



Minutes

Met Council Task Force

Thursday, October 1, 4:00 p.m. – 6:00 p.m.
Amherst H. Wilder Foundation, Room 2610
451 Lexington Parkway North - Saint Paul, MN 55104

Members present: John Adams, Susan Arntz (**Co-chair**), Steve Dornfeld, Acooa Ellis, Jim Erkel, Carol Flynn, Michele Foster, Chris Gerlach, Bill Hargis, Dan McElroy, John Knapp (**Co-chair**), Adeel Lari, Ravi Norman, Jim Solem, and Shannon Watson

Members not present: Peter Bell, Sharon Sayles-Belton, Scott Neal, Elizabeth Kautz

Staff & staff support present: Pahoua Yang Hoffman, Sean Kershaw, and Joe Dwuznik

Citizens League members and special guests present: Patricia Nauman, Kelly Chaffee, and Pat Born

Proposed outcomes for meeting

- Introduce Task Force members not present at first meeting.
- Approve minutes from previous meeting and review other communications.
- Review project charge and timeline.
- Review Citizens League handbook, pages 4-8.
- Hear from presenters on Met Council statutes.
- Discuss presentation and discuss individuals to bring in for interviews.
- Agree on next steps.
- Evaluate meeting.

Minutes

Co-Chair Susan Arntz called the meeting to order at 4:05 p.m.

1. **Welcome, Introductions, Approval of Minutes, Other Communications, Citizens League Principles and Draft Charge, and Review of Committee Handbook**

Introductions

Co-chair Susan Arntz started the meeting by informing the committee that she and Co-chair John Knapp would be alternating the running of the meetings. The next meeting will be run by Knapp. Since Task Force member, Dan McElroy, was not at the last meeting, he was asked to introduce himself and state interactions he has had previously or currently with the Met Council. Co-chair Arntz also mentioned special guest, Mr. Pat Born, the recently retired Met Council regional administrator.

Approval of Minutes

John Adams moved to approve the minutes as written. Jim Erkel seconded the motion. A unanimous verbal 15-0 aye vote passed the motion. Co-chair Arntz informed the committee that the approved minutes will be posted on the Citizens League website.

Other Communications

In addition to the minutes, Co-chair Arntz informed that staff had asked member Steven Dornfeld if he would be willing to draft blog entries for the Citizens League website from time to time that would provide the public a glimpse of the discussions. These would not take place of the actual minutes. A draft blog entry was shared with the committee.

Citizens League Principles and Draft Charge

Co-chair Arntz called attention to the revised project description with draft charge that was distributed. She asked staff member, Pahoua Hoffman, to explain the revisions. Hoffman informed

the committee that Co-chair Knapp had requested at the last meeting to strike the word “governance” from the third bullet under the heading “Key Objective of the Metropolitan Council Task Force” because it was too early to limit concerns to just governance.

Review of Committee Handbook

Co-chair Arntz called on Sean Kershaw, executive director of the Citizens League, to walk members through the Committee Handbook, which was included in each member’s three-ring binder. Kershaw walked members through pages 4-8 of the Handbook.

2. Debrief of Last Meeting (September 25, 2015)

Co-chair Arntz indicated that she and Co-chair Knapp would like to provide an opportunity at every meeting to debrief the previous one since members will have had time to reflect. A member asked if the work of the committee was to “start from scratch” or should it focus on the current situation. There was general agreement that the work of the committee ought not be from “a blank sheet of paper” but work forward knowing the current situation and challenges. Another member applauded Ted Kolderie’s history presentation, but indicated that what was missing were the ten years of the Metropolitan Planning Commission, the entity that preceded the formation of the Met Council. According to the member, it was the existence of this entity and its professional staff that provided for a strong foundation for the Met Council and contributed to its early successes. A question was asked about the difference between the Metropolitan Planning Commission and the Met Council – what was the Council able to do that the Commission was not? The response was the Legislature. The Legislature gave the Council the needed authority to perform its functions. The Metropolitan Planning Commission did not have the same authority. Accountability was also an important issue during that time and the reason for the change to “serving at the pleasure of the governor” that was to make clear who was ultimately responsible.

3. Met Council Statutes

The presentation of Met Council statutes was given by non-partisan research staffer Deborah (Deb) Dyson, the Legislative Analyst with the Minnesota House of Representatives.

Dyson started her remarks by stating that the Met Council is governed by laws and statutes. Minnesota is a Dillon’s Rule state. Dillon’s Rule allows a state legislature to control local government structure, methods of financing its activities, its procedures and the authority to undertake functions. Given this, the Met Council can only exercise powers granted to it. Dyson stated that the law mandates activities, authorizes them, or prohibits them.

Thirty-nine states employ Dillon’s Rule to all municipalities: Arizona, Arkansas, Connecticut, Delaware, Georgia, Hawaii, Idaho, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, Virginia, West Virginia, Washington, Wisconsin and Wyoming.

Dyson reported that the chapter on Met Council statutes is in chapter 473, one of the largest chapters. She added that in addition to this dedicated chapter, there are many other references to the Met Council in other chapters. A term search for the phrase metropolitan council returned ten pages of results, excluding chapter 473. Before going into her presentation on chapter 473, Dyson informed the committee that the Met Council is subject to the Minnesota Open Meeting Law, Government Data Practices Act, Government Records Retention Act, as well as other laws concerning lobbying and gifts.

For her presentation, Dyson referenced a document that was distributed to members that contained the table of content for chapter 473. She then called up on the projected screen the statutes related to the Met Council from [the Office of the Revisor of Statutes website](#). She referenced section 473.123 on the creation of the Met Council and explained that the Met Council is not a state agency but a political subdivision of the state and as such, powers must be delegated to it. It is under this section in subdivision 2a (Terms) that the “serving at the pleasure of the governor” is stated. This specific language was added during the restructuring that took place in 1994. Also in this section is the requirement that the governor create a nominating committee composed of metropolitan citizens appointed by the governor with at least three members being elected officials. Over the years, Dyson stated, other procedures were added to this section when there have been conflicts over the appointments. She went on to mention subdivision 3a, Redistricting, informing members that the

statutes require redistricting after each “decennial federal census so that each district has substantially equal population” and follows the same standards for redistricting for elected officials.

After briefly mentioning section 473.125 which gives the Met Council authority to appoint a regional administrator, Dyson went on to section 473.129 which covers the general powers of the Met Council. A question was asked whether the Met Council has rule-making authority. Dyson responded yes.

Dyson went on to section 473.24, which requires the Met Council to annually prepare an estimate of population for the metropolitan area. She explained that the Met Council is the demographer for the metropolitan area whereas the state demographer does population estimates for the rest of the state.

In section 473.242, Urban Research, Dyson explained that this is the section that authorizes the Met Council to study issues related water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the peoples of the metropolitan area. This section has existed since the beginning. She noted that while the history link below this section indicates the year 1975, she said many of these laws existed before this date but this was the year of the recodification—the reorganizing, removing, and incorporating of provisions. If one wants to see the older versions, they would have to look up the 1974 records. A member asked Dyson to provide examples of recent studies. Dyson reported that the legislature has directed the Met Council to study issues related water supply planning. Special guest Pat Born added that typically the governor directs the Met Council to conduct studies. He provided two examples including the transportation and environmental analysis of the Arden Hill Viking stadium site and an economic impact study concerning the closing of two dams on Mississippi River. A member asked if the legislature could direct studies. The answer was yes but that the governor’s requests take precedence. The Met Council can also take up studies in response to other entity’s request.

A member noted that under this section, it allows the Met Council to study “other subjects of concern.” The member gave the example of a report entitled, *Trouble at the Core* (1992), which was a Met Council staff directed report.

Another member asked if there were topics the Met Council is prohibited from studying. Dyson responded yes and explained that there is a specific section, section 473.173 that articulates what is metropolitan significance. Dyson added that there are a set of criteria that the Met Council needs to meet in order to deem something of metropolitan significance. Once something is deemed to have metropolitan significance and requiring a study, state statute permits the Met Council to automatically put a 12-month stop on whatever is planned. Dyson added that there have been times when the legislature has stepped in via legislation exempting projects from metropolitan significance review. Such projects have included the Vikings stadium and before that, the ballpark. A member commented that under this section, the Met Council has broad powers but it often, it does not exercise its full authority and that they believed the Met Council has never halted a project for 12 months as it is permitted to do.

A member asked if there was a statute on how the Met Council might address issues outside its jurisdiction that may have impact on the metropolitan region. Dyson responded that the Met Council only has jurisdiction per statute within the 7-county metropolitan area and cannot assert metropolitan significance outside this area. It was added, however, that there are joint powers agreements with some surrounding areas outside the seven counties.

Dyson went on to state that statutes 473.194 through 473.199 authorizes the Met Council to be a Metro Housing and Redevelopment Authority (HRA). Deb explained that this was originally enacted at the request of a number of suburban communities who did not want to administer it on their own.

Dyson then moved to the planning sections beginning on 473.145. She explained that the starting point for the Council’s planning is the development guide. Over the years, the development guide has been called by different names. Currently, it is referred to as the Thrive 2040 Plan. Despite the various names, the core functions of planning have not changed. Dyson went on to explain that the next aspects of planning are the policy plans in sections 473.146 – 473.147. The transportation guide can also be found in 473.146. This is also where the relationship between the Transportation

Advisory Board (TAB) and Met Council is articulated and how it meets the cited federal guidelines, authorizing the Met Council to be the Metropolitan Planning Organization (MPO), eligible to receive federal transportation funding. Dyson reported that often there is confusion as to how the Met Council came to receive this special designation, but in 1973, it was Governor Wendell Anderson who designated the Met Council as the MPO. After that, the legislature enacted a piece of legislation that confirmed this designation and it has been this way since that time. Time to time, there have been discussions eliminate the Met Council or change this structure, but Dyson cautioned that any changes to the Met Council or the TAB should be considered very carefully because it could threaten federal transportation funding for the region.

Dyson briefly mentioned sections relating to solid waste but explained that these are no longer under the Council and that the responsibilities have been moved under the Pollution Control Agency (PCA).

A member questioned that if MnDOT is a state agency, if DNR is a state agency, and MnDOT is a state agency, what happens when they don't agree? Dyson reminded members that the Met Council is not a state agency. It is a political subdivision. It was explained that so far, there have been coordination among state agencies and the Met Council. A transportation example was given that plans are coordinated with MnDOT, set in the transportation improvement plans, approved by TAB and ratified by Council. Different agencies have different relationships with the Met Council, but often there are state and federal laws that helps to solve disagreements. When they cannot solve a disagreement, the Governor may intervened, which has been done.

After Dyson briefly mentioned sections 473.25 (Livable Communities Act), 473.301 (Parks and Open Space system), 473.371 (Transit), 473.39 (authority to issue debt), and 473.501 (Waste water services), she went on to talk about the Land Use Planning Act of 1976, starting on section 473.851.

Dyson explained that this section connects back to the development guides, policy plans, and implementation plans. She added that ties to what is currently happening. The development guide having been updated, the policy plans been reviewed, and now metro systems statements have been sent out, which starts the amendment process in each unit of government. She reminded the committee that systems are defined in statute to only include transportation, wastewater, and parks & open spaces. Dyson indicated this was important to remember because under 473.175 (Review of Comprehensive Plans); the Met Council only has authority to require a change in a local government comprehensive plan related to these systems. There have been controversies over the years on how housing developments affect the systems - for example transportation, which is under Met Council purview.

A member asked for clarification on the Met Council's authority to require local governments to comply with Council plans not just the system itself. The response was that the Council may require modification of a plan if it relates to a system in which the council has the authority. It was further clarified that the Council may require modification of a comprehensive plan if it substantially impacts on or substantially departs from the plan for a metropolitan system, not the metropolitan system itself.

Dyson read aloud the section pertaining to this under 473.175 subdivision 1, "*The council may require a local governmental unit to modify any comprehensive plan or part thereof if, upon the adoption of findings and a resolution, the council concludes that the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans.*" Dyson added that in practice over the years, there have been negotiations and exercises in judgement in this area.

After Dyson concluded her presentation, Co-chair Arntz asked special guest, Mr. Pat Born if he had any comments for the committee. Born began his introduction by stating that he is a Citizens League board member nominee. He commented that he has read the draft charge of the Task Force and at this early stage, it is quite broad. As the committee begins to narrow its charge, he wanted to provide his thoughts and opinions:

- To a previous question about whether the committee should start with a blank sheet, he advised against this. Instead, he advised the committee to "start with where you are."

- He advised the committee not to waste its time on:
 - Questions of whether the council is doing what it is supposed to be doing. His opinion was that the Council is doing exactly what it is statutorily required to do. That said, he said he does realize there are people who object to what the legislature has authorized the Council to do. The committee should listen to these concerns but through that lens.
 - In its history, different Met Councils have taken on more broad authority than others. Councils do channel their governors and they should according to the current governance structure. Most criticism has been associated with this, not legality issues.
 - Council operations. Born commented that the group could spend several years reviewing council operations but not sure it would be worthwhile to do.
 - Transparency. Transparency concerns are often raised by those who don't like what they're doing. Born stated that statutes require the Council to be transparent with its meetings, meeting minutes, and through advisory committees. It is true that there is less interaction with the general public, but many interactions with cities and counties.

Born highlighted two areas that he thought might be fruitful for the Task Force to consider as part of their work:

- Transportation governance. Born stated that this is a very complicated area with many thinking it is needlessly complicated. However, changing it and making it simpler can itself be a complicated task.
 - He referred the members to the 2011 transportation report by the Legislative Auditor. In particular, he thought the report did a very good job describing who's who, who does what, and the planning process. He referenced a diagram in the report.
 - Born commented that many constituencies want it to be the same so members should expect some disagreement.

A member asked Born if he had roads and bridges in mind or something broader. Born responded that that he thinks the committee should look at the broader transportation topic to include transit, planning, and funding.

- The second issue Born though the Task Force should study is water, which he believed to be emerging as a very important topic.
 - Both supply and quality of drinking water.
 - Cities, the Council, and the DNR are trying to understand the issues and try to figure out what to do. Born stated that some cities will simply run out of drinking water, putting pressure on the region and the growth of the region. It will be a problem but not for everybody. Any proposed solution will have regional impact. Not one area can solve this issue alone.

A question was raised about whether the Council has ever raised the issue of community impact fees. The response was that the Council had not raised it but that local governments have raised this issue.

4. Task Force Discussion

Co-chair Arntz addressed the group that as part of the process of collection information, she, Co-chair Knapp, and staff put together a short list of potential individuals for the Task Force to react to today and to consider bringing in as part of the interview process to get more insight. After staff distributed the list, Co-chair asked if there were other names the group should consider.

Staff member, Pahoua Hoffman, explained that now that some history had been established with the previous meeting, the statutes were now presented at this meeting, the idea was that it could be time to invite outside guests who could provide additional perspective and insight not currently represented on the Task Force – similar to what special guest Pat Born did today. By hearing from

additional people, this could help the Task Force refine or redefine its charge and begin to narrow down its work towards recommendations.

A brief discussion on who was missing included:

- Those doing work in underserved communities around inclusiveness and equity.
- Demographer. Knowing what the future looks like will help guide work.
- Elected officials are missing.
- Expert on fiscal issues.
- Transportation governance.
- Housing trends.

It was concluded that more time was needed for the Task Force to discuss what they have heard and the names of possible interviewees before inviting them to attend a future meeting. It was agreed that the next meeting would be reserved for discussion. Co-chairs Arntz and Knapp encouraged members to send potential names into staff with short descriptions. The Co-chairs and staff will prepare an agenda for a productive discussion at the next meeting.

5. Next Steps & Evaluation

Co-chair Susan went through the next four meeting dates asking members to raise hands if they were not able to attend meetings. Based on the hand votes, the meeting schedule will stand as published since the majority of members will be able to attend.

After Co-chair explained the Citizens League meeting evaluation process of evaluating the meeting on a scale of 1-5, 1 being poor and 5 being exceptional, the members evaluated the meeting as follows: 5, 4, 5, 3, 4, 4, 4, 4, 4, 4, 4, 4, 4, 4, and 3.5 Average 4.03. Members who evaluated the meeting with lower scores indicated the wish for more time to discuss. There were also comments that the committee did not provide presenter Deb Dyson with enough time.

6. Adjourn

Co-Chairs Susan Arntz and John Knapp adjourned the meeting at 6:00 p.m.