

Community Development Committee

Meeting date: April 17, 2017

For the Metropolitan Council meeting of April 26, 2017

Subject: Proposed Amendments to Bylaws of the Metropolitan Council Land Use Advisory Committee

District(s), Member(s): All Districts

Policy/Legal Reference: Minnesota Statutes section 473.853; Metropolitan Council Bylaws art. III.B.4

Staff Prepared/Presented: Jon Commers; Deb Detrick, Local Planning Assistance (651-602-1327); and Dave Theisen, Deputy General Counsel (651-602-1706)

Division/Department: Community Development and Office of General Counsel

Proposed Action

That the Community Development Committee recommend approval of proposed amendments to the Bylaws of the Metropolitan Council Land Use Advisory Committee, as shown in Attachment A.

Background

In addition to statutory provisions, the Bylaws of the Metropolitan Council Land Use Advisory Committee (LUAC Bylaws) govern the Committee and the conduct of its business. The bylaws were last amended on January 14, 2004.

According to the LUAC Bylaws, the Committee may recommend amendments to its bylaws by a two-thirds vote of members present at a regular meeting of the Committee given written notice of the detailed contents of the proposed amendments to Committee members at least ten (10) days before the meeting. Recommended amendments are effective when approved by the Council pursuant to the Council's Bylaws.

On February 16, 2016, the Land Use Advisory Committee reviewed the proposed bylaws amendments. The Committee unanimously recommended approval of the proposed amendments in a vote of members present at the Committee's March 16, 2017, meeting.

Attachment A shows the detailed contents of proposed amendments to the LUAC Bylaws. Notes explain the reasons for substantive changes and provide context for some minor changes. The substantive changes to the LUAC Bylaws are:

- **Article I – Organization and Duties, B. Committee Purpose and Charge and B. Committee Purpose and Charge 1. (a).** Reflect duties of the Committee beyond land use issues.
- **Article II – Membership, B. Officers., 1. Committee Chair.** Clarify that the Committee Chair shall be a member of the Metropolitan Council and acknowledge that the chair is responsible for preparing Committee agendas.
- **Article II – Membership, B. Officers., 2. Committee Vice Chair.** Add language on how the Committee may proceed when both the Committee Chair and the Committee Vice Chair cannot attend a LUAC meeting.
- **Article II – Membership, E. Attendance.** Add language on expectations for attending meetings.

- **Article III – Meetings of the Committee, A. Regular Meetings.** Clarify that regular meetings of the Committee are held once every two months instead of every month and specify where the Committee meets.
- **Article III – Meetings of the Committee, C. Quorum.** Clarify that the Committee Chair is counted for a quorum.
- **Article III – Meetings of the Committee, D. Public Participation.** Add that Committee meetings shall be held in locations accessible to the public, consistent with the Minnesota Open Meeting Law.
- **Article III – Meetings of the Committee, E. Conflicts of Interest.** Make conflict of interest provisions clearer.
- **Article III – Meetings of the Committee, F. Order of Business.** Reflect how the Committee currently organizes its agendas.
- **Article III – Meetings of the Committee, G. Conduct of Business, 3. Voting, Motions and Recording.** Drop reference to roll call votes and state that remote participation by telephone or other electronic means is not permitted.

Rationale

The preliminary 2017 work plan for the Land Use Advisory Committee, discussed by the Committee on November 17, 2016, February 16, 2017, and March 16, 2017, included reviewing the LUAC Bylaws. The LUAC Bylaws were last amended in 2004. Proposed amendments clarify some provisions, support efficient Committee meetings, and reflect current Council practices.

Thrive Lens Analysis

This proposed action is neutral on Thrive Outcomes.

Funding

N/A

Known Support / Opposition

N/A

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BYLAWS OF THE

METROPOLITAN COUNCIL

LAND USE ADVISORY COMMITTEE

ARTICLE I - ORGANIZATION AND DUTIES

A. Establishment and Name. Pursuant to Minnesota Statutes sections 473.127 and 473.853, the Metropolitan Council (the “Council”) hereby establishes the Land Use Advisory Committee (the “Committee”).

B. Committee Purpose and Charge. The Committee will assist the Council in performing the Council’s regional land use planning and other planning functions under Minnesota Statutes Chapter 473 and will undertake such other duties and responsibilities as are delegated to the Committee by the Council or required by law. The Committee’s advisory duties shall include ~~render~~providing advice and assistance regarding metropolitan land use and comprehensive planning and matters of metropolitan significance as requested by the Council.

NOTE: The LUAC may assist the Council with more than land use issues. For instance, the LUAC can be involved in metropolitan significance matters and system statement disputes.

1. Metropolitan Land Use and Comprehensive Planning. As and when requested by the Council and under the direction of the Committee Chair, the Committee will provide assistance to the Council in performing the Council’s regional land use planning and other planning responsibilities. The Committee’s assistance may include, without limitation:

NOTE: The LUAC may assist the Council with more than land use issues. For instance, the LUAC can be involved in metropolitan significance matters and system statement disputes.

(a) Providing advice and recommendations to the Council regarding guidelines and procedures for implementing the Metropolitan Land Planning Act, including Minnesota Statutes sections ~~462.255, subdivision 4~~ 462.355, 473.175 and 473.851 to 473.871.

NOTE: Clerical correction. Minn. Stat. § 462.355, subd. 1a requires each metropolitan-area municipality to “review and update its comprehensive plan and fiscal devices and official controls as provided in section 473.864, subdivision 2.” Minn. Stat. § 473.854 requires the Council to “prepare and adopt guidelines and procedures relating to the requirements and provisions of sections 462.355, 473.175, and 473.851 to 473.871 which will provide assistance to local government units in accomplishing the provisions of sections 462.355, 473.175, and 473.851 to 473.871.”

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- (b) Providing advice and recommendations to the Council regarding ~~guidelines for~~ metropolitan system plans.

NOTE: Clerical correction. The Council does not adopt “guidelines” for metropolitan system plans.

- (c) Conducting hearings to resolve disagreements over the content of system statements as requested or required under Minnesota Statutes section 473.857.

- (d) Providing advice and recommendations to the Council regarding criteria, guidelines and procedures for administering the local planning assistance fund established under Minnesota Statutes section 473.867.

2. **Metropolitan Significance Matters.** When requested by the Council and pursuant to Minnesota Statutes section 473.173 and the direction of the Committee Chair, the Committee’s assistance may include:

- (a) Providing advice and assistance to the Council in developing, reviewing and implementing assessing rules establishing standards, guidelines and procedures for determining matters of metropolitan significance.

NOTE: Clerical change. This language (as modified) tracks the text of Minn. Stat. § 473.173, subd. 6 which states in part: “The council and the advisory metropolitan land use advisory committee shall review and assess the rules following their effective data and at least every two years thereafter.”

- (b) Providing advice and assistance to the Council in establishing a procedure for reviews and final determinations on matters of metropolitan significance.

ARTICLE II - MEMBERSHIP

A. Members. The Committee shall consist of at least sixteen (16) members, plus a chair. In accordance with Minnesota Statutes section 473.853, the membership of the Committee shall include at least one member from each Council district and provide representation from each metropolitan county, plus a chair. At least one-half of the members shall be elected officials of local governmental units. The Committee members shall perform their advisory committee functions under the supervision and direction of the Committee Chair.

B. Officers. The officers of the Committee are the Chair, Vice Chair and Secretary. The Chair and Vice Chair must be Committee members. The Secretary shall be a Council employee.

1. **Committee Chair.** The Committee Chair shall be a member of the Metropolitan Council. The Committee Chair shall be recommended by the Chair of the Council, approved by the Council, and shall serve as a voting member of the Committee. The Committee Chair is responsible for preparing Committee meeting agendas and shall preside at all Committee meetings and have the duties and responsibilities normally attendant upon that office as well as duties and responsibilities prescribed by these bylaws and delegated or assigned by the Council or the Committee. The Committee Chair shall serve as Chair for a two-year term, or until the Chair’s successor is appointed, and may be reappointed ~~Chair~~ for one or more

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additional

two-year

terms.

NOTE: This formalizes the long-standing practice of having a Council member serve as the LUAC chair. This also formalizes that the LUAC chair is responsible for preparing Committee meeting agendas.

- 2. Committee Vice Chair.** The Committee Chair shall name a Committee Vice Chair from among the Committee members subject to the approval of the Committee. The Vice Chair shall act for the Chair during the Chair's temporary absence or disability. The term of the Vice Chair shall be one year commencing at the first meeting in January, or until the Vice Chair's successor is appointed. The Vice Chair may be reappointed Vice Chair for one or more additional one-year terms. If both the Committee Chair and the Committee Vice Chair are unavailable to preside at a Committee meeting, the Committee Chair or the Committee Vice Chair may designate a Committee member to preside at that Committee meeting.
NOTE: This new provision will clarify how LUAC can proceed when neither the Committee Chair nor the Committee Vice Chair is able to attend a LUAC meeting.

- ~~3.~~**3. Committee Secretary.** The Committee Secretary shall be a designated Council employee. The Secretary shall not participate in Committee discussions about or vote on any matters before the Committee. The Secretary shall keep a ~~current and correct journal~~ record of all Committee proceedings.

- C. Terms.** Pursuant to Minnesota Statutes section 473.853, each Committee member shall be appointed for the same period as the term of the Council member for the district in which the Committee member resides. ~~In the event~~ If a Council member resigns or otherwise ceases to be a Council member prior to the expiration of the Council member's full term, the Committee member appointed from that district may continue to serve until the expiration of the full term of the Council member for which the Committee member originally was appointed.

- D. Committee Vacancies.** Committee members shall communicate their intentions to resign to the Committee Chair in writing. When a vacancy occurs, the Committee Chair shall immediately notify the Council Chair and the Council shall, ~~as soon thereafter as possible~~ in a timely manner, appoint a new Committee member to fill the vacated position for the unexpired term.
NOTE: As a practical matter, "as soon as possible" is probably too stringent.

- ~~D.E.~~ **Attendance.** Committee members will endeavor to attend Committee meetings on a regular basis to promote productive Committee meetings and ensure representation of Council districts from which they are appointed, each metropolitan county, and the local government units. Committee members who cannot attend a scheduled Committee meeting should notify the Secretary a reasonable amount of time prior to the meeting.
NOTE: This provision sets expectations for members to attend Committee meetings.

ARTICLE III - MEETINGS OF THE COMMITTEE

- A. Regular Meetings.** The Committee shall hold regular meetings. Regular meetings of the ~~whole~~ Committee shall be scheduled to be held once ~~a~~ every two months in the Metropolitan

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Council Chambers or other meeting rooms in the Council's building on Robert Street North in Saint Paul, or at such other place as may be determined by the members of the Committee or the Council. The public shall be notified of Committee meetings ~~in accordance with~~ applicable law and ~~general~~ Council procedures.
NOTE: These changes will reflect the current frequency of Committee meetings and accommodate LUAC's current practice of meeting in LLA of the Robert Street North building.

- B. Special Meetings.** Special meetings of the Committee may be held at any time upon the call of the Chair, the Vice Chair, or any six (6) other members of the Committee. Notice of special meetings shall include the date, time, place and agenda and be sent to the Committee members at least three (3) calendar days prior to the meeting. There shall be adequate public notice of such meetings. ~~In the event of an emergency, notice may be waived by two thirds of the Committee. Business transacted at a special meeting where notice has been waived may be called for reconsideration at the next regular meeting of the Committee.~~
NOTE: This text is unnecessary. The LUAC never has met on an emergency basis, and it is highly unlikely the LUAC will need an "emergency" meeting in the future.
- C. Quorum.** A majority of the Committee members shall constitute a quorum for the conduct of Committee business, except that a quorum shall not be necessary for conducting public hearings. The Committee Chair shall be counted for the purposes of determining a quorum. If a quorum exists at any time during the meeting, a quorum is ~~then determined~~ presumed to exist for the remainder of the meeting. Should a quorum not exist the Chair may, in the Chair's discretion, entertain and report any general discussions and any consensus of the Committee members present at the meeting.
NOTE: The new sentence makes it clear that the Committee Chair will be counted when determining the presence of a quorum. The change to the third sentence makes this quorum provision consistent with Robert's Rules of Order.
- D. Public Participation.** All Committee meetings shall be open to the public and shall be held in locations that are accessible to the public. The Committee Chair may, subject to challenge by a majority of the Committee members, permit or close public discussion on any agenda item. Public participation at a Committee meeting relative to specific agenda items should, to the extent possible, present new information not previously made available to the public.
NOTE: This additional text makes it clear LUAC meetings must be held in locations that allow members of the public to see and hear LUAC deliberations, consistent with the Minnesota Open Meeting Law.
- E. Conflicts of Interest.** No Committee member shall participate in any deliberations or vote on any matters or proposals in which the Committee member has a conflict of interest. A conflict of interest exists when: (1) an action or decision by the Committee, ~~or the~~ a Council action or decision on a Committee matter, could substantially affect the Committee member's financial interests or the financial interests of an organization with which the Committee member is affiliated; (2) the Committee member is a director, trustee, officer, employee or agent of an institution or organization directly involved in an issue or proposal before the Committee ~~or that will be considered by~~ the Council; (3) the Committee member is related by blood or marriage to an individual directly affected by an issue or proposal

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before the Committee ~~or~~ that will be considered by the Council; or (4) the Committee member knows or has reason to know an organization with which the Committee member is affiliated or is reasonably likely to become a participant in a project or development which will be affected by an action or decision by the Committee ~~or~~ that will be considered by the Council.

NOTE: These proposed additions are intended to make it clear that these conflict of interest provisions are intended to cover issues or proposals before the LUAC that will be considered or acted upon by the Council, but not actions or decisions of the Metropolitan Council governing body on issues or proposals that were not before the LUAC. Because the LUAC is an advisory committee and only makes recommendations, these proposed changes focus on LUAC recommendations that are forwarded to the Council for consideration.

A conflict of interest generally does not exist if the effect of a Committee or Council action or decision on the Committee member will be no greater than on other individuals engaged in the business, profession or occupation of the Committee member, or if the effect on the organization with which the Committee member is affiliated is indirect, remote and insubstantial.

Prior to the commencement of Committee deliberations, a Committee member who has a conflict of interest shall orally disclose to the Committee Chair that the Committee member has a conflict of interest. The Committee member also shall prepare a written statement describing the matter requiring action or decision and the nature of the Committee member's conflict of interest. The written disclosure shall be entered ~~upon~~ in the minutes of the Committee at the Committee's next meeting. The written disclosure shall be submitted to the Committee Chair no later than one week after the Committee member becomes aware of the conflict of interest.

F. Order of Business. The business of the Committee shall be conducted in the following order:

~~1. **Roll Call.** Roll call by the Secretary of the presiding officer.~~

~~2. **Agenda Approval.** Motions, if any, by Committee members to amend the published agenda and approval of the agenda or the amended agenda.~~

~~3. **Minutes Approval.** Approval of the minutes of prior meetings.~~

~~4. **Recitals.** Recitals regarding petitions and communications to the Committee.~~

~~5. **Agenda.** Consideration of agenda items on the published agenda or the amended agenda.~~

~~6. **Other Business.** Other matters which properly may come before the Committee.~~

~~7. **Reports.** Reports of officers, Committee members and staff.~~

~~8. **Presentations.** Presentations by interested public at the meeting wishing to be heard on Committee matters not included on the agenda.~~

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~~9. Adjournment. Motion to adjourn.~~

1. Call to Order.

2. Agenda Approval. Motions, if any, by Committee members to amend the published agenda and approval of the agenda or the amended agenda.

3. Minutes Approval. Approval of the minutes of the prior meeting(s).

4. Business. Consideration of agenda items on the published agenda or amended agenda.

5. Other Business. Information items or reports of the Chair, Committee members or staff.

10.6. Adjournment. Motion to adjourn.

NOTE: The preceding six items reflect how LUAC currently conducts its meetings. This revised “Order of Business” is similar to how the Council organizes its agendas.

NOTE: Item 5. makes it clear that “Other Business” does not preclude information items or reports from Council employees who provide staff support to the Committee.

G. Conduct of Business. The business of the Committee shall be conducted in accordance with the following provisions:

1. **Robert’s Rules of Order.** Committee meetings shall be governed by *Robert’s Rules of Order* (most recent revision), to the extent they are consistent with laws, ~~or these bylaws,~~ as well as Council and Committee bylaws, and ~~all other~~ applicable Council policies and procedures. If these bylaws conflict with the Council’s bylaws or applicable law, the Council’s bylaws and applicable law shall prevail.

2. **Suspension of Rules.** Committee rules and procedures may be suspended by two-thirds vote of the Committee members present.

3. **Voting, Motions and Recording.** Voting on any matter shall be by voice vote, ~~provided that roll call votes shall be called and recorded on any issue if requested by one or more Committee members.~~ Upon request of any Committee member, the Secretary shall repeat the motion and name the mover and the secondor immediately preceding a vote by the Committee. There shall be no voting by proxy and each member and the Chair shall be entitled to only one vote on any issue. Committee members shall personally participate in Committee meetings. Discussion and voting by electronic or other remote means is not permitted.

NOTE: Robert’s Rules of Order already allow for members to call for a roll call. This new proposed text will make it clear that remote participation by telephone or other electronic means will not be permitted.

4. **Public Record.** All minutes and ~~reports other records~~ of the Committee proceedings shall be retained on file at the Metropolitan Council offices and shall be available ~~for~~

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~~inspection by any member of to~~ the public unless otherwise made not public by the Minnesota Government Data Practices Act or other applicable state or federal law.

ARTICLE IV - SPECIAL COMMITTEES

The Committee Chair may appoint or dissolve special committees of the Committee, subject to Committee approval. Except as otherwise provided in these bylaws, procedures governing notification of meeting time and place, order of business, and conduct of business at meetings of special committees shall be the same as those for meetings of the Committee. Subcommittees may be formed to address existing or emerging issues.

ARTICLE V - STAFFING

The Community Development Division Director shall designate a Committee Secretary and shall assign Council staff to assist the Committee in carrying out its duties and responsibilities.

ARTICLE VI - EXPENSE REIMBURSEMENT

The Committee members shall serve without compensation but ~~may~~ must be reimbursed for reasonable expenses in accordance with adopted Council policy and procedures. *NOTE: This change is consistent with Minn. Stat. § 473.127 which states: “Members of [Council] advisory committees shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the Metropolitan Council.” The Council’s procedures implement the policy and identify the types of expenditures that are reimbursable.*

ARTICLE VII - AMENDMENT OF BYLAWS

The Committee may recommend amendments to these bylaws by a two-thirds vote of the members present at any regular meeting of the Committee provided written notice setting forth in detail the contents of the proposed amendments has been given to Committee members at least ten (10) calendar days prior to the meeting. Recommended amendments shall not be effective unless approved by the Council pursuant to the Council’s bylaws.

Adopted by the Metropolitan Council December 15, 1999.

Amended by the Metropolitan Council January 14, 2004.

Amended by the Metropolitan Council _____, 2017.