and-Ride, Interim Parking Lease Agreement	2
2007-76 - Authorization to Purchase Sparkle Wash Property	2
2007-78 - 2007-2010 TIP Amendment, MnDOT: SP#70-621-23, CSAH 21 Reconstruction in Prior Lake, TAB Action 2007-06	2
2007-79 - 2007-2010 TIP Amendment, MnDOT: SP#62-616-04, Vadnais Blvd, at Rice Street, I-694 Interchanges in Vadnais H eights, Construction for Realignment, TAB Action 2007-07	2
2007-80 - SAFETEA-LU Compliance Approval, TAB Action 2007-08	2
2007-82 - 2007 Annual Livable Communities Fund Distribution Plan	3
2007-96 - Request for Reimbursement Consideration in a Future Regional Parks CIP for the Removal of Structures and Site Restoration at Lake Waconia Regional Park, Carver County	3
2007-99 - Bikeways Data Maintenance	3
2007-114 - Certification that Lift Station L-58 is in "Good Operating" Condition	3
2007-115 - Authorization to Award a Construction Contract for Rehabilitation of the Shakopee Interceptor 70-23 / 69-04 Project 806600	3
2007-116 - Authorization to Reject All Proposals for Design-Build of Wastewater Facilities Security Improvements-Monitoring and Access Control, MCES Project Number 801700, Contract 05P114	4
Report of the Transportation Committee	4
2007-56 - I-94 East Park-and-Ride Facility Lease Agreement	4
2007-57 - Authorization to Award Contract for 314 Transit Buses	4
2007-97 - Independent Testing Laboratory Contract for the 28 th Avenue Park-and-Ride in Bloomington, Project 63612	5
2007-107 SW - Public Transit Human Services Transportation Coordination Action Plan TAB Action 2007-33	5
2007-111 - Hiawatha LRT CMAQ Land Assembly Funds Reallocation	6
2007-119 SW - Northstar Locomotive Procurement	6
Report of the Community Development Committee	7
2007-54 - Baytown Township Comprehensive Plan Amendment, GV Properties, Review File 16335-7	7

Report of the Environment Committee	7
Report of the Management Committee	7
2007-86 - Approval of Audit Committee Member Charles Denninger	7
2007-113 SW - Collective Bargaining Agreement with Teamsters Local 320	7
Report of the Environment, Management and Transportation Committees	7
2007-66 SW - March 2007 Unified Capital Program Amendment	7
Other Business.....	8
Reports.....	8
Chair.....	8
Council Members.....	9
Regional Administrator.....	9
General Counsel.....	9
Adjournment.....	9
Part III - Certification	9

Metropolitan Council Meeting
Wednesday, March 28, 2007
Robert Street Council Chambers
4:00 P.M.

Part I - Narrative

Members present:

Peter Bell, Chair,; Tony Pistilli, Mary Hill Smith, Russ Susag, Peggy Leppik, Annette Meeks, Lynette Wittsack, Natalie Steffen, Kris Sanda, Chris Georgacas, Rick Aguilar, Daniel Wolter, Brian McDaniel

Members absent: Roger Scherer, Jules Smith, Georgeanne Hilker, District 14 Vacant

Call to Order and Approval of Agenda

A quorum being present, the Chair called the regular meeting of the Metropolitan Council to order at 4:04 p.m. Chair Bell removed item 9 (2007-93) from the Consent List, to be considered at a later date. It was moved by Leppik seconded by Meeks, to approve the amended agenda. Motion carried.

Minutes

It was moved by Steffen seconded by M. Smith to approve the minutes of the Metropolitan Council Meeting of February 28, 2007. Georgacas asked to amend the minutes to reflect his votes on Business Items 2007-65 and 2007-83 as dissenting, not abstaining, as recorded in the February 28 minutes. It was moved by M. Smith, seconded by Susan to approve the amended Minutes of the Metropolitan Council Meeting of February 28, 2007, with the corrections. Motion carried.

Public Invitation

No one asked to address the Council regarding matters not on today's agenda.

Part II - Exhibits

Business

Committee Consent List

[2007-53](#) 2007 Annual RALF Program Plan and Report

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council:

1. approve the 2007 Annual RALF Program Plan
2. amend the RALF guidelines to require one property appraisal."

Motion carried.

[2007-73](#) - City of Woodbury Comprehensive Plan Amendment, 1400 Acres Vacant Land Use Change, Review File 18452-12

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council allow the City of Woodbury to put the Vacant Commercial-Industrial Land Use Changes Comprehensive Plan Amendment into effect with no modifications required."

Motion carried.

[2007-75 - 28th Avenue Park-and-Ride, Interim Parking Lease Agreement](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council authorize the Regional Administrator to negotiate and execute an agreement with the Metropolitan Airports Commission (MAC) and the Mall of America Corporation (MOAC) for the lease of property located at 8200 28th Avenue and 8201 24th Avenue, Bloomington, for use by the Council as interim parking facilities

Motion carried.

[2007-76 - Authorization to Purchase Sparkle Wash Property](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council authorize the Regional Administrator to acquire fee title to the property at 1000 Lyndale Avenue North in Minneapolis (otherwise known as the Sparkle Wash property) for a purchase price of \$820,000."

Motion carried.

[2007-78 - 2007-2010 TIP Amendment, MnDOT: SP#70-621-23, CSAH 21 Reconstruction in Prior Lake, TAB Action 2007-06](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council concurs with the Transportation Advisory Board (TAB) action to amend the 2007-2010 Transportation Improvement Program (TIP) to include SP #70-621-23: CSAH 21 reconstruction from Franklin Trail to Adelman St. in Prior Lane at a higher total construction cost.

Motion carried.

[2007-79 - 2007-2010 TIP Amendment, MnDOT: SP#62-616-04, Vadnais Blvd. at Rice Street, I-694 Interchanges in Vadnais Heights, Construction for Realignment, TAB Action 2007-07](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council concur with the Transportation Advisory Board (TAB) action to amend the 2007-2010 Transportation Improvement Program (TIP) to include SP #62-616-04 Vadnais Blvd. at Rice St., I-694 Interchange in Vadnais Heights, "construction" for realignment at a higher total cost."

Motion carried.

[2007-80 - SAFETEA-LU Compliance Approval, TAB Action 2007-08](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council as the Metropolitan Planning Organization for the seven-county Twin Cities metropolitan area, finds that the Transportation Policy Plan is compliant

with SAFETEA-LU requirements for the regional long-range transportation plan, and that the Transportation Improvement Program is compliant with SAFETEA-LU requirements for the development of the regional TIP.”

Motion carried.

[2007-82 - 2007 Annual Livable Communities Fund Distribution Plan](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council approve the *2007 Annual Livable Communities Fund Distribution Plan*."

Motion carried.

[2007-96 - Request for Reimbursement Consideration in a Future Regional Parks CIP for the Removal of Structures and Site Restoration at Lake Waconia Regional Park, Carver County](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council approve the request to consider reimbursing Carver County up to \$200,000 for the removal of structures, which may include two homes, a pole barn, and other related farm buildings, and site restoration at Lake Waconia Regional Park in a future regional parks capital improvement program. However, the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement."

Motion carried.

[2007-99 - Bikeways Data Maintenance](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council authorize the Regional Administrator to execute an interagency agreement with the Land Management Information Center in the Office of Geographic and Demographic Analysis, a division of the Minnesota Department of Administration, to provide maintenance services on the regional bikeways GIS data layer during 2007 for \$17,500.00"

Motion carried.

[2007-114 - Certification that Lift Station L-58 is in "Good Operating" Condition](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council certifies that Lift Station L-58 is in Good Operating condition"

Motion carried.

[2007-115 - Authorization to Award a Construction Contract for Rehabilitation of the Shakopee Interceptor 70-23 / 69-04 Project 806600](#)

It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council authorize its Regional Administrator to award and execute a contract for construction of the Shakopee Interceptor 70-23 / 69-04 Rehabilitation Project,

MCES Project Number 806600 with Insituform Technologies USA, Inc. for their low bid of \$1,149,667.”

Motion carried.

2007-116 - Authorization to Reject All Proposals for Design-Build of Wastewater Facilities Security Improvements-Monitoring and Access Control, MCES Project Number 801700, Contract 05P114

I It was moved by Wolter and seconded by Wittsack

"That the Metropolitan Council authorize its Regional Administrator to reject all proposals for a design/build contract for Wastewater Facilities Security Improvements – Monitoring & Access Control portion, MCES Project Number 801700.”

Motion carried.

Report of the Transportation Committee

2007-56 - I-94 East Park-and-Ride Facility Lease Agreement

It was moved by M. Smith and seconded by Susag

"That the Metropolitan Council authorize the Regional Administrator to negotiate and lease property at the Guardian Angels Church in Oakdale for a park-and-ride facility.”

Motion carried, with Steffen dissenting.

2007-57 - Authorization to Award Contract for 314 Transit Buses

Transportation Committee Chair M. Smith announced that representatives from New Flyer of America, Inc. and Gillig Corporation wished to address the Council on the contract award. Smith noted that each speaker would be allotted five minutes and there would be no discussion between Council members and the presenters.

Dean Thomson, Fabyanske, Westra, Hart & Thomson law firm, representing New Flyer of America, Inc stated his client believes there was a miscommunication between Council staff and New Flyer, resulting in a legally improper disqualification of the New Flyer bid. Thomson said New Flyer intends to file a formal protest and to seek judicial relief if necessary. Thomson suggested the Council could avoid a bid protest by calling for a revised Best and Final Offers (BAFOs) and mandating the revised BAFOs be due in five-to-ten days. New Flyer will then resubmit their proposal with a two-year fleet defect warranty and 3000 hours of training.

Brian Macleod, Vice President of Marketing, Gillig Corporation stated the he believes the competitor’s lower bid was for incomplete product, and did not meet requirements. The bid process was fair, effective, is commonly used in the industry and has a clear instruction that deviation would result in rejection. The process allows for protest before the bid and that opportunity was not taken. Macleod said he does not believe there is any legal justification for rebid; Gillig is the lowest responsive bidder and deserves the award.

Smith noted this item was discussed at length before the Transportation Committee, whose members recognize the seriousness of their fiduciary responsibility to the Council and the taxpayers in the Region. Following a staff report review, the Committee felt confident in approving the item.

Transportation Staff Chris Gran and Jan Homan presented a summary of [Proposed Findings and Conclusions \(Exhibit A\)](#) regarding the Evaluation Panel recommendations for the contract award.

It was moved by M. Smith and seconded by Susag

"That the Metropolitan Council:

1. Approve and adopt the Findings and Conclusions attached as Exhibit A;
2. That the Metropolitan Council reject the Best and Final Offer submitted by New Flyer of America, Inc., due to New Flyer's material deviations from the requirements of the specification, and that the Metropolitan Council authorize the Regional Administrator to negotiate and execute a contract with Gillig Corporation for the purchase of 314 forty-foot transit buses, with an option for up to an additional 300 buses, in accordance with the Council's specification and Gillig's Best and Final Offer dated February 2, 2007, contingent on satisfactory results from the Buy America Pre-Award Audit and
3. if any proposer protests any action recited in Paragraph 2, the Council reserves the right to review the decision by any protest authority which is in any way inconsistent with the findings, conclusions or action of the Council regarding this procurement.

Motion carried

[2007-97 - Independent Testing Laboratory Contract for the 28th Avenue Park-and-Ride in Bloomington, Project 63612](#)

It was moved by M. Smith and seconded by Susag

"That the Metropolitan Council:

1. authorize the Regional Administrator to negotiate and execute a professional services contract with Stork Twin City Testing Corporation for the Independent Testing Laboratory services during the construction of the 28th Avenue Park-and-Ride Facility, and
2. that the Metropolitan Council have the technical authority to act on behalf of the Bloomington Port Authority Trust in making payments to vendors on the 28th Avenue Park and Ride Construction Project."

Motion carried

[2007-107 SW - Public Transit Human Services Transportation Coordination Action Plan TAB Action 2007-33](#)

It was moved by M. Smith and seconded by Pistilli

"That the Metropolitan Council adopt the Twin Cities Metro Area Public Transit-Human Services Coordination Action Plan as the coordinated public transit-human services plan for the region. The plan will be available Thursday afternoon, March 22, 2007".

Motion carried

2007-111 - Hiawatha LRT CMAQ Land Assembly Funds Reallocation

It was moved by M. Smith and seconded by Steffen

"That the Metropolitan Council:

1. Reallocate \$750,000 in Hiawatha LRT CMAQ Land Assembly funds from the 46th Street Square: Snelling Avenue Extension project to the Longfellow Station Transit-Oriented Development project, for a total Longfellow Station award of \$980,000.
2. Extend the expected timing of closings on property acquisitions from March 31, 2007 to March 31, 2008, and on beginning development of properties by March 31, 2009 to March 31, 2010, and
3. Authorize the Regional Administrator to negotiate and execute grant agreements with the City of Minneapolis for the following new recommended grant amounts:

Project Recommended for Land Assembly Funding	Original City Requested Amount	2/22/06 Metropolitan Council Award	Reallocation Request	New Recommended Amount
Currie Park Lofts and Station Place (Cedar/Riverside LRT Station Area)	\$1,720,000	\$1,720,000		\$1,720,000
Franklin LRT Station Project (Franklin Avenue LRT Station Area)	\$800,000	\$800,000		\$800,000
46 th Street Town Square: Snelling Avenue Extension (46 th Street LRT Station Area)	\$750,000	\$750,000	(\$750,000)	\$0
Longfellow Station Transit Oriented Development (38 th Street LRT Station Area)	\$1,000,000	\$230,000	+\$750,000	\$980,000
TOTALS	\$4,270,000	\$3,500,000		\$3,500,000

Motion carried

2007-119 SW - Northstar Locomotive Procurement

It was moved by M. Smith and seconded by Sanda

"That the Metropolitan Council authorize the Regional Administrator to

1. negotiate and execute funding agreements with MnDOT for reimbursement of locomotive payments and interest expense from Full Funding Grant proceeds and with the Northstar Corridor Development Authority (NCDA) for reimbursement of local match funds;
2. negotiate and execute an Intergovernmental, Joint Powers, and Assignment Agreement with Utah Transit Authority assigning the rights for the Council to exercise an option to purchase remanufactured locomotives;
3. exercise a Northstar option under the Utah Transit Authority (UTA) contract with Motive Power Inc. for four remanufactured MP-36 locomotives in an amount not to exceed \$10,973,000 with the following conditions:
 - o execution of the reimbursement agreements with Mn DOT and NCDA
 - o receipt of a Letter of No Prejudice (LONP) from the Federal Transit Administration;
 - o inclusion of a no-cost cancellation clause in the contract;
4. direct the Regional Administrator to cancel by May 31, 2007 the option contract with Motive Power under the no-cost cancellation clause unless the Council has taken specific action to allow the option contract to continue past May 31, 2007."

Chair Bell and Regional Administrator Weaver noted the Council will be apprised of the locomotive procurement status and the item will come back before the Council in order to exercise the option beyond May 31.

Motion carried

Report of the Community Development Committee

[2007-54 - Baytown Township Comprehensive Plan Amendment, GV Properties, Review File 16335-7](#)

It was moved by Georgacas and seconded by Steffen

"That the Metropolitan Council allow the Baytown Township GV Properties Comprehensive Plan Amendment to be placed into effect with no required plan modifications."

Leppik expressed concern about the precedent setting action of approving land use plans that are inconsistent with *2030 Development Framework* density standards when lands are outside of long-term regional wastewater sewer service areas. Chair Bell noted this topic will be scheduled for a future Council discussion

Motion carried, with Leppik dissenting.

Report of the Environment Committee

There was no report other than items on the Consent List.

Report of the Management Committee

[2007-86 - Approval of Audit Committee Member Charles Denninger](#)

It was moved by Wittsack and seconded by M. Smith

"That the Metropolitan Council approve the appointment of Charles Denninger, effective immediately, as a member to the Audit Committee for an unspecified term."

Motion carried.

[2007-113 SW - Collective Bargaining Agreement with Teamsters Local 320](#)

It was moved by Witt sack and seconded by M. Smith

"That the Metropolitan Council authorize the Regional Administrator to enter into a 32 month collective bargaining agreement with Teamsters Local 320 for the period of May 1, 2006 through December 31, 2008."

Wittsack noted the contact was settled within parameters established by the Council and is consistent with wages paid to other police officers in the region.

Motion carried.

Report of the Environment, Management and Transportation Committees

[2007-66 SW - March 2007 Unified Capital Program Amendment](#)

It was moved by M. Smith and seconded by Pistilli

"That the Metropolitan Council

Amend the 2007 Authorized Capital Program (multi-year authorization) by adding authority as follows:

Transit (2007-66)	approved by Mgmt Comm on Feb 28	\$ 4,408,030
Transit (2007-97)	28 th Ave P&R Construction Passthrough	19,212,410
Transit (2007-119)	Northstar Locomotive Option*	<u>10,973,000</u>
		\$ 34,593,440

*contingent on Transportation Committee approval

- Amend the 2007 Capital Budget (annual appropriation) by adding appropriations as follows:

Transit (2007-66)	approved by Mgmt Comm on Feb 28	\$ 14,930,017
Transit (2007-97)	28 th Ave P&R Construction Passthrough	8,500,000
Transit (2007-119)	Northstar Locomotive Option*	<u>3,300,000</u>
		\$ 26,730,017

*contingent on Transportation Committee approval

- Amend the 2006 Capital Budget (annual appropriation) by adding appropriations as follows:
Environmental Services \$ 3,000,000
- Approve transfers between capital projects as detailed in Attachment 1.

Motion carried on the following roll call:

Yes			No	Absent, Not Voting	
Pistilli	Meeks	Aguilar		Scherer	Georgacas
M. Smith	Wittsack	Wolter		J. Smith	McDaniel
Susag	Steffen	Bell		Hilker	District 14 Vacant
Leppik	Sanda				
TOTAL	11		0	6	

Other Business

Judd Schetnan presented a Legislative Update.

The Council 's priority initiatives include the MVST allocation and creation of an account to hold the funds, the deficiency bill and transportation funding.

Reports

Chair

Chair Bell reported:

- he attended the State of the City addresses in Minneapolis and St. Paul;
- the Metropolitan Council Nominating Committee public hearing is scheduled for Thursday, March 29, 7pm in Council Chambers;
- he, Regional Administrator Weaver and Council staff met with Dakota County Commissioners and will be meeting with the other Metropolitan County Commissioners in upcoming weeks;
- he is meeting with parks implementing agencies regarding the Parks Foundation Initiative

Council Members

Steffen reported Anoka County hosted a transportation meeting to discuss Transportation Advisory Zones. She thanked Council staff for participating in the event.

Meeks, Metropolitan Council representative on the Governor's Commission on Homelessness, reported she attended the bi-annual meeting and received the Wilder Research survey, *Overview of Homelessness in Minnesota 2006*.

Regional Administrator

There was no report this week.

General Counsel

There was no report this week.

Adjournment

Business completed, the meeting adjourned at 5:25 p.m.

Part III - Certification

I hereby certify that the foregoing narrative and exhibits constitute a true and accurate record of the Metropolitan Council Meeting of March 28, 2006.

Approved this 11th day of April, 2007.

Respectfully submitted,

Pat Curtiss
Recording Secretary