

Management Committee

Business Item

Item: 2012-133

Meeting date: April 11 2012

ADVISORY INFORMATION

Date: April 9, 2012

Subject: Request for Waiver of Conflict – Bloomberg & Podpeskar LLP

District(s), Member(s):

Policy/Legal Reference: Minnesota Statutes § 473.129

Staff Prepared/Presented: Donald Muetting, General Counsel
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Division/Department: Office of General Counsel

Proposed Action

That the Metropolitan Council:

- (1) waive any conflict of interest and consent to Bloomberg & Podpeskar LLP (Bloomberg & Podpeskar) representing and advising Metropolitan Council Environmental Services (“MCES”) permit holders in enforcement proceedings initiated by MCES should such a situation arise; and,
- (2) authorize the General Counsel to execute any documents necessary to effectuate such waiver.

Background

The General Counsel intends to appoint Bloomberg & Podpeskar to represent the Council in matters relating to air pollution regulation. Jonathan Bloomberg will be the attorney assigned to this matter. Through Mr. Bloomberg’s partner, Kenneth Podpeskar, Bloomberg & Podpeskar currently provide legal services to a number of businesses that hold industrial wastewater discharge permits authorizing discharge into the MCES system.

Bloomberg & Podpeskar requests a waiver that will permit it to advise and represent these businesses if a business is alleged to have violated the terms of its wastewater discharge permit or otherwise is in an enforcement proceeding with MCES. Bloomberg & Podpeskar state that such a situation has never arisen to date. If however, the situation does arise, Mr. Podpeskar who will not perform any work the Council, will be responsible for the work on any industrial wastewater discharge dispute and the firm will create an information firewall between Mr. Podpeskar for that work and any work done by Jon Bloomberg on behalf of the Council.

This law firm is one of the only local options for the specialized service need by MCES for air pollution regulation assistance.

Issue

Whether to consent to the waiver of a potential conflict of interest in connection with Bloomberg & Podpeskar’s representation of businesses that hold industrial discharge permits authorizing them to discharge into the MCES system

Recommendation

The Office of General Counsel has no objection to Bloomberg & Podpeskar’s request and recommends that the Council give its consent.