

Management Committee

Business Item
Item: 2012-140

Meeting date: May 23, 2012

For the Council Meeting of June 13, 2012

ADVISORY INFORMATION

Date: May 15, 2012

Subject: Proposed Metropolitan Council Bylaws Amendments

District(s), Member(s): All

Policy/Legal Reference: Minnesota Statutes sections 473.123, 473.125 and 473.127

Staff: Donald J. Mueting, General Counsel 651.602.1463

Prepared/Presented:

Division/Department: Office of General Counsel

Proposed Action

That the Management Committee recommend the Council approve the proposed Bylaws amendments as reflected in the attached draft.

Background

In addition to statutory provisions, the governing body of the Council and the conduct of Council business are governed by bylaws adopted by the Council. The Bylaws have not been amended or modified since 2000. Some Bylaws provisions are outdated and others need clarification or revision to reflect current Council practices. The Office of General Counsel was requested to draft amendments to the Council Bylaws to bring them into conformance with state law, to reflect current practices, and to streamline critical decision-making by the Council.

The attached draft shows proposed changes in redline format. Notes that explain the rationale for non-minor changes are shown in italicized blue font. Clerical (non-substantive) changes such as new headings and re-numbering are not shown in redline format. The non-minor changes are:

Article I; Officers. The number of officers is reduced to two: the Chair and a Vice-Chair. The Vice-Chair would be appointed by the Chair (subject to Council confirmation) rather than elected. The provision on "succession" was revised to reflect a reduced number of officers.

Article III; Committees. The names of the standing committees were updated to reflect the Council's current standing committees. No other substantive changes are proposed in this article.

Article IV; Administration of the Council. Provisions (consistent with state law) regarding the appointment of the Regional Administrator and the General Counsel were added. Proposed changes clarify the authority to designate an acting Regional Administrator or an acting General Counsel when vacancies occur in those positions. A new provision authorizes the Regional Administrator to appoint a Deputy Regional Administrator. A provision outlining the duties of the Recording Secretary was added. Finally, a provision that simplifies and streamlines the management and resolution of litigation was added.

Rationale

The proposed amendments to update the Council's Bylaws will help provide for more efficient management of the Council and the conduct of its business. According to Article VI, the Bylaws may be amended at any regular meeting of the Council by a two-thirds vote of the appointed members after: (1) Council members have received prior written notice of the proposed amendments; and (2) the proposed amendments have been presented to the Council for consideration at a previous regular meeting.

Funding

No funding implications or impacts.

Known Support / Opposition

N/A

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BYLAWS OF THE METROPOLITAN COUNCIL

ARTICLE I

OFFICERS

- A. **Council Officers.** The officers of the Council are the Chair, ~~the First and the~~ Vice-Chair, ~~the Second Vice-Chair, the Treasurer and the Secretary.~~ The Chair, ~~First and~~ Vice-Chair ~~and Second Vice-Chair~~ must be members of the Council. The Council's Chief Financial Officer shall be the Council's Treasurer ~~and Secretary may be Council employees.~~
***NOTE:** This reduces the number of officers and reflects the fact that the Second Vice-Chair has been called upon to perform duties as an officer only infrequently. The Treasurer position is retained because Minnesota Statutes chapter 473 contains several references to the Council's "treasurer." Since 2007 the Council has "elected" its CFO as its Treasurer.*
- B. **Appointment of Vice Chair.** ~~The officers, other than the Chair, shall be elected annually at the first regular Council meeting in February or as soon thereafter as possible. Prior to the election meeting, the Chair shall appoint a committee of Council members to nominate candidates for First Vice-Chair, Second Vice-Chair, Treasurer and Secretary. The nominating committee shall report to the Council at the election meeting. After the report of the nominating committee but prior to the election, additional nominations by members will be permitted. At the first regular meeting of the Council in February, or as soon thereafter as reasonably practicable, the Chair shall appoint a Vice-Chair subject to Council confirmation.~~ NOTE: *These proposed changes streamline the process for appointing a Vice Chair. The current "election" process sometimes was cumbersome, especially when there was a change of Administration and many new members were appointed to the Council which made it difficult to meet the February target.*
- C. **Vice Chair Term; Vacancy.** ~~Officers, other than t~~The Vice-Chair, shall serve a one year term or until ~~their~~ the Vice-Chair's successor ~~are elected is appointed and confirmed.~~ The term of office shall be effective at the close of the meeting at which the ~~officers are elected~~ Vice-Chair is confirmed. ~~No member may hold more than one office at a time.~~ In the event of a vacancy in ~~one of the officer~~ the Vice-Chair positions, the Chair may appoint a member to serve the remaining portion of the term.
- D. **Chair's Duties.** The Chair's duties and responsibilities include:
1. Representing the Council as its principal spokesperson;
 2. Serving as the Council's principal legislative liaison;
 3. Presenting to the Governor and the Legislature the Council's plans for regional governance and operations;
 4. Recommending to the Council for its approval, the chair and members of all standing, special and advisory committees, task forces and work groups;

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5. Recommending to the Council for its approval, a member to serve as liaison to each metropolitan agency, the Metropolitan Mosquito Control Commission, and the governing body of the regional ~~cable communications~~ channel entity under Minnesota Statutes section 238.43, subdivision 5;
6. Presiding at Council meetings and meetings of the Committee of the Whole;
7. Serving as a full voting member of any standing committee, special committee, task force, or work group; however, the Chair will not be counted for quorum purposes unless present; and
8. Directing the preparation of the agenda for all Council and committee meetings;

E. Vice-Chair Duties; Succession. The ~~First~~ Vice-Chair shall exercise the duties and responsibilities of the Chair whenever the Chair is unable or unavailable to serve ~~because of illness or disability or is absent from the seven-county metropolitan area~~. The ~~Second Vice-Chair~~ Chair of the Management Committee shall exercise the duties and responsibilities of the Chair whenever both the Chair and the ~~First~~ Vice-Chair are unable or unavailable to serve ~~because of illness or disability or are absent from the seven-county metropolitan area~~. The ~~Secretary~~ Chair of the Transportation Committee shall exercise the duties and responsibilities of the Chair whenever the Chair, ~~First the~~ Vice-Chair, and ~~Second Vice~~ the Management Committee Chair are unable or unavailable to serve ~~because of illness or disability or are absent from the seven-county metropolitan area~~. In addition, any ~~officer~~ chair of a standing committee may preside at Council meetings or meetings of the Committee of the Whole whenever the Chair requests one of them to do so. ***NOTE: Changes to the first sentence will reflect that sometimes the Chair or Vice Chair may be unavailable for reasons other than absence from the seven-county area or because of illness or disability. These succession provisions reflect the changes to the officers above and ensure Council meetings can occur when both the Chair and the Vice Chair are unavailable.***

~~6. The Treasurer shall oversee the Council's budget and investments.~~

F. Executive Committee. The Council officers which are Council members and ~~S~~standing ~~C~~committee chairs may meet at the call of the Council Chair as an Executive Committee.

ARTICLE II

COUNCIL AND COMMITTEE OF THE WHOLE MEETINGS

A. Regular Meetings. Regular meetings of the Council shall be set by the Council by resolution. The time and place shall be determined by the Council Chair. Regular meetings may be cancelled by the Chair upon agreement by a majority of the members. Notice of such cancellation shall be provided as far in advance of the scheduled meeting as possible.

1. ***Quorum.*** Nine members of the Council shall constitute a quorum.

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2. **Agenda.** The agenda for each Council meeting shall be established and published by the Chair and be sent to the Council members prior to the meeting. Any member may move amendments to the published regular meeting agenda.
3. **Conduct of Meetings.** Regular meetings of the Council will be conducted in the following order:
 - a. Motions, if any, by members to amend the published agenda;
 - b. Approval of the minutes of prior meeting(s);
 - c. Invitation to interested persons to address the Council on matters not on the agenda (each speaker is limited to a five minute presentation);
 - d. Consideration of the Council and committee consent lists;
 - e. Consideration of items recommended by the Committee of the Whole;
 - f. Consideration of items recommended by standing committees;
 - g. Consideration of items recommended by the Chair or Regional Administrator;
 - h. Other business;
 - i. Reports of Council Chair and members;
 - j. Report of the Regional Administrator; ~~and~~
 - k. Report of the General Counsel; and **NOTE: This Paragraph k. is consistent with how the Council typically conducts its regular meetings.**
 - l. Motion to adjourn.
4. **Voting.** Upon the request of any Council member, the Recording Secretary shall repeat the motion and the name of the mover and the seconder immediately preceding a vote by the Council. The yeas and nays shall be called on any question at the request of one or more members. Unless requested by a Council member, resolutions by the Council shall not require a roll call vote. The vote of each member shall be recorded in the minutes for motions adopting or amending the budget. Otherwise, any Council member may request to have his/her vote entered in the minutes.
5. **Consent List.** Routine matters over which there is no dispute may be placed on a consent list to be acted upon by the Council without debate. Placement of a matter on the consent list shall be at the discretion of the Chair. Any member may ask informational questions about consent list items. Such questions shall not be

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considered debate. Any Council member may request that a consent list item be removed from the consent list. Upon such a request, the item shall be removed from the consent list without vote or debate of the Council; ~~however, such items may be added to~~ and shall remain on the agenda for consideration.

- B. Special Meetings.** Special meetings of the Council may be called by the Chair or by a majority of the members. Notice of special meetings shall include the date, time, place and agenda and be sent to Council members at least three calendar days prior to the meeting. Business at special meetings shall be limited to the subjects listed in the noticed agenda. Special meeting agenda may not be amended. **NOTE: This new sentence is consistent with the requirements of the Minnesota Open Meeting Law.**
- C. Committee of the Whole Meetings.** Regular Committee of the Whole meetings shall be set by the Council by resolution. The time and place shall be determined by the Council Chair. Notice of Committee of the Whole meetings shall be the same as for other regular meetings of the Council. Nine members of the Council shall constitute a quorum. The procedures for preparing and approving the agenda for the Committee of the Whole or cancelling a Committee of the Whole meeting shall be the same as for meetings of the Council.
1. **Regular Meetings.** Regular meetings of the Committee of the Whole will be conducted in the following order:
 - a. Motions, if any, by members to amend the published agenda;
 - b. Approval of the minutes of prior Committee of the Whole meeting(s);
 - c. Consideration of items recommended by the Chair or Regional Administrator;
 - d. Other business; and
 - e. Motion to adjourn.
 2. **Motions.** All motions that are in order at Council meetings may be made at Committee of the Whole meetings.
 3. **Special Meetings.** Special Committee of the Whole meetings may be called by the Chair or by a majority of the members. Notice of special Committee of the Whole meetings shall include the date, time, place and agenda and be sent to Council members at least three calendar days prior to the meeting. Business at special Committee of the Whole meetings shall be limited to the subjects listed in the noticed agenda. Special meeting agenda may not be amended. **NOTE: This new sentence is consistent with the requirements of the Minnesota Open Meeting Law.**

ARTICLE III

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COMMITTEES

A. **Standing Committees.** The following standing committees are established: ~~regional growth policy,~~ environment, transportation, ~~rail transit, livable communities, community development,~~ and management. The Chair or Regional Administrator will determine which matters will be referred to each standing committee, unless the Council determines otherwise. When appropriate, standing committees may meet jointly. **NOTE: These changes reflect the current names of the four standing committees and are consistent with Minnesota Statutes section 473.123, subdivision 4(c) which requires each Council member to serve on at least “one division committee for transportation, environment, or community development.”**

1. **Chair and Members.** The Council Chair shall recommend to the Council for approval at its first regular meeting in February, or as soon thereafter as possible, the chair, vice chair, members and responsibilities of each standing committee. **NOTE: Historically, the Council Chair has recommended committee vice chairs even though the Bylaws currently do not mention vice chair.**
2. **Regular and Special Committee Meetings.** Except when a meeting date falls on a legal holiday, regular meetings of the standing committees shall be set by the Council by resolution. The time and place for such meetings shall be determined by the committee chair. The procedures for notice, cancellation and the conduct of business at regular and special standing committee meetings shall be the same as those for meetings of the whole Council.
3. **Quorum.** A majority of committee members shall constitute a quorum on committees which have an odd number of committee members and a number equal to one-half of the committee members shall constitute a quorum on committees which have an even number of committee members. Council members other than those serving on the committee may attend and participate in committee debate but may not vote or be counted for purposes of making a quorum.
4. **Consent List.** Routine committee matters over which there is no dispute may be placed on a committee consent list to be acted upon by the committee without debate. ~~Any member may ask informational questions about consent list items. Such questions shall not be considered debate. Any committee member may request that a consent list item be removed from the consent list. Upon such a request, the item shall be removed from the consent list without vote or debate of the committee; however, such items may be added at regular meetings to~~ and shall remain on the committee’s agenda for consideration.

B. **Advisory Committees.** The Council may establish advisory committees and appoint advisory committee chairs and members as follows:

1. **Committee Charge; Membership.** The Chair will recommend to the Council for its approval the duties and responsibilities of the advisory committee, its chair, vice

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chair and members, and any other matters necessary for the efficient operation of the committee.

2. ***District Representation.*** To the extent possible, members of advisory committees shall be from each Council district. Council members may submit to the Chair recommendations for membership on each advisory committee.
3. ***Membership Composition.*** Advisory committee members may include interested citizens, representatives of interest groups, experts, or public officials whose jurisdictions could be affected by the work of the advisory committee. No formal application is required.
4. ***Bylaws.*** The Council shall adopt bylaws for each advisory committee. The Council may amend advisory committee bylaws at any regular meeting of the Council by a majority vote of the members present. Written notice of the proposed amendments must be given to the chair of the advisory committee prior to Council action. The advisory committee bylaws shall contain provisions addressing conflict of interest.
5. ***Removal.*** Members of advisory committees serve at the pleasure of the Council and may be removed by the Council at any time. In addition, advisory committee members are automatically removed if they miss three consecutive regular committee meetings unless such absences are excused. After a member misses two consecutive regular meetings and such absences are unexcused, the chair of the advisory committee prior to the third regular meeting must notify the member in writing that the member will be automatically removed if the member misses the next regular meeting and such absence is unexcused.
6. ***Absences.*** An absence shall be deemed excused if: (1) the absence was due to injury, illness, family or work-related emergency; and (2) the advisory committee member notified the Council staff person responsible for administration of the advisory committee of the reason for the absence, if possible, prior to the advisory committee meeting but not later than one calendar day after the meeting.
7. ***Conduct of Meetings.*** Advisory committees shall operate in accordance with *Robert's Rules of Order Newly Revised*, Council and committee bylaws, and all other applicable Council policies and procedures. If there is a conflict between the Council's bylaws and the advisory committee's bylaws, the Council's bylaws shall prevail.
8. ***Member Expenses.*** Members of advisory committees shall serve without compensation but may be reimbursed for reasonable expenses in accordance with adopted Council policy.

C. **Special Committees, Task Forces and Work Groups.** The Council may establish special committees, task forces and work groups as follows:

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1. **Charge; Membership.** The Chair may recommend to the Council for its approval, the establishment of special committees, task forces, or work groups to assist the Council in performing its duties and responsibilities. The Chair's recommendation shall include the duties and responsibilities of the special committee, task force or work group, its chair, vice chair and members, and any other matters necessary for the efficient operation of the committee, task force, or work group.
2. **Internal Audit Committee.** The Council shall establish an internal audit committee as a special committee to oversee the Council's audit function. The audit committee shall recommend audit policies to the Council for its consideration. The Regional Administrator shall establish all necessary procedures to implement such policies.
3. **Council Member Consultation.** Prior to recommending that the Council establish a special committee, task force, or work group, the Chair will consult with any Council member whose district may be affected by the work of the committee, task force, or work group. Any Council member may suggest to the Chair nominees for membership.
4. **Membership Composition.** Appointed members may include interested citizens, representatives of interest groups, experts, or public officials whose jurisdictions could be affected by the work of the committee, task force, or work group. No formal application is required. Council members may serve on such committees, task forces, or work groups. Council members not serving on such committees, task forces, or work groups may attend and participate in the discussion and debate but may not vote or be counted for purposes of making a quorum.
5. **Member Expenses.** Members of special committees, task forces, or work groups, other than Council members, shall serve without compensation but may be reimbursed for reasonable expenses in accordance with adopted Council policy.
6. **Quorums.** A majority of special committee members shall constitute a quorum on special committees which have an odd number of committee members and a number equal to one-half of the special committee members shall constitute a quorum on special committees which have an even number of committee members.
NOTE: This quorum provision is consistent with the Bylaws provision governing standing committee quorums.

ARTICLE IV

ADMINISTRATION OF THE COUNCIL

A. **Work Program; Budget; Policies.** The Council shall adopt:

1. **Annual Work Program and Budget.** The Council shall adopt an annual work program and budget;.

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2. **Personnel Code.** The Council shall adopt a personnel code governing appointment of Council employees and the terms and conditions of employment;
3. **Contracts and Procurement.** The Council shall adopt a contracts and procurement policy that establishes Council objectives for obtaining goods and services necessary to carry out the Council's adopted work program. ~~and~~
4. **Travel Expenses.** The Council shall adopt a travel expense reimbursement policy for Council members, employees and members of Council advisory committees, special committees, task forces and work groups.

B. **Regional Administrator.** The Council shall appoint a Regional Administrator as required by statute. The Regional Administrator shall serve at the pleasure of the Council as the principal administrative officer for the Council and shall perform such duties and functions as required by statute and authorized by the Council. The Chair may designate an acting Regional Administrator if the Regional Administrator position becomes vacant. ***NOTE: This new provision tracks the language of the statute that authorizes the Council to appoint a Regional Administrator. Historically, the Chair has designated an acting Regional Administrator when that position became vacant. The last sentence will clarify the Chair's authority to make that designation.***

1. **Deputy Regional Administrator.** The Regional Administrator may designate a Deputy Regional Administrator who shall perform such duties and functions as authorized by the Regional Administrator or the Council. ***NOTE: This new provision will "codify" the Council's practice of appointing an Associate Regional Administrator or a Deputy Regional Administrator.***
2. **Recording Secretary.** The Regional Administrator shall designate a staff member(s) to be the Recording Secretary for Council, Committee of the Whole, and standing committee meetings. The Recording Secretary shall be responsible for taking minutes and maintaining accurate records of the proceedings. The Recording Secretary also shall be responsible for maintaining an up-to-date depository of Council actions that delegate signature authority. The Secretary of the Council shall be the Recording Secretary for Council meetings, unless the Council determines otherwise. ***NOTE: This new provision is consistent with the revisions to Article I that remove the Secretary as an officer of the Council and "codifies" the practice of having the Recording Secretary designated by the Regional Administrator. The first new sentence attempts to establish a single depository for delegations of authority.***

C. **General Counsel.** The Council may appoint a General Counsel as provided by statute. The General Counsel shall serve at the pleasure of the Council as the Council's legal adviser and representative. The Chair or Regional Administrator may designate an acting General Counsel in the event of a vacancy in the office of General Counsel. ***NOTE: This new provision tracks the language of the statute that authorizes the Council to appoint a General Counsel. Historically, the Regional Administrator has designated an acting General***

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Counsel when the General Counsel position became vacant. The last sentence will clarify the Regional Administrator's authority to make that designation.

D. Fiscal Year. The Council's fiscal year is the calendar year.

E. Depositories. The Council shall designate a depository or depositories for Council funds. ~~All disbursements shall be by check on a Council depository. Each Council check shall be signed by the Chair and Regional Administrator, or by the Chair and a staff member designated by the Council. Facsimile signatures may be used to sign checks.~~
NOTE: *The deleted text does not reflect electronic banking and payment practices.*

~~5. The Associate Regional Administrator is custodian of the Council's petty cash fund(s) and is authorized to establish and to replenish such fund(s), as necessary, from the Council's revenues. The Associate Regional Administrator may delegate the responsibility for administering the fund. **NOTE:** *The Council does not have an Associate Regional Administrator and has not had one for several years. Paragraph B.1 above authorizes the appointment of a Deputy Regional Administrator.*~~

F. Litigation Management. The Council Chair and Regional Administrator, in consultation with the General Counsel, are authorized to initiate, settle, appeal and manage all claims and litigation by or against the Council. The Chair and the Regional Administrator may jointly redelegate such authority and their delegates' decisions to initiate, settle, or manage individual legal claims or litigation are subject to concurrence by the General Counsel. Any redelegation of litigation management authority must be in writing and filed with the Council's Recording Secretary. The Chair and Regional Administrator, in consultation with the General Counsel are authorized, on behalf of the Council, to waive concurrent conflicts of interest with respect to representation by outside counsel. The authorities delegated under this section may be exercised when: (1) it is in the best financial or other interests of the public, the metropolitan area and the Council; (2) it is consistent with adopted Council policies; and (3) does not raise significant policy issues if there is no adopted Council policy relevant to the matter.
NOTE: *This new provision will simplify and streamline the process for managing litigation against the Council or initiated by the Council, and simplify the resolution of representation conflict matters.*

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ARTICLE V

PARLIMENTARY AUTHORITY

The rules contained in the most current edition of *Robert's Rules of Order Newly Revised* shall govern the Council in all matters to which they are applicable and in which they are not inconsistent with these Bylaws.

ARTICLE VI

AMENDMENT OF BYLAWS

These Bylaws may be amended at any regular meeting of the Council by a two-thirds vote of the appointed members, after written notice setting forth in detail the contents of the proposed amendment(s) has been given to Council members and one hearing has been held at a previous regular meeting of the Council.

Adopted by the Metropolitan Council June 24, 1993
Amended by the Metropolitan Council February 24, 1994
Amended by the Metropolitan Council May 26, 1994
Amended by the Metropolitan Council June 23, 1994
Amended by the Metropolitan Council October 27, 1994
Amended by the Metropolitan Council January 26, 1995
Amended by the Metropolitan Council October 12, 1995
Amended by the Metropolitan Council June 27, 1996
Amended by the Metropolitan Council February 12, 1998
Amended by the Metropolitan Council June 9, 1999
Amended by the Metropolitan Council June 30, 1999
Amended by the Metropolitan Council May 10, 2000
Amended by the Metropolitan Council June __, 2012