

M Management Committee

Business Item

Item: 2010-122

Meeting date: April 14, 2010

ADVISORY INFORMATION

Date:	April 5, 2010
Subject:	Adoption of Council Resolution 2010-10
District(s), Member(s):	All
Policy/Legal Reference:	
Staff Prepared/Presented:	Phil Walljasper, 651-602-1787
Division/Department:	Regional Administration/Risk Management

Proposed Action

That the Metropolitan Council adopts Council [Resolution 2010-10](#), which establishes the settlement authority of the Litigation Review Committee in an amount no greater than provided in Minn. Statutes, Chapter 466, as amended.

Background

The Litigation Review Committee was formed in 1996. Council Resolution 96-17 established that the authority of the Committee be no greater than \$200,000, which, pursuant to Minn. Stat. §466.04, was the tort cap at that time. Since 1996, the tort cap has been increased and is currently \$500,000.

Rationale

The Executive Summary of the above Council Resolution states that the Committee's "...authority to settle litigation and claim matters would be limited to \$200,000, which is the Council's maximum statutory liability for individual tort claims." Since the Legislature has increased the tort cap a few times since 1996, this Business Item is intended to increase the authority of the Committee up to the maximum statutory liability and to allow for increases should the Legislature increase the cap in the future. This increase would be accomplished by adopting Council Resolution 2010-10, which is attached. This Resolution would supersede and replace Council Resolution 96-17.

Funding

Not applicable

Known Support / Opposition

Not applicable

**METROPOLITAN COUNCIL
390 Robert Street North
Saint Paul, Minnesota 55101-1805**

RESOLUTION NO. 2010-10

**RESOLUTION DELEGATING
LITIGATION AND CLAIMS SETTLEMENT AUTHORITY
TO THE LITIGATION REVIEW SPECIAL COMMITTEE**

WHEREAS, Minnesota Statutes section 473.123, subdivision 1 places the Metropolitan Council under the general supervision and control of a seventeen-member governing body; and

WHEREAS, the operation and maintenance of its regional wastewater treatment and transit systems and the performance of its regional planning functions give rise to significant numbers of contract, personal injury, employment and other types of claims and involve the Metropolitan Council in litigation and administrative proceedings on an ongoing basis; and

WHEREAS, the governing body determined it is in the public interest to establish a special committee of Metropolitan Council members to review, oversee and resolve in an efficient manner litigation and claims involving the Metropolitan Council and established a Litigation Review Special Committee pursuant to article III, section C, paragraph 1 of its bylaws to assist the Metropolitan Council in performing its duties and responsibilities; and

WHEREAS, the governing body of the Metropolitan Council reserves to itself the right to exercise discretionary or legislative powers granted to it by the Minnesota Legislature but finds it is both in the public interest and necessary for the efficient review and resolution of litigation and claims involving the Metropolitan Council to delegate certain ministerial duties to its Litigation Review Special Committee, including the authority to review and settle litigation and other legal matters on behalf of the Metropolitan Council.

NOW THEREFORE, BE IT RESOLVED:

1. Subject to the limitations and conditions specified in this resolution, the Litigation Review Special Committee is authorized to settle on behalf of the Metropolitan Council litigation, claims and other legal matters involving the Metropolitan Council when settlement is in the best interests of the public, the metropolitan area and the Metropolitan Council as an organization. Settlement is appropriate when the overall benefits of settling litigation or resolving claims outweigh the benefits and costs that might result if the Metropolitan Council were to litigate or pursue a matter to a final conclusion in a judicial or an administrative proceeding.

2. The settlement and claims resolution authority specified in the preceding paragraph includes all types of litigation and claims, including litigation in federal and state courts, claims subject to administrative proceedings under federal and state law, and matters in conciliation and other small claims courts. This settlement and claims resolution authority includes, but is not limited to: personal injury and tort claims; contract disputes; workers compensation claims; claims involving employment law matters; reemployment insurance benefit claims; administrative proceedings involving the United States Equal Employment Opportunity Commission, the Minnesota Department of Human Rights and local human rights departments or

commissions with enforcement jurisdiction or authority; veterans preference matters and claims; claims or issues arising under the federal or state Occupational Safety and Health Acts; and environmental claims or proceedings involving the United States Environmental Protection Agency or the Minnesota Pollution Control Agency.

3. This delegation of settlement authority to the Litigation Review Special Committee shall not include any settlements or other matters for which approval of the entire governing body of the Metropolitan Council is required under applicable federal or state law and does not authorize the Litigation Review Special Committee to initiate litigation on behalf of the Metropolitan Council.

4. The Litigation Review Special Committee's authority to settle litigation and other matters or claims involving the Metropolitan Council shall not exceed the maximum liability amounts stated in Minnesota Statutes section 466.04 (as those maximum liability amounts may be amended from time to time by legislative action) and settlements of litigation and other matters or claims shall be consistent with adopted Metropolitan Council policies or not raise significant policy issues if there is no adopted Metropolitan Council policy that is relevant to the settlement.

5. By delegating this litigation and claims settlement authority to the Litigation Review Special Committee the Metropolitan Council does not waive any liability limitations, defenses or immunities available to the Metropolitan Council under Minnesota Statutes Chapter 466 or other applicable state or federal statutes or laws and expressly reserves its right to assert all liability limitations, defenses and immunities available to the Metropolitan Council under applicable state and federal law.

6. Subject to the limitations and conditions contained in this resolution, the Litigation Review Special Committee may authorize the Regional Administrator or other appropriate Metropolitan Council senior management staff to represent the Metropolitan Council in arbitration, mediation and pretrial proceedings and to execute on behalf of the Metropolitan Council settlement agreements approved by the Litigation Review Special Committee.

7. All settlements executed under this settlement authority shall be subject to approval as to form and legality by the Metropolitan Council's General Counsel or attorneys acting under the direction of the General Counsel.

8. The Metropolitan Council's General Counsel and attorneys acting under the direction of the General Counsel are authorized to take all actions necessary or appropriate to finalize settlements and to take other legal actions appropriate to conclude litigation or resolve claims settled under this delegation of authority, including appropriate legal actions necessary to obtain district court approval required under Minnesota Statutes section 466.08 for tort claim settlements exceeding \$10,000.

This resolution supersedes and rescinds Metropolitan Council Resolution No. 96-17.

Adopted this 28th day of April, 2010.

Peter Bell, Chair

Pat Curtiss, Recording Secretary