



Metropolitan Council Meeting

Wednesday, September 23, 2009

Robert Street Council Chambers

4:00 P.M.

Table of Contents

Part I - Narrative	1
Attendance	1
Call to Order and Approval of Agenda	1
Minutes	1
Public Invitation	1
Part II - Exhibits	1
Business	1
Committee Consent List.....	1
2009-309 - Authorization to Extend Contract for Operator Uniforms	1
2009-310 - Authorization to Execute agreements for the Job Access and Reverse Commute and New Freedom FFY 2008-2009 Program Funding	2
2009-315 - Technical Amendments to Legal Services Agreements; No Budget Impacts	2
2009-317 - Authorization to Amend Contract for Off-Site Records Storage	2
2009-307 - Subordinate Funding Agreement #4 with the Minnesota Department of Transportation for the Central Corridor Light Rail Project	3
2009-308 - Authorization to Execute Grant Agreements – MVTA, SouthWest Transit and the University of Minnesota	3
Report of the Management Committee.....	3
2009-316 - Metropolitan Sports Facilities Commission 2010 Budget, Resolution No. 2009-25	3
2009-322 - Authorization to Award Health Insurance Contract	4
2009-323 - Settlement of Litigation: MOAC Land Holdings, LLC v. Metropolitan Airport Commission and the Metropolitan Council	4
Motion to Close the meeting	4
Motion to Adjourn the Closed Meeting	5
Motion to Open the Meeting	5
2009-323 - Settlement of Litigation: MOAC Land Holdings, LLC v. Metropolitan Airport Commission and the Metropolitan Council	5
2009-343 SW - Appointment of General Counsel	5
Report of the Transportation Committee	6
2009-313 - Authorization to Execute Agreement with MVTA for the Cedar Avenue Lakeville BRT Express Service	6
2009-314 - \$21 million 2009 Transit Capital Improvement State G.O. Bonds Allocation	6

Report of the Community Development Committee.....	6
2009-321 SW - City of Minneapolis Request to Amend the End Project and Extend the Grant Agreement Expiration Dates for Longfellow Station Grants SG006- 162,SG007-041 and SG007-115	6
Report of the Environment Committee	7
Other Business	7
2009-328 - Land Use Advisory Committee (LUAC) Appointment	7
2009-345 - Appointment to the Metropolitan Parks and Open Space Commission (MPOSC)	7
Proposed 2010 Unified Capital Program	7
Overview / Fiscal Impact - Wes Kooistra, Chief Financial Officer	7
Environmental Services - Bill Moore, General Manager, Environmental Services	
Parks – Guy Peterson, Director, Community Development	
Transit - Brian Lamb, General Manager, Transit; Arlene McCarthy, Director, Metropolitan Transportation Services	
Reports	8
Chair	8
Council Members	8
Regional Administrator	8
General Counsel	8
Adjournment	8
Part III - Certification	8

Metropolitan Council Meeting

Wednesday, September 23, 2009

Council Chambers

4:00 P.M.

Part I - Narrative

Attendance:

Peter Bell, Chair; Roger Scherer, Tony Pistilli, Polly Bowles, Peggy Leppik, Annette Meeks, Lynette Wittsack, Natalie Steffen, Kris Sanda, Georgeanne Hilker, Sherry Broecker, Rick Aguilar, Kirstin Sersland Beach, Daniel Wolter, Wendy Wulff

Members absent: Robert McFarlin, Craig Peterson

Call to Order and Approval of Agenda

A quorum being present, the Chair called the regular meeting of the Metropolitan Council to order at 4:05 p.m. Chair Bell removed Items 2009-307 and 2009-308 from the Consent List, so they could be voted on separately. It was moved by Steffen, seconded by Broecker, to approve the amended agenda. Motion carried.

Minutes

It was moved by Scherer, seconded by Wolter, to approve the minutes of the Metropolitan Council Meeting of September 9, 2009. 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

[2009-309](#) - Authorization to Extend Contract for Operator Uniforms

It was moved by Broecker, and seconded by Hilker

"That the Metropolitan Council authorize the Regional Administrator to extend the contract with Uniforms Unlimited, Inc. to supply Metro Transit operator uniforms for twelve months at the current contract prices."

Motion carried.

2009-310 - Authorization to Execute agreements for the Job Access and Reverse Commute and New Freedom FFY 2008-2009 Program Funding

It was moved by Broecker, and seconded by Hilker

" That the Metropolitan Council authorize the Regional Administrator to execute subrecipient agreements with the specified agencies and for the specified amounts of federal Job Access and Reverse Commute (JARC) or New Freedom program funding identified in Attachment A."

Motion carried.

2009-315 - Technical Amendments to Legal Services Agreements; No Budget Impacts

It was moved by Broecker, and seconded by Hilker

"That the Metropolitan Council:

<u>Law Firm</u>	<u>Services</u>	<u>Term</u>	<u>Current Price</u>	<u>Proposed Increase</u>	<u>New Price</u>
Bassford Remele	Legal Services related to Council Facilities and General Matters Contract No. 02P083	04/01/02 - 12/31/10	\$25,000	\$15,000	\$40,000
Bassford Remele	Legal Services related to Tort & Property Damage Contract No. 06P152A	01/01/07 - 12/31/09	\$875,000	\$125,000	\$1,000,000
Best Flanagan	Legal Services related to Eminent Domain and other Real Property Matters Contract No. 06P154	1/1/07- 12/31/09	\$475,000	\$125,000	\$600,000
Dorsey Whitney	Legal Services related to Construction and Engineering Matters Contract No. 02P096	10/10/02- 12/31/10	\$1,250,000	\$250,000	\$1,500,000

Motion carried.

2009-317 - Authorization to Amend Contract for Off-Site Records Storage

It was moved by Broecker, and seconded by Hilker

"That the Metropolitan Council authorize the Regional Administrator to amend the Metropolitan Council's contract with Iron Mountain for off-site records storage to increase the maximum compensation by \$56,780 to a total amount of \$284,170.

Motion carried.

[2009-307](#) - Subordinate Funding Agreement #4 with the Minnesota Department of Transportation for the Central Corridor Light Rail Project

It was moved by Hilker and seconded by Meeks

"That the Metropolitan Council authorize the Regional Administrator to negotiate and execute Subordinate Funding Agreement (SFA) #4 to the Master Funding Agreement with the Minnesota Department of Transportation (MN/DOT) in the not to exceed amount of \$25,000,000 for property acquisition for the Central Corridor Light Rail Project."

Council Member Wolter recused himself from the discussion and vote on the item. Motion carried.

[2009-308](#) - Authorization to Execute Grant Agreements – MVTA, SouthWest Transit and the University of Minnesota

It was moved by Hilker and seconded by Meeks

"That the Metropolitan Council authorize the Regional Administrator to execute grants with MVTA, SouthWest Transit, and the University of Minnesota for the following amounts:

Agency:	Project:	Existing Amount:	Initial or Amended Amount:
MVTA	Garage Debt – 2009 COP Principal	-	\$400,000
SouthWest Transit	Station Debt – 2009 COP Principal	-	\$400,000
SouthWest Transit	Station Debt – Principal and Interest	-	\$379,515
University of Minnesota	Bus Purchase	\$676,859	\$849,421

Council Member Wolter recused himself from the discussion and vote on the item. Motion carried.

Report of the Management Committee

[2009-316](#) - Metropolitan Sports Facilities Commission 2010 Budget, Resolution No. [2009-25](#)

It was moved by Scherer and seconded by Wittsack

"That the Metropolitan Council approve Resolution 2009-25 granting approval of the proposed year 2010 Metropolitan Sports Facilities Commission (MSFC) Budget and Report on user Fee Charges."

Metropolitan Council Meeting of September 23, 2009

Bill Lester, Executive Director of the Metropolitan Sports Facilities Commission, was introduced and stood for questions.

Motion carried.

2009-322 - Authorization to Award Health Insurance Contract

It was moved by Scherer and seconded by Leppik

"That the Metropolitan Council authorize the Regional Administrator to negotiate and enter into a contract for the fully insured medical plan for the period of January 1, 2010, through December 31, 2012."

Council Member Sanda recused herself from the discussion and vote on this item.

Motion carried.

2009-323 - Settlement of Litigation: MOAC Land Holdings, LLC v. Metropolitan Airport Commission and the Metropolitan Council

It was moved by Scherer and seconded by Wittsack

"That the Metropolitan Council authorize the Regional Administrator to settle the matter entitled *MOAC Land Holdings, LLC v. Metropolitan Airport Commission and the Metropolitan Council* on terms consistent with the discussion that occurred during the closed portion of the Management Committee meeting and to authorize the Regional Administrator and the Metropolitan Council's attorneys to take all actions necessary or appropriate to finalize a settlement of the above-entitled matter."

It was moved by Meeks and seconded by Wulff

"That the Metropolitan Council table Business Item 2009-323 – Settlement of Litigation: *MOAC Land Holdings, LCC v. Metropolitan Airport Commission and the Metropolitan Council*"

Motion carried.

Motion to Close the meeting

It was moved by Scherer and seconded by Meeks

"That the Metropolitan Council close the meeting to consider the proposed negotiated settlement related to business item 2009-323 – Settlement of Litigation: *MOAC Land Holdings, LCC v. Metropolitan Airport Commission and the Metropolitan Council.*"

Motion carried.

Everyone was asked to leave the room, except Council members, authorized management staff and others whose presence is necessary for a discussion on the proposed negotiated settlement. The Metropolitan Council meeting at Robert Street Chambers was closed at 4:30 pm. Those present during the closed portions of the meeting included Council Members: Peter Bell, Chair; Roger Scherer, Tony Pistilli, Polly Bowles, Peggy Leppik, Annette Meeks, Lynette Wittsack, Natalie Steffen, Kris Sanda, Georgeanne Hilker, Sherry

Metropolitan Council Meeting of September 23, 2009

Broecker, Rick Aguilar, Kirstin Sersland Beach, Daniel Wolter, Wendy Wulff. Others present included Council staff Tom Weaver, Dave Theisen, Peter Hanf, Pat Curtiss, and Matt Boos, Fredrickson and Byron LLP.

Motion to Adjourn the Closed Meeting

It was moved by Scherer and seconded by Bowles

"That the Metropolitan Council adjourn the closed meeting at 4:40 pm.

Motion carried.

Motion to Open the Meeting

It was moved by Scherer and seconded by Bowles

"That the Metropolitan Council open the meeting at 4:40 pm to the public and move Business Item 2009-323 off the table."

Motion carried.

[2009-323](#) - Settlement of Litigation: MOAC Land Holdings, LLC v. Metropolitan Airport Commission and the Metropolitan Council

It was moved by Scherer and seconded by Wittsack

"That the Metropolitan Council authorize the Regional Administrator to settle the matter entitled *MOAC Land Holdings, LLC v. Metropolitan Airport Commission and the Metropolitan Council* on terms consistent with the discussion that occurred during the closed portion of the Management Committee meeting and to authorize the Regional Administrator and the Metropolitan Council's attorneys to take all actions necessary or appropriate to finalize a settlement of the above-entitled matter."

Motion carried on the original motion.

[2009-343 SW](#) - Appointment of General Counsel

It was moved by Scherer and seconded by Leppik

"That the Metropolitan Council recommend the Metropolitan Council appoint Don Mueting to the position of General Counsel."

The Council's Legal Department is supervised by a General Counsel. By statute, the General Counsel is appointed by the Council's governing body and serves at the pleasure of the Council. The General Counsel position currently is vacant. The vacancy was publicly advertised and several applicants were interviewed by a six-member panel consisting of Chair Peter Bell, the chairs of the four standing committees, and Regional Administrator Tom Weaver. The panel is recommending Don Mueting for the General Counsel position. In conjunction with the process of filling the vacant General Counsel position, Dave Theisen of the Legal Department has been appointed Deputy General Counsel.

Motion carried.

Report of the Transportation Committee

[2009-313](#) - Authorization to Execute Agreement with MVTA for the Cedar Avenue Lakeville BRT Express Service

It was moved by Meeks and seconded by Wulff

"That the Metropolitan Council authorize the Regional Administrator to execute a sole source agreement with Minnesota Valley Transit Authority to provide Cedar Avenue Lakeville BRT express service in an amount not to exceed \$650,000."

Motion carried.

[2009-314](#) - \$21 million 2009 Transit Capital Improvement State G.O. Bonds Allocation

It was moved by Meeks and seconded by Wulff

"That the Metropolitan Council allocate the \$21 million in 2009 Transit Capital Improvement Program state G.O. bonds per Attachment A."

Motion carried.

Report of the Community Development Committee

[2009-321 SW](#) - City of Minneapolis Request to Amend the End Project and Extend the Grant Agreement Expiration Dates for Longfellow Station Grants SG006-162, SG007-041 and SG007-115

It was moved by Steffen and seconded by Meeks

" That the Metropolitan Council approve the request by the City of Minneapolis to extend the terms of the Livable Communities grants for the Longfellow Station project and recommend that the Metropolitan Council:

(1) Authorize its Community Development Director to execute amendments to Grant numbers SG006-162, SG007-041 and SG007-115 that:

(a) Permit the Grantee to use the grant funds for the modified project as presented to the Review Panel; and

(b) Extend the expiration dates of Grant Numbers SG006-162 (from December 31, 2009, to December 31, 2011), SG007-041 (from September 30, 2009, to September 30, 2010), and SG007-115 (from December 31, 2009, to December 31, 2011).

(2) This action is conditioned upon the following:

(a) All three grants will terminate as of December 31 2009 if a copy of an executed developer's agreement is not delivered to Metropolitan Council staff before December 31 2009;

(b) The Grant-Funded Activities of the TBRA grant SG007-041 must commence before March 31, 2010 and no grant funds will be disbursed until that cleanup work commences;

(c) Work on the project activities funded by LCDA grant SG006-162 must commence no later than June 30, 2010, and be completed by December 31, 2011;

(d) No grant funds will be disbursed for LCDA Grant Numbers SG006-162 or SG007-115 until construction on the mixed use building has begun, and development of the project must commence by December 31, 2010 and be complete by December 31, 2011;

(e) The City must submit a schedule to the Metropolitan Council that shows all construction will be completed by December 31, 2011; and

(f) The City must submit evidence of full project funding by March 31, 2010."

Motion carried.

Report of the Environment Committee

There was no report

Other Business

2009-328 - Land Use Advisory Committee (LUAC) Appointment

It was moved by Leppik and seconded by Steffen

"That the Metropolitan Council approve the appointment of Robert Shaffer to the Land Use Advisory Committee representing District 6."

Motion carried.

2009-345 - Appointment to the Metropolitan Parks and Open Space Commission (MPOSC)

It was moved by Leppik and seconded by Steffen

"That the Metropolitan Council approve the appointment of Council Member Wendy Wulff as Council liaison to the Metropolitan Parks and Open Space Commission."

Motion carried.

Proposed 2010 Unified Capital Program

Overview / Fiscal Impact - Wes Kooistra, Chief Financial Officer

Environmental Services - Bill Moore, General Manager, Environmental Services
Parks - Guy Peterson, Director, Community Development

Transit - Brian Lamb, General Manager, Transit; Arlene McCarthy, Director, Metropolitan Transportation Services

2010 Capital Schedule:

Metropolitan Council Meeting of September 23, 2009

October 14 Adoption of Public Comment Draft
October 22 December 8 - Public Comment Period
December 9 Public Comments, 6:00 PM
 Final Adoption

Reports

Chair

Chair Bell reported:

- the Metropolitan Council, Humphrey Institute and McKnight Foundation hosted a Regional Policy Conference earlier today. Bruce Katz, Vice President and Director of the Metropolitan Policy Program of the Brookings Institute presented the key note address;
- the Council was served a Summons and Complaint: *Regents of the University of Minnesota v. Metropolitan Council* in which the University alleges the Council failed to adequately address environmental effects of the proposed Central Corridor Light Rail Transit (CCLRT) project and take adequate mitigation measure to protect the University during construction and when the CCLRT operates. Council will continue negotiating with the University;

Chair Bell thanked Dave Theisen for serving as interim General Counsel these past months and congratulated him on his new position as Deputy General Counsel.

Council Members

Council Member Sersland Beach reported:

- the CCLRT Community Advisory Committee met to discuss right-of-way issues;
- she attended a portion of the 2009 Metro Transit Roadeo and complimented transit drivers for their expertise in the bus operators skills and safety competition.

Regional Administrator

There was no report.

General Counsel

Interim General Counsel Dave Theisen complimented the Council on their selection of Don Mueting as General Counsel.

Adjournment

Business completed, the meeting adjourned at 6:10 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 September 23, 2009.

Approved this 14th day of October, 2009.

Metropolitan Council Meeting of September 23, 2009

Respectfully submitted,

Pat Curtiss, Secretary