

## METROPOLITAN COUNCIL

390 North Robert Street, St. Paul, Minnesota 55101

### REGULAR MEETING OF THE MANAGEMENT COMMITTEE

Wednesday, March 24, 2010

Committee Members Present: Roger Scherer, Chair; Lynette Wittsack, Vice Chair; Sherry Broecker; Craig Peterson; Tony Pistilli; and Kris Sanda.

#### CALL TO ORDER

A quorum being present, Committee Chair Scherer called the regular meeting of the Council's Management Committee to order at 2:32 p.m. on Wednesday, March 24, 2010. Chair Scherer explained that he preferred to have Information items presented to the Management Committee first to provide sufficient time for those Committee members who commute long distances to arrive before addressing the Business items on the Agenda. He also explained that it was important to get to all of the Business items on the Agenda at today's meeting.

#### APPROVAL OF AGENDA AND MINUTES

It was moved by S. Broecker, seconded by K. Sanda to approve the agenda. *Motion carried.*

It was moved by Vice Chair L. Wittsack, seconded by K. Sanda to approve the minutes of the February 24, 2010 Regular Meeting of the Management Committee. *Motion carried.*

#### INFORMATION

##### Audit Committee Report

Katie Shea, Director, Program Evaluation and Audit, comes before the Management Committee twice yearly to present an Audit Committee Report. The Program Evaluation and Audit Division reports to the Audit Committee and its purpose is to provide independent, objective evaluations, audits, investigations, and consultative services to the Metropolitan Council, its management and staff. Ms. Shea named Audit Committee members, provided information on the division's 2009 Performance and client surveys, and gave examples of 2010 Audit projects. Questions were addressed.

##### 3Q09, 4Q09 and Yearend 2009 Summary of Procurements

Micky Gutzmann, Manager, Contracts and Procurement, presented a summary of procurements for the Third and Fourth Quarters of 2009. Details of procurements valued between \$100,001 and \$250,000 were itemized for each quarter, as well as those valued over \$250,000. There were no Emergency Declarations for either quarter. A question regarding the Third Quarter 2009 State of Minnesota Special Compensation Fund Assessment was addressed. L. Wittsack wished to point out that, despite the high fee of over \$250,000, legislation does not permit the State of Minnesota's annual audit to be outsourced.

In follow-up to an inquiry by Vice Chair L. Wittsack at the January 13, 2010 Management Committee Meeting, Ms. Gutzmann presented information on The Cooperative Procurement Venture (CPV). This venture allows eligible governmental entities to purchase goods, certain services and utilities from contracts established by other agencies. Advantages and disadvantages for using the CPV were explained, followed by how and when the Council uses it. Ms. Gutzmann assured committee members that the Council uses the CPV when it is in the Council's best interest to do so. A packet of additional CPV information from the Materials Management Division of Admin Minnesota was distributed.

##### 4Q09 Report on Investments

Mercy Ndungu, Treasury Analyst, presented slides covering the 4Q09 Economic Review, Treasury Yields, and Portfolio Results, while Allen Hoppe presented information on the Council's Diesel and Natural Gas Hedging Programs.

The Diesel Hedging Program has resulted in a \$1.7 million net cumulative realized gain since its inception in June 2004. While the Natural Gas Hedging Program has met its goal of providing budget certainty, as

of 12/31/2009, the Council has experienced \$3.4 million in cumulative realized losses since this program's inception in September 2006. The combined cumulative unrealized losses as of 12/31/2009 are \$1.7 million. Moving forward, consideration is being given to the importance of natural gas budget certainty as compared to the Council's ability to meet natural gas price volatility with its own reserves. More information will be brought back to Committee Members in the coming months. Mr. Hoppe addressed questions on the matter.

In follow-up to a previous meeting question, Mr. Hoppe consulted with Tom Randall, Senior Manager, Metro Transit Revenue Operations, about the feasibility of placing automated teller machines on light-rail train platforms. Apparently, this had been considered, but ruled out, in the past for the following reasons:

- Metro Transit and local police see the presence of ATMs as an added risk for robbery and related crimes.
- Additional configuration/costs would be involved with (a) supplying power, (b) maintenance, (c) operations' support, and (d) customer complaints to internal staff, even though the ATMs would belong to an external entity.

**February Forecast Briefing**

This information item was deferred until the next Management Committee Meeting due to a lack of time.

**BUSINESS**

**SW 2010-81 2010 Unified Operating Budget Amendment**

During the first quarter of each year, staff requests changes to the Unified Operating Budget adopted by the Council the previous December. Requests relate primarily to the continuation or completion of projects initiated in prior years. Paul Conery, Manager, Budget and Evaluation, presented this amendment to the Management Committee, recommending revisions to the 2010 budget in the Transportation, Community Development and Regional Administration divisions, as described therein. Questions were addressed.

It was moved by K. Sanda, seconded by S. Broecker:

"That the Metropolitan Council amend the 2010 Unified Operating Budget as indicated and in accordance with the attached tables."

***Motion carried.***

**SW 2010-82 2010 Unified Capital Program Amendment**

In Alan Morris' absence, Paul Conery also presented this amendment to the Management Committee. This proposed amendment programs new federal and regional funding to capital projects in the Transportation Division and reallocates funding between projects for Parks and Open Space. Discussion ensued and questions were addressed regarding the 13 completed projects that were closed out and those with decreasing funding commitments.

It was moved by S. Broecker, seconded by K. Sanda:

"That the Metropolitan Council:

- Amend the 2010 Authorized Capital Program (multi-year authorization) by adding spending authority as follows:

Metro Transit	\$ 12,128,506
Metropolitan Transportation Services	(\$ 7,067,560)

- Amend the 2010 Capital Budget (annual appropriation) by increasing appropriation as follows:

Metro Transit	\$ 10,128,506
Metropolitan Transportation Services	\$ 1,662,835

- Approve the changes to capital projects as detailed in Attachment 1.”

***Motion carried.***

**2010-109 Technical Amendment to Legal Services Agreement; No Budget Impacts**

In Don Muetting’s absence, Dave Theisen, Deputy General Counsel, presented this item.

It was moved by K. Sanda, seconded by T. Pistilli:

“That the Metropolitan Council authorizes the General Council to amend legal services agreements to increase the maximum contract price as follows:

<u>Law Firm</u>	<u>Services</u>	<u>Term</u>	<u>Current Price</u>	<u>Proposed Increase</u>	<u>New Price</u>
Heacox Hartman	Legal Services related to Workers Compensation Contract No. 05P044B	06/30/08 06/30/11	\$625,000	\$125,000	\$750,000

***Motion carried.***

**SW 2010-86 Settlement Approval Related to Bus Liability Claim**

Vice Chair L. Wittsack informed Committee members that the Litigation Review Committee had just discussed Business Item SW 2010-86 at its meeting and suggested that the Management Committee Meeting be closed if members wished to discuss attorney-client privileged details regarding the matter.

It was moved by T. Pistilli, seconded by S. Broecker:

“That this meeting be closed to the public to discuss with legal counsel, in a confidential setting, attorney-client privileged matters relating to litigation, litigation strategy and confidential settlement issues in connection with the bus liability claim presented by Ms. Caitlin Arnett.”

***Motion carried.***

Mark D. Covin, Attorney, Bassford Remele, presented attorney-client privileged information to Committee members during the closed portion of the meeting regarding the October 23, 2008 Metro Transit bus that was involved in an accident with a bicyclist, Ms. Caitlin Arnett. The accident resulted in a subsequent claim against the Metropolitan Council and, after investigation and negotiation, a proposed settlement was reached. The business item is coming before the Management Committee because the amount of the proposed settlement exceeds the authority of the Litigation Review Committee.

After discussion, it was moved by L. Wittsack, seconded by S. Broecker:

“That the meeting be reopened to the public.”

***Motion carried.***

It was moved by T. Pistilli, seconded by K. Sanda:

“That the Metropolitan Council: (1) authorize its Regional Administrator to settle this matter on the terms consistent with the discussion that occurred during the closed portion of this meeting; and (2) authorize the Regional Administrator and the Council’s attorneys to take all actions necessary or appropriate to finalize a settlement of this matter.”

***Motion carried.***

**ADJOURNMENT**

Business completed, the meeting adjourned at 3:50 p.m.

Respectfully submitted,

Trudy M. Aldrich  
Recording Secretary