Committee Report

E Environment Committee

Item: 2012-350

For the Metropolitan Council meeting of November 28, 2012

ADVISORY INFORMATION

Date Prepared: November 14, 2012

Subject: Adoption of Changes to Sewer Availability Charge (SAC) Procedures

Proposed Action:

That the Metropolitan Council adopts changes to the Sewer Availability Charge (SAC) program to be effective January 1, 2013, and approves the revised SAC procedure manual which is shown in attachment A in substantially final form.

Summary of Committee Discussion / Questions:

Council Member Van Eyll thanked Council Member Wulff, Metro Cities staff, Council staff, and others who participated in the development of the revised SAC procedure manual. Council Member Rummel mentioned that she attended the public meeting and her view was that the public was quite positive about the proposed changes.

There were no questions.

Motion to approve the proposed action was made, seconded, and passed unanimously.

Business Item
Item: 2012-350

E Environment Committee

Meeting date: November 13, 2012

For the Council Meeting of November 28, 2012

ADVISORY INFORMATION	
Date:	Nov. 6, 2012
Subject:	Adoption of Changes to Sewer Availability Charge (SAC) Procedures
District(s), Member(s):	All
Policy/Legal Reference:	Council Admin. Policy 3-2-5; Water Resources Management Policy Plan, and MN Statue 473.517 subd. 3
Staff Prepared/Presented:	Jason Willett 651-602-1196
Division/Department:	MCES / Finance

Proposed Action

That the Metropolitan Council adopts changes to the Sewer Availability Charge (SAC) program to be effective January 1, 2013, and approves the revised SAC procedure manual which is shown in attachment A in substantially final form.

Background

Metro Cites and others requested that MCES relook at the 2010 changes pertaining to "net credits" the possibility of loans to assist small businesses and some other SAC matters. This led to an informal work group of community representatives, plus Council members Gary Van Eyll and Wendy Wulff, which discussed and recommended improvements to the SAC procedures. A unanimous recommendation to change some of these credit rules was reached and was discussed at the Environment Committee meeting on October 9th. A report on the work group's recommendation and supporting materials is available on the Council's web site at: http://www.metrocouncil.org/environment/RatesBilling/documents/2012%20Work%20Group%20Final%20Report.pdf

At Environment Committee direction, a public meeting was held on October 23, chaired by CM Van Eyll, to seek input from all interested parties. See information on the outreach for the meeting on Attachment B. Notes from the meeting is attachment C. Written comments received are attachment D.

A comment from the public meeting was that potential credits from grandparenting should not be lost when unused but should be retained on the site for future redevelopment or growth. MCES staff has discussed the issue with the staff of the cities raising the issue and as a result has incorporated a small change to allow the preservation of such potential credits on the site for five years to allow for the company's growth.

The SAC Procedure Manual has all the proposed changes incorporated in substantially final form, but additional MCES staff review is ongoing. The Council has previously authorized staff to edit and clarify this manual as needed, so additional minor improvements may be incorporated prior to release in December.

Rationale

The proposed changes are Council responsiveness to community and public input.

Funding

The SAC transfer supporting MCES' budget is basically determined by law, the reserve capacity computation method and capital spending on wastewater assets; it will not be impacted by these changes.

However, more credits means less SAC units paid to the Council. The SAC rate for 2013 has already been adopted so the reduction of receipts will not impact the SAC rate but will impact the SAC reserve in 2013. After that, SAC rates will need to be higher than without these changes. It is estimated that the impact is in the range of $1 - $2 million/year. Growing SAC receipts from the economic recovery may make this impact indiscernible.

Known Support / Opposition

Metro Cities supports the changes. The work group supports the changes. And the public comments for the most part support the changes.
No opposition was heard or is known.

Attachment A

Revised SAC Procedure Manual

Attachment B – Outreach for the Public Meeting

Notification of the Public Meeting went to:
Star Tribune, Pioneer Press and designated legal newspapers for the seven counties,
Metropolitan Council Website,
Letter to City Contacts (City Finance, Building, Public Works and Community Development Officials),
Email Notice to City Contacts (City Finance, Building, Public Works and Community Development Officials),
Email Notice to the 2011 SAC Task Force Members,
Email to frequent SAC contacts for determination submittals with copy of notice to cities,
Metro Cities Newsletter, and
Metropolitan Council Newsletter

Public Information Meeting on Recommendations made by 2012 SAC Work Group
October 23, 2012

Gary Van Eyll, Met Council Member & Chair for this meeting
Sandy Rummel, Met Council Member & Environment Committee Chair

Attendees that signed in: 32

MCES Staff in attendance (for presentation and questions): Jason Willett, Bob Pohlman, Dan Schueller, Jessie Nye, Kelly Barnebey

Meeting Chair Van Eyll opened the meeting, discussed the agenda, invited questions at any time, and mentioned that the meeting was being recorded and that staff was taking notes to be included in the record. He asked the Work Group members in attendance to stand. He then introduced the MCES staff.

Jason Willett presented a PowerPoint presentation and started with background on MCES & the SAC program, followed by the Work Group's recommendations.

During Jason's discussion, Jim Bloom from St. Paul questioned that he thought nonconforming credits (from grandparenting) would stay on the site even if they are not being used after the new determination. Jason replied this is not what this proposal describes and that he did not think that was the consensus of the Work Group, but of course Jim could send in written comments asking for a change. Pierre Willette from Minneapolis asked for confirmation that the maximum number of SAC for MCES loan consideration is ten. The answer was yes.

At the conclusion of the presentation, Jason described the ways in which people may submit comments for the record and gave a timeline for potential Council adoption.

Chair Van Eyll then asked those from the audience who wished to speak to come forward and identify themselves.

Speakers:

Sandy Colvin Roy, City of Minneapolis Council Member

- She said she was pleased to add support for the Work Group's recommendations.
- In August 2012, the City adopted policy decisions that were brought to the Work Group. There were 3 areas of concern: 1) current SAC program is out of balance with fully developed cities, 2) small business issues and the community review process, and 3) lack of flexibility for business paying for SAC and its financial burden.
- The City requested 1) reinstatement of net credits with maximum flexibility, 2) increased outreach services, and 3) full review of SAC customer services including community reviews, payment plans, and MCES staff member onsite for large cities.
- The City found the Work Group's recommendations align with most of their requests. The City will take a "wait and see" attitude with respect to implementation of the changes. They understand the minor transfer details need to be worked out but consider it a great addition.

City of Minneapolis Council Member Colvin Roy submitted her comments to staff at the conclusion of the meeting (see attached).

Pierre Willette, City of Minneapolis and Work Group member

- Would like to add he liked this Work Group's focus on small business and found it heartening to see other cities with similar issues.
- Asked for clarification on the grandparent credit issue, as he also thought they stayed onsite. Jason replied that the proposal is that following a redetermination they are reduced to the amount needed for the new use, retaining the unused portion is not part of the recommendations at this point. He also suggested that Pierre submit additional written comments.

Gene Abbott, City of Lakeville and Work Group member

- Wholeheartedly in support of these changes.
- Requested clarity: prior to 1/1/10, net credits could be site-specific or city-wide at cities' option. With the 2010 credit rule changes, net credits could no longer be taken city-wide. The City finds some situations from 1/1/10 that it would have been able to take the credits city-wide had the rules allowed. For example: 1) demolition of a rectory 2 years ago that now is an open field. 2) park bathrooms demolished and now open park land. Both are grandparent properties. Jason replied of course Gene too is welcome to send in written comment, but that the Work Group didn't talk about retroactivity or make it part of the recommendations. Going back might open up financial issues. MCES didn't look at the financial impact of allowing with this. Gene's response: MCES could limit the exception to properties for public purpose.

Jim Bloom, City of St. Paul and Work Group member

- Agreed with Minneapolis on their understanding of grandparent credits allowing for unused grandparent credits to stay on a site. He views those credits disappearing as a sort of Look-Back Period, which was supposed to be eliminated with this proposal.
- Commended MCES staff on the process and the likely changes.

Thatcher Imboden, The Ackerberg Group

- Thanked MCES staff.
- His company's initial read of recommendations is that they are supportive of the proposed changes.
- Has an interest if cities are allowed to transfer SAC credits to other parcels (Minor Transfer).
- Supports the proposed end of the Look-Back Period. In particular for buildings with long vacancy as it is not fair to building owners to have to pay again.
- Supportive of flexibility cities have. However, regarding net credits, he feels they as the landlord should hold on to those credits that they already paid for.
- Requested transparency to owner, not just cities.

Rick Breezee, Metropolitan Airports Commission

- Is today's PowerPoint presentation available? It will be on the website after this meeting. (He was given a hard copy after meeting.)

Chair Van Eyll indicated the public comments will be summarized and included with the package given to Met Council Members, and again reminded attendees of the Council's interest in comments and the 10-day written comment period.

CM Colvin Roy Comments at Public Hearing

Metropolitan Council Environment Committee, October 23, 2012

Thank you madam Chair for the opportunity to be here. I am Council member Sandy Colvin Roy, **representing the City of Minneapolis today.**

We are very pleased to add the support of the City of Minneapolis to the work of the Sewer Availability Charge Work Group.

In August of this year, the City established a range of official policy positions on SAC that our staff brought to their work at the many SAC Work Group meetings. Those policy positions outlined City **concerns in three major areas.**

First, the City expressed concern that the **current SAC program is out of balance** and that fully-built cities like Minneapolis are paying a disproportionate amount of funds into the SAC program with little corresponding need for increased capacity.

Second, we expressed concerns about customer service issues, particularly difficulties that **small businesses** have from both a general customer service standpoint and from problems encountered during the **"Community Review" or audit process.**

Third, the city expressed concerns over the **lack of flexibility for businesses paying for SAC and the financial burden** that the SAC costs present for many small business owners, especially when discovered years after they have created their business and financing plans.

Specifically the City asked for:

1.Reinstating a "Net Credit" policy with maximum local flexibility

2.Increasing and improving MCES services and outreach to business and property owners

3.Full review of MCES customer service policies

1. Revised Community Review or "audit" policies
2. Creation of a payment plan to assist businesses in paying SAC charges.
3. Provision of Met Council staff on-site in Minneapolis and for other large SAC customers

Participating City staff reported that the SAC Work Group discussed almost all of these ideas and that MCES has agreed to continue dialog on others.

We are especially pleased to be in full support of the following Work Group recommendations:

- The proposed **partial return to a "net credit" policy and the return of limited "grand parented" credits.** This helps to bring balance between the need for new capacity and the acknowledgment of existing capacity.

- The proposal for **minor transfers**. Helping assist growing small businesses whose purchase of SAC can be made portable when they change locations within a city.

- The **modification of the Community Review or audit process**, reducing the look back to **3** three years.

- The proposal for a **SAC loan program**, allowing small business to ease the cost of SAC with little or no risk to the overall fund.

- The proposal for **alternative language versions** of all materials related to MCES SAC

While we are in full support of these recommendations there are **some concerns that remain** on which we have taken a "wait and see attitude" toward the general customer service issues.

We are also very pleased with the openness from MCES to partner with us on **new outreach ideas**. We believe this will take us all further with our joint work to educate businesses and property owners on SAC, especially if the Council agrees to move these proposed new rules forward.

On a related ~~another~~ topic, the **minor SAC transfer is a great addition** to the small business friendly changes, but the process on how it will work, and how SAC credits might be split between building owner and business owner will take more work and discussion.

*The situation with a local small restaurant is what drew me into the complicated matters regarding SAC policies and processes, and their story illustrates several points.

The permit for a small expansion of seating unexpectedly triggered a bill over $7,000 because the previous owner had not been required to pay SAC. The owner had successfully managed to create a business that was running successfully enough to expand, **but had difficulty reaching MCES staff and getting answers to all of his questions regarding the bill.** He also called the city and ended up calling my office because he still couldn't get answers to his questions. Better outreach and customer service would have **saved a lot of trouble for a small business owner**... small businesses usually don't have special staff to cover such 1x investigations.

The **loan program** would offer a way to spread out the additional expense.

And, since the business is now ready to expand once more into a different location in the city, the business **could benefit from the minor transfer provision of SAC credits already being paid for.**

The issue of **SAC for patio seating** that is added to a restaurant was resolved partly due to our advocacy for this restaurant. Although it was too late to help them, the City appreciates that change.

Lastly I want to add my thanks to all of the Task Force Members, the participating MCES Staff, the Members of the Metropolitan Council who took the time to listen to our concerns.

This is a very complicated issue that can, at times, put cities in the middle of disputes where we have very little control. That is why as we move forward to **implement the proposed changes we must remember that this is a cooperative partnership.**

As your largest customer, both of sewer services and I think most recently of SAC, it is apparent that we all need to continually be at the table in order to keep looking for ways to better educate and serve those who are building and operating businesses in our cities.

Thank you.

METRO CITIES
Association of Metropolitan Municipalities

October 18, 2012

Ms. Kelly Barnebey
Metropolitan Council
390 North Robert Street
Saint Paul, MN 55101

Dear Ms. Barnebey:

Thank you for the opportunity to comment on the recommendations of the SAC work group regarding the use of SAC credits.

Metro Cities approached MCES this summer to request a discussion of SAC policy to determine whether there might be some allowance to use SAC credits city wide. MCES agreed, and a work group was established to review the policy and make recommendations. I participated as a co-chair of this group, and several city officials from across the metro region served on the group. Metro Cities would like to thank MCES staff and Met Council members Wendy Wulff and Gary Van Eyll for their work with us and for promoting an informative and thorough process around the various policy considerations associated with recommending changes for SAC credits.

Metro Cities' policies support flexibility to allow SAC credits to be used on a city wide basis. Although we worked with MCES on the no-net-credit policy adopted in 2010, this policy has since raised numerous concerns by city officials with respect to redevelopment challenges and lack of credit flexibility, and the impacts of SAC credit restrictions on business growth and expansion, particularly in a recessive economy.

While our policies support additional flexibility around credits, Metro Cities does want to ensure that any policy changes will not compromise equity for users, will not make the program more complex and will not significantly increase SAC rates.

Metro Cities support s the recommendations outlined in the Final Report of the work group, which had unanimous consent by group participants. These changes would allow for SAC credits to be used city wide, at the city's option, with SAC paid as sufficient evidence to generate credits (with exceptions for non-conforming uses and grand-parented properties). Metro Cities further supports the recommendation that allows for minor SAC credit transfers and limiting community reviews to three years.

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We also support the recommendation for an MCES SAC loan program to assist small businesses, with a review of this program after a two year period to assure the program is workable from an administrative standpoint and will not create financial challenges or risks for the SAC program. Finally, we support a review of MCES' customer service policies and additional outreach efforts around the SAC program.

Under the recommendation, it is possible that SAC rates could increase, depending on growth in SAC receipts, capital expenditures, and other factors. Metro Cities will continue to closely monitor the SAC program and the impacts of any policy changes on SAC rates going forward.

Thank you again for the opportunity to comment on the recommendations put forth by the work group for the SAC program. Please contact me if you have any questions or would like additional information.

Sincerely,

Patricia Nauman
Executive Director

Barnebey, Kelly

From: O'Connell, Pat on behalf of PublicInfo
Sent: Wednesday, October 17, 2012 7:36 AM
To: Barnebey, Kelly
Subject: FW: Public Comment re: 2012 SAC Work Group

From: Dusty Finke [mailto:Dusty.Finke@ci.medina.mn.us]
Sent: Tuesday, October 16, 2012 4:30 PM
To: PublicInfo
Subject: Public Comment re: 2012 SAC Work Group

Please accept the following comments related to the recommendations made by the 2012 SAC Work Group (hearing to be held Tuesday, October 23 at 2:00 p.m.):

I strongly support the Met Council increasing the flexibility in administering credits. I also support flexibility in paying fees for business expansions as has been suggested by the Work Group. The City of Medina has a three-year no-interest payment plan for City infrastructure fees for business expansions and would support the Met Council offering a similar program.

Dusty Finke
City Planner
Ph: (763) 473-4643
Fax: (763) 473-9359

CSM
PROPERTIES

October 22, 2012

Jason Willett
Director, MCES Finance & Energy Management
Metropolitan Council
390 N. Robert Street
St. Paul, MN 55101

Dear Jason,

The purpose of this letter is to support the proposed changes to the Met Council's SAC credit rules. Specifically, the SAC paid at any time on a property should be sufficient evidence for continuing credit.

The current requirement of having to prove existing use, especially if the original SAC payment was before the seven year look-back period, is an unfair and an undue burden on business and redevelopment. When a property is purchased, the information needed to "prove" past use for SAC determination, like a room-by room use map, was likely never completed, nor would it be available for future users because the past user would never have had a reason to prove something they already have. That culminates in a "guilty until proven innocent" scenario while ignoring the logic of working from past known SAC credits.

The importance of being able to carry these credits forward is a key economic factor because redevelopments always struggle with cost, and SAC costs frequently make their presence known at the end of deals, and when each side is usually towards their negotiating breaking point.

In conclusion, as representing a private real estate owner and developer, the proposed SAC credit changes have support from our company, and I would conclude by and large from the greater commercial real estate industry.

Sincerely,

Drew Johnson
CSM Corporation

Cc: Russ Mathis –City of Eagan Director of Public Works

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Elizabeth Glidden
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Sandra Colvin Roy
Council Member, Twelfth Ward
(612) 673-2212
Sandra.ColvinRoy@MinneapolisMN.gov

October 25, 2012

Sandy Rummel, Chair Metropolitan Council Environmental Committee
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101-1805

Thank you for the opportunity for the City of Minneapolis to participate in the Sewer Availability Charge (SAC) Work Group and to allow us to comment on the recommendations that your committee will be considering soon.

We are very pleased to add the City of Minneapolis' support to the recommendations of the SAC Work Group.

In August of this year, the City of Minneapolis adopted a range of official policy positions on SAC that we communicated to the Metropolitan Council. (See enclosed Council Action.) These positions were 1) ensuring SAC program changes correspond to actual increase in net capacity, 2) reinstating the Net Credit policy with maximum local flexibility, and 3) customer service concerns including the "Community Review" process and financial burden to businesses paying SAC.

We are very pleased that the SAC Work Group discussed the suggestions in the City position. We are particularly pleased to report full support of the following Work Group recommendations:

- Net credits and Grand Parented Credits. This policy change will help bring balance between the need for new capacity and the acknowledgement of existing capacity.
- Minor transfers. This policy change will help growing small businesses whose purchase of SAC can be made portable when they change locations within a city.
- Modification of the Community Review process. The new policy change will result in a shorter, less arbitrary look-back period.
- SAC loan program. This policy addition will allow small business to spread out the cost of SAC with little or no risk to the overall fund.
- Alternative language versions of all MCES SAC materials. Helping to reach many of our new, emerging small business communities.

While we are in full support of these recommendations some concerns remain about direct customer service issues. We look forward to continued work in this area and proposed solutions, critically important to businesses, property owners and developers who pay SAC.

We are very grateful for the openness shown by MCES to partner with us on new outreach ideas. Success in this area will take work to educate businesses and property owners on SAC, especially if the council agrees to move these proposed new rules forward.

call 311 Minneapolis
City Information and Services

www.Minneapolis.MN.gov
Affirmative Action Employer

While the minor SAC transfer is a greatly needed addition, questions remain on the future process and how SAC credits might be split between building owners and business owners. We know that getting this right will take more discussion, but we sincerely hope final process decisions can take effect with the other changes in January 2013.

The City of Minneapolis believes that there is one piece of the "net credit" discussion that remains unresolved. That of a final determination of "Grand-parented" credits for use on site. It is our understanding that the SAC Work Group agreed that those excess credits, while Grand-parented and thus non-transferrable, would always be available on the original site regardless of determination. We believe strongly that these credits represent existing capacity that could be used to foster future growth of many businesses.

In closing we want to add our thanks to the Metropolitan Council and particularly MCES Staff who took the time and truly listened to our concerns. SAC is a very complicated issue that can, at times, put cities in the middle of disputes where they have very little control. This is a cooperative partnership with a great need for constant communication.

As your largest customer, both of sewer services and SAC, we look forward to continued work with you to better educate and serve those building businesses in our Metropolitan area.

Sincerely,

Elizabeth Glidden, Chair
Minneapolis Intergovernmental Committee

Sandy Colvin Roy, Chair
Minneapolis Public Works Committee

Encl.

cc: Jason Willet, Director MCES Finance & Energy Management

Request for City Council Committee Action from the Department of the City Coordinator

Date:	August 2nd 2012
To: **Referral to:**	Council Member Glidden, Chair IGR Sub-Committee Council Member Lilligren, Chair Committee of the Whole
Subject:	City Position on Sewer Availability Charge (SAC)
Recommendation:	That the City approve the "Minneapolis Position and Priorities on SAC"; That the City communicate its position on SAC to the Metropolitan Council, and; That IGR, Public Works, Regulatory Services and CPED staff work to implement that position through the SAC Work Group, meetings with Metropolitan Council Members and staff, and, if necessary, through new legislation.
Previous Directives:	None

Department Information

Prepared by:	Pierre Willette, Intergovernmental Relations Department Lisa Cerney, Public Works Department
Signed by:	Gene Ranieri, Intergovernmental Relations Department Steve Kotke, Public Works Department
Presenters:	Pierre Willette Lisa Cerney

Financial Impact:

Outcomes of the new city position could affect both the cost of SAC and the amount paid out of the sewer fund for the City's metropolitan waste-water changes.

Sewer Availability Charge (SAC) Program Background

The Metropolitan Council Environmental Services (MCES) collects and treats wastewater at its seven regional treatment plants. It also develops plans to preserve and manage the region's water resources. Its services include ensuring that sufficient sewer capacity exists to serve planned development and that wastewater collection and treatment services are provided in a low costs, high quality and competitive manner.

Funds to operate the MCES activities are collected in two ways. Municipal Wastewater Charges (MWC) are paid by municipalities (via utility charges to each property) for treatment of their wastewater, supporting ongoing maintenance and operations of MCES's system. Sewer Availability Charges (SAC) are a one-time fee charged by MCES to use as "reserve capacity" in the Metropolitan Disposal System.

In other words, SAC is a fee intended to pay for each new connection, or system capacity and increase expansion demanded of the Metropolitan Disposal System. This could include paying for a new pipe or increasing the diameter of pipe to accommodate new capacity. When residents and business owners pay SAC, they are paying for their portion of this capacity, or according to MCES "It's the cost of service for standing ready to receive wastewater."

The City of Minneapolis, the largest customer of the SAC program, paid 17.5% of all SAC charges for the Metropolitan Region in 2011. Minneapolis is not, however, generally increasing total capacity load – instead, capacity load within Minneapolis has been on a decreasing trend over the last seven years. Target Field, for example, generated 484 new SAC units for a total of $969,825, but did not require new pipes or changes in the system to accommodate growth. The City of Minneapolis has significantly invested in sewer separation programs, inflow and infiltration projects, and encouraged water conservation, all creating opportunities for additional capacity in the wastewater system.

The City of Minneapolis is also the largest customer of MCES and pays the greatest amount of MWC which is based on the City's flow or the amount of wastewater treated. Minneapolis paid 18.3% of all MWC fees in the Metropolitan Region in 2011. MCES is currently initiating projects to complete more extensive wastewater pipe rehabilitation projects, paid for by MWCs, in Minneapolis versus spot repairs.

Net Credit Policy

In 2010, the Met Council, over the objections of many cities, eliminated its long standing "net credit" policy, which provided that a decrease in net capacity would result in net SAC credits held by the municipal customer. The net credit policy helped to ensure that property owners and businesses in fully developed cities such as Minneapolis were not forced to pay the "one time" SAC fee multiple times as existing properties changed uses and required less or more credits. Here are some examples of small businesses impacts from elimination of the net credit policy:

- Taco El Prima 3006 4th Avenue South – This is a small restaurant with 1.54 excess credits. If they expand their restaurant in the future, they will pay additional SAC because the excess credits go away after a certain number of years.
- Al Razaaq 1839 Central Avenue NE – This is a small restaurant with 2.11 excess credits. They will pay additional SAC if they expand in the future.

- Pinta Foamtec 2601 49th Avenue North – This is a commercial interior remodel of existing space with 2.58 excess credits. The excess credits will go away when the permit is issued.
- Parkway Pizza 4457 42nd Avenue South – Parkway Pizza paid SAC in 2009 and wants to relocate to another location in the neighborhood. SAC credits stay with the property. They will most likely pay SAC fees in their new location, even though existing infrastructure and capacity exists in the area to handle the flow.

Customer Service Concerns. Customer concerns relating to the Met Council's SAC program have increased since 2010 on a wide variety of topics.

- **Responding to businesses**. Although the Met Council lists phone numbers on its SAC determination letters, Met Council staff reportedly do not answer the phone, return phone calls, or meet in person with businesses that have questions.
- **Rules do not correspond to business reality**. A common complaint from restaurants, as an example, is that seat count calculations do not account for aisle space or common areas.
- **Rules are complex and changing**. Businesses often have multiple questions about SAC fees, the rules governing those fees, and dispute application of the rules. City staff is often forced to act as go-between communicators between businesses and the Met Council.
- **Appeals process**. Appeals of SAC determinations require significant time by the customer and by city staff, however there are no guidelines or time limits for the appeals and Met Council determinations.
- **Audit/Community Review**. Over the last three years, MCES has expanded its Community Review to a complete audit of remodeling permits issued by the City of Minneapolis (approximately 6,800 permits in 2011). Along with the review of permits, the audit includes random visits by MCES staff to hair salons, restaurants, and hotels. Every year, the audit/review looks at the past seven years, so that businesses may be reviewed multiple times. The length of the audit period (7 years) is particularly challenging as the restaurant industry has significant business turnover, making access to records required by the Met Council particularly difficult for businesses that are audited.

  The Community Review takes significant Met Council staff resources, as well as significant City of Minneapolis staff resources, and the resulting unexpected charges to businesses can result in significant financial hardship including - for some -- going out of business.

Minneapolis Position and Priorities on SAC:

The City of Minneapolis believes that the current SAC program is out of balance and that fully-built cities are paying a disproportionate amount of funds into the SAC program with little corresponding need for increased capacity. While we strongly believe that SAC should be reasonable and fair for the whole region and that a healthy SAC fund is vital for MCES' future investments, we also believe that the SAC program should appropriately charge fees based on the need of those paying into the system for their corresponding capacity.

The City of Minneapolis supports:

- Ensuring SAC program charges correspond to actual increase in net capacity (note: Minneapolis is trending down in capacity)

- Reinstating the Net Credit policy with maximum local flexibility, to ensure business, property owners and cities within developed areas are not penalized by paying SAC multiple times.

- Increasing and improving MCES services and outreach to business and property owners charged SAC and reduce unexpected or unfair charges. These service improvements should include:
    - Provision of Met Council staff on-site in Minneapolis and other large SAC customers
    - Full review of customer service policies
    - Revise audit (review) policy to less than 7 years (suggested 3 years). The audit process provides minimal impact to the SAC fund, while requiring significant staff time and large unexpected charges and expense to business or property owners.
    - Creation of a payment plan funded by MCES to assist businesses in paying SAC charges.

City of Oak Park Heights

14168 Oak Park Blvd. N • Box 2007 • Oak Park Heights, MN 55082 • Phone (651) 439-4439 • Fax (651) 439-0574

October 24, 2012

TO: Kelly Barnebey
MET COUNCIL
390 Robert Street
St. Paul, MN 55101

RE: Proposed Changes for SAC Program

Dear Kelly:

With this letter the City is conveying its interests to the METROPOLITAIN COUNCIL to carefully consider and adopt changes to the Sewer Availability Charge (SAC) Program that have been recommended by the METRO CITIES organization. Increasing flexibility on how these dollars can be retained by local communities will only aid in many cities efforts for renewal and redevelopment of areas and would not add financial or system capacity burden on the region as a whole.

Specifically, the City supports:

- That SACs paid at any time (1973-present) is sufficient evidence in generating potential SAC credits. In such cases, net credits can occur that can be used city wide OR left site specific at the city's option (a one-time election with monthly reporting). The look back period and vacancy rules would no longer apply.
- That if a city shows either grand-parented (pre 1973 so no SAC paid) or continuous demand (property built post-1973 but did not pay SAC) on a site, no city-wide (net) credits would be available, but the property could generate credits based on the amount associated with the site's continuous demand or pre 1973 status, available as on-site credits only.
- That the allowance for minor SAC credit transfers where determination is 10 SAC units or less and upon request by the city for use on a new site within the city. This would allow cities to use up to 10 credits from the former site of a business for its new site, before a new use occurs on the former site (credits generally are not available until a new use is determined on a site, and availability of any credits is known). Cities would need to provide the addresses from which credits were taken and the property to which they are being transferred.
- That community reviews would be limited to review of SAC activity for the last three years. This does not relieve cities from paying SAC if it becomes known that SAC should have been paid but was not, but MCES would not be looking back further than three years.
- That a SAC loan program to assist small businesses be established. A city could make a request to the Met Council to participate in a SAC deferral loan and execute an agreement with the Council. MCES would provide loans contingent on the city agreeing to pass through the loan to the property owner or responsible SAC party.

The City would believe that all seven-county metro area cities would significantly benefit with these proposals and would foster efforts towards redevelopments. Moreover, the MET COUNCIL could better indicate that it is a true partner in these efforts. We would be happy to answer or clarify any questions you may have.

Thank you for your consideration,

Dr. Eric Johnson, AICP
City Administrator

Cc: Harry Melander, District 12 Representative, MET COUNCIL also via email: harry.melander@metc.state.mn.us
LisaBeth Barajas, MET COUNCIL
Weekly Notes

Barnebey, Kelly

From: O'Connell, Pat on behalf of PublicInfo
Sent: Wednesday, October 31, 2012 4:11 PM
To: Barnebey, Kelly
Subject: FW: SAC rule changes

From: Scott Schulte [mailto:schulte@ci.champlin.mn.us]
Sent: Wednesday, October 31, 2012 1:44 PM
To: PublicInfo
Subject: SAC rule changes

Kelly,
The City of Champlin is in support of the Work Group proposed changes to SAC rules. Specifically, the elimination of the "look-back" period for grandparented in SAC credits is particularly beneficial in aiding our redevelopment efforts in the Missisppi Crossings area.

Scott Schulte, AICP
City Planner
City of Champlin
11955 Champlin Drive / Champlin, MN 55316
763-923-7102 (Direct)

Barnebey, Kelly

From: Willett, Jason
Sent: Monday, November 05, 2012 9:02 AM
To: 'Bloom, Jim (CI-StPaul)'
Cc: Barnebey, Kelly; Nye, Jessica
Subject: RE: Unused Grandparent (non-conforming) SAC credits

OK – we'll do .

From: Bloom, Jim (CI-StPaul) [mailto:jim.bloom@ci.stpaul.mn.us]
Sent: Monday, November 05, 2012 8:59 AM
To: Willett, Jason
Subject: RE: Unused Grandparent (non-conforming) SAC credits

Jason,

No objections at all.

Thanks Much, Jim

From: Willett, Jason [mailto:jason.willett@metc.state.mn.us]
Sent: Monday, November 05, 2012 8:44 AM
To: Bloom, Jim (CI-StPaul)
Cc: Nye, Jessica; Barnebey, Kelly
Subject: RE: Unused Grandparent (non-conforming) SAC credits
Importance: High

Jim,

Unless you object, we'll include this email with our public comments on the SAC changes….

Jason

From: Bloom, Jim (CI-StPaul) [mailto:jim.bloom@ci.stpaul.mn.us]
Sent: Thursday, November 01, 2012 1:22 PM
To: Muller, Ellen (CI-StPaul); Pierre.Willette@minneapolismn.gov
Cc: Ubl, Stephen (CI-StPaul); Schroeder, Greg (CI-StPaul)
Subject: RE: Unused Grandparent (non-conforming) SAC credits

Ellen and Pierre,

I understand completely that the look back period was to be eliminated. No matter what it is called, when a time table is established, let's say for 5 years for credits that are remaining on a site that can be used after the initial determination of the reuse and there are Grandparent(GP) credits, one would be doing a look back to see what was still available for that property. Just because it is called by another name it is still a look back. If the other term is accepted, then the Metropolitan Council can say they got rid of the look back period which would be true for most of the cases. It really matters little just so the two terms do not conflict and we are trapped out of using the GP credits after that initial determination.

Jason happened to be in our office earlier this week and we had a chance to talk about his proposal. I believe we are saying the same thing in concept and he uses the example for his explanation. We discussed the GP credits would remain with the site "forever" and when the first redevelopment started with the appropriate SAC determination, The remaining GP Sac credits would stay with the property for 5 years from that redevelopment SAC determination date. Any time more development was done for that site they would check their records for the remaining credits and they could be used until gone in that 5 year period or after 5 years the remainder would not be available for any futher redevelopment. **IN NO CASE CAN THE ESTABLISHED GP CREDITS BE USED CITYWIDE**

I believe this to be a fair compromise and fits within the Saint Paul guidelines for leaving credits on a site for 5 years (after the first reuse determination is made) for encouraging redevelopment.

Thanks, Jim

From: Muller, Ellen (CI-StPaul)
Sent: Wednesday, October 31, 2012 4:50 PM
To: Bloom, Jim (CI-StPaul)
Cc: Ubl, Stephen (CI-StPaul); Schroeder, Greg (CI-StPaul)
Subject: FW: Unused Grandparent (non-conforming) SAC credits

Jim - this note from Minneapolis....

From: Willette, Pierre V. [mailto:Pierre.Willette@minneapolismn.gov]
Sent: Wednesday, October 31, 2012 3:54 PM
To: Muller, Ellen (CI-StPaul)
Subject: RE: Unused Grandparent (non-conforming) SAC credits

I never knew we were looking at a "look back period" but rather what happens to excess on site credits once the determination is made. Out thought would be that they would be available in perpetuity, I think MCES staff was going to suggest a time limit.

Jason Willet was going to try to write out a proposal, have you seen anything yet?

From: Muller, Ellen (CI-StPaul) [mailto:ellen.muller@ci.stpaul.mn.us]
Sent: Wednesday, October 31, 2012 3:45 PM
To: Willette, Pierre V.
Subject: Unused Grandparent (non-conforming) SAC credits

Pierre -

Jim Bloom is recommending the following. What are your thoughts on this compromise suggestion?

Ellen

Ellen J Muller
Economic Development Manager
Department of Planning and Economic Development
City Hall Annex 25 W 4th Street Suite 1300
Saint Paul, MN 55102
P: 651.266.6605
F: 651.266.3261
ellen.muller@ci.stpaul.mn.us

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Jason,

Just a question. Why are we reestablishing a look back period for the grandfathered credits. It was my understanding when meeting that the look back period would be abolished for any site. The grandfathered credits should be able to remain with the site in my opinion until used.

If we need to stick to a look back period for those grandfathered credits the 5 year period is in tune with the 5 year Saint Paul site redevelopment time table that we have established before taking credits Citywide if those credits would be available. Since the grandfathered credits are never available Citywide, this approach would be compatible to encourage the site redevelopment within that 5 year period from the time that the first reestablishment of the SAC determination was made. In other words, a site could be vacant for 20 years with all the grandfathered credits available, the Sac determination would be made for the development and the remainder could be on the site for another five years.

Please let us know if this approach would something that you could move forward to the Council.

Thanks, Jim

From: Willett, Jason [mailto:jason.willett@metc.state.mn.us]
Sent: Tuesday, October 30, 2012 10:33 AM
To: Willette, Pierre V.; Bloom, Jim (CI-StPaul)
Cc: Nye, Jessica
Subject: Unused Grandparent (non-conforming) SAC credits

Hi guys,

I'm looking for a middle ground on this topic to possibly suggest to my Council. Your thoughts on the below would be appreciated:

WORK GROUP RECOMMENDATION (my view):

- Grandparent credits are proposed to be adopted (again) at 1/1/13 but specific to a site and eliminated if/when not used (as evidenced by a redetermination for less than the full amount available on a site). This was expressed as not becoming eligible to be a net credit (either site specific or city-wide).

ISSUE:

- Some feel that both types of non-conforming credits - since they represent capacity that has not been paid - should go away when politically reasonable (I think non-conforming land use is eliminated if not used)...
- Some feel that grand parenting once acknowledged should never go away.

SOLUTION?

- Unused gross credits on a site will be available for 5 additional years on the site from which they originated to facilitate growth of the business.

- Don't both Minneapolis and St. Paul have ordinances limiting site-specific credits to 5 years or less? If so this should not harm the business on the site.
- Allows the view that unpaid credits are still (eventually) going away….

Example:

2013: redetermination request for very old site – evidence shows 1970 business as eligible for 50 grandparent credits. However, SAC demand needed in 2013 is only 30 SAC so no charge, and there would be 20 potential grandparent credits unused.

- In the Work Group Rec. these 20 potential credits are not recognized and subsequent growth would have to pay if/when the site needs more than 30.
- OR –
- With this proposed idea these 20 are recognized as available for growth on the site until same date in 2018 (that is 5 years from when they were unused). This could just be a new field in our SAC database, so administratively this should be easy.

In any event, it seems to me that these circumstances will be likely rare, since prior to 2010 any redetermination would have gotten net credits (used city wide or either used on the site or still sitting there).....so I think this would just apply to a redetermination after 2013 for a site that has not been determined since SAC started in 1973.....

Could you support the idea?

Jason

Barnebey, Kelly

From: Willett, Jason
Sent: Friday, November 02, 2012 3:22 PM
To: 'Tim Gladhill'
Cc: Barnebey, Kelly
Subject: RE: SAC Credit Comments - Ramsey, MN

Thanks for your comments. We'll get this email included in the record.

Jason Willett
Director, MCES Finance & Energy Mgmt

From: Tim Gladhill [mailto:tgladhill@ci.ramsey.mn.us]
Sent: Friday, November 02, 2012 2:35 PM
To: Willett, Jason
Subject: SAC Credit Comments - Ramsey, MN

Jason,

Thank you for the opportunity to comment on the proposed SAC Credit Amendments. The City of Ramsey appreciates the additional flexibility provided by the proposed rules to allow Net Credits to be applied city-wide.

The City of Ramsey would desire to have the opportunity to collect Net Credits for certain uses that have already been removed, and thus permanently reduced the demand to the Metropolitan Disposal System. I understand that the current analysis did not include retroactive Net Credits. Ramsey would like the opportunity to collect Net Credits retroactively, if the permanent reduction was a result of a public use, such as transportation improvements. For example, several structures within the Highway 10 Official Map Area have been acquired through the RALF program for the purposes of future right of way. This has occurred within the past few years. The removal of these structures has had an impact on the City's tax base, and being able to collect Net Credits for these parcels would help offset these changes.

Again, thank you for the proposed changes in adding flexibility in administering the SAC Program.

Sincerely,

Tim Gladhill
Development Services Manager
City of Ramsey
7550 Sunwood Dr NW
Ramsey, MN 55303
763-427-1410 (City Hall)
763-576-4308 (Direct)
763-482-4004 (Cell)
763-427-5543 (Fax)
tgladhill@ci.ramsey.mn.us