

Report of The Governor's Blue Ribbon Committee on the Metropolitan Council's Structure and Services

I. INTRODUCTION

Under Executive Order 20-88, Governor Tim Walz of the State of Minnesota, ordered the establishment of the Governor's Blue Ribbon Committee on the Metropolitan Council's Structure and Services ("Committee") composed of 15 members, and chaired by Mary Liz Holberg, Dakota County Commissioner, District 6. The Committee was charged with the following to review:

- a. The role of elected versus appointed Metropolitan Council members;
- b. The Metropolitan Council's role as a Metropolitan Planning Organization ("MPO") and identify and evaluate the ways this federal designation may complement and conflict with the Council's responsibilities under Minnesota law; and
- c. The effectiveness of the delivery of regional transit service.¹

II. BACKGROUND OF THE METROPOLITAN COUNCIL

The Metropolitan Council ("Council") began in 1957 with the Metropolitan Area Planning Commission. In 1967 the Legislature established the Council to address public policy challenges not easily resolved by individual counties, cities, or towns such as inadequate wastewater treatment, a failing private bus company, rapid growth, preservation of natural areas, and growing fiscal disparities. The Metropolitan Transit Commission was created to take over the failing private bus service system and in 1994, the Metropolitan Government Reorganization Act was passed, and the two entities were merged.

The Metropolitan Council, as a political subdivision of the state, has jurisdiction in the seven metropolitan counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. The Council's jurisdiction holds 56 percent of the state's population and nearly 3,000 square miles. The broad functions of the Council are planning and coordination, operations of regional services: transit, wastewater collection and treatment; and passthrough funding for the Metro Housing Redevelopment Authority (HRA) and the parks and open space implementing agencies. The Council has approximately 4,400 employees and an annual budget in excess of \$1 billion.

The Metropolitan Council has 16 members who each represent a geographic district and a chair who serves at large. They are all appointed by and serve at the pleasure of the governor with the advice and consent of the Minnesota Senate.

¹ See Executive Order 20-88 attached as Appendix A.

Additionally, Minn. Stat. § 473.123 provides:

- Members of the Council must be appointed to reflect fairly the various demographic, political, and other interests in the metropolitan area and the districts.
- Members of the Council must be persons knowledgeable about urban and metropolitan affairs.

The Council delivers its statutory responsibilities in the following manner:

a. Community Development

The purpose of the Community Development division of the Metropolitan Council is to oversee the regional planning process and the 10-year regional planning cycle. Community development is also responsible for planning and funding the regional parks in coordination with local park implementing agencies. Community Development oversees Metropolitan Livable Communities Act programs, which are designed to create compact and connected development patterns, to help change long-term market incentives that adversely impact the creation and preservation of living wage jobs, to create incentives for developing communities to include a full range of housing opportunities, and to create incentives to preserve and rehabilitate affordable housing. Community Development operates the Metro Housing and Redevelopment Authority (HRA), which was created by the Minnesota Legislature in 1974. The Metro HRA is the largest administrator of tenant-based rental assistance in the state. Finally, Community Development provides research on regional issues and long-term regional forecasts for population, households, and jobs.

b. Metropolitan Transportation Services

Metropolitan Transportation Services is responsible for transportation planning and contracted transit operations. Metropolitan Transportation Services supports the Council in its role as the region's federally required Metropolitan Planning Organization (MPO) and performs long-range transportation system planning for all modes. Metropolitan Transportation Services is also responsible for contracted transit operations, providing coordination for metropolitan transit operations across all providers; providing financial assistance to transit providers; and administering transportation grants to local agencies and transit operators. The division's family of transit services includes contracted regular route services, Metro Mobility ADA service, Transit Link dial-a-ride, and Metro Vanpool. Metropolitan Transportation Services also provides regional services across transit providers including fleet management, technology implementation, grants management, and regional provider performance reporting.

c. Metro Transit

Metro Transit provided more than 84 percent of the nearly 92 million transit rides regionwide in 2019. The Metro Transit service area covers 907 square miles and 90 cities. Metro Transit services include local and express bus, METRO Blue and Green Line light rail, Northstar commuter rail and the METRO A and C bus rapid transit lines. Metro Transit also provides travel demand management support for the communities it serves, assistance on transit-oriented

development, regional support for scheduling and customer service, and the Metro Transit Police Department. Metro Transit is also the lead agency for several transitways under development, including the following planned lines in the METRO system: Green Line Extension, Blue Line Extension, Orange Line, Gold Line, and D, B, and E Lines.

d. Environmental Services

The key role of Environmental Services is to operate the regional wastewater treatment system. Environmental Services also carries out the water supply planning activities required under Minnesota state statute. Environmental Services serves approximately 50 percent of Minnesota's population. The majority of the funding comes from municipal wastewater charges, with smaller funding coming from the Sewer Availability Charge and Industrial Waste Charges. As the water supply planning authority, Environmental Services develops guidance and plans for the orderly and economical development of water supply services and protects public health and water quality. Environmental Services also manages the Metro Area Water Supply Advisory Committee, which guides Council water supply planning and approves the Master Water Supply Plan.

III. WORK OF THE BLUE RIBBON COMMITTEE

The Committee met seven times between Sept. 14, 2020 and Dec. 7, 2020. It was provided with an extensive amount of written material for review and heard testimony from the Council and legislative staff, agency representatives, local government representatives, and interested advocacy groups, as documented in the appendices to this report.

Based upon the written materials and testimony provided, and discussions among Committee members, the Committee addressed the issues that Gov. Walz requested be explored and herewith makes the following conclusions and findings and provides recommended actions to the governor and the Minnesota Legislature as articulated in the following section.

IV. ISSUES THE GOVERNOR REQUESTED BE ADDRESSED

1. Role of Elected Versus Appointed Metropolitan Council Members

Executive Order 20-88 directed the Committee to explore the role of potentially having elected versus appointed Metropolitan Council members.

Committee Conclusions and Findings: The current process of appointment is robust and transparent. Council vacancies are announced and posted through the Secretary of State's open appointments process, which allows all interested and eligible persons to apply for a Council position. A nominating committee, established in Minn. Stat. § 473.123(c), is selected by the governor and is statutorily composed of seven members of which three must be local elected

officials. The nominating committee goes through an extensive evaluation process of potential Council members that includes a review of application materials and candidate interviews. Candidate interviews have been open to the public to maximize transparency. At the conclusion of the review and interview process, the nominating committee forwards its recommendations for each Council district to the governor for consideration.

Per statute, the governor must notify the Minnesota Senate of the intention to appoint five days prior to the deadline, at which time the appointment becomes official, pending confirmation by the Senate.

The Blue Ribbon Committee finds the following:

- **Council Members should be appointed by the governor and not be directly elected to the Council.** The Council needs to focus on the best interests of the entire region and not be beholden to the specific area a Council Member represents. A directly elected Council also raises concerns about creating a “mini-legislature” for the metropolitan area that would be implementing laws enacted by the state.
- **Council Members should not be sitting local elected officials.**
 - A Metropolitan Council made up of elected local officials would raise serious concerns about parochialism and real or perceived conflicts of interest inherent with one person holding dual offices. At times, specific local interests may not align with needs and goals of regional systems and long-range plans.
 - Serving on the Metropolitan Council requires a significant commitment of time. Local elected officials often have jobs and other obligations in addition to their elected office that would limit their ability to take on another role. This would create a limited and self-selected pool of local elected officials who would have the ability to dedicate the time necessary to also serve as a Metropolitan Council member.
 - Local officials would serve and vote in two political subdivisions generally considered to be incompatible functions.
 - Local elected officials would serve as the both regulator in their role on the Council and the regulated party in their role as a local elected official. These are incompatible roles.
- **There is a lack of consensus and support among the region’s local governments for a large structural reorganization or fundamental change to the Council.** However, there appears to be broader agreement and support for making adjustments to the current nominating and appointment process.

Recommended Actions:

- **Provide in statute for staggered four-year Council Member terms.** This action would provide continuity of knowledge and experience when an administration turns over. With all members serving the same term of service, it is possible to lose the entirety of

institutional memory on the Council gained over four years. Staggered terms would provide staff with greater consistency and stability in implementing the policy decisions of the Council. With staggered terms, sitting Council Members can assist with the onboarding process by acting as mentors to new appointees. The governor would maintain accountability by appointing the majority of the members including the chair along with half the Council Members in the first two years of his/her term.

- **Require in statute that the nominating committee be expanded and comprised of a majority of local elected officials.** The Committee believes there is a distinct benefit to the selection process by more fully involving local officials in the process, including having the nominating committee contain a majority of local elected officials.
- **Require in statute that the nominating committee recommend up to three finalists for each Council seat and that the names of finalists and their qualifications be publicly announced at least 14 days prior to final selection by the governor.** An open appointment process, including appropriately publishing vacancies and publishing the names of finalists allows for increased transparency and influence by the public, local government officials, and legislators.

Committee Minority Counterpoint:

Gubernatorial appointments provide for an effective Council, but at times only represent the agenda of the administration making the appointment. Requiring Council Members to also be elected local officials could add a layer of accountability and reduce the possibility of major swings in regional planning philosophy or abrupt changes in policy.

2. The Metropolitan Council's Role as a Metropolitan Planning Organization (MPO)

Executive Order 20-88 directed the Blue Ribbon Committee to explore the Metropolitan Council's role as a Metropolitan Planning Organization ("MPO") and identify and evaluate the ways this federal designation may complement and conflict with the Council's responsibilities under Minnesota law.

Committee Conclusions and Findings: The Council has served as the designated Metropolitan Planning Organization (MPO) for the region since 1973 when it was designated as such by then Gov. Wendell Anderson, and in 1975 this designation was codified in state law. Federal law requires that Metropolitan Planning Organizations be designated in regions with more than 50,000 in population. Metropolitan Planning Organizations are responsible for multimodal transportation planning, providing an ongoing, cooperative regional planning process, and approving federal transportation funds for expenditure within the region. Large MPOs in regions with populations of more than 200,000, such as the Council, also are responsible for directly allocating federal transportation funds provided to the region.

Over time, federal law has changed to require that Metropolitan Planning Organization board membership include representation of local elected officials, state transportation agencies, and transit providers among its members. However, federal law also grandfathered in MPOs that had existed and been designated prior to Dec. 18, 1991. These grandfathered MPOs continue to legally exist, provided the membership and voting structure of the board does not significantly change, which could require a re-designation. In the recent past, there have been assertions that the Council is either not a legal Metropolitan Planning Organization or that changes in the Council structure since 1991 have caused the grandfathering law to no longer apply. High-level officials from the U.S. Department of Transportation have addressed these issues on at least four occasions over the past decade and have consistently found that the Council does serve as a legally designated Metropolitan Planning Organization under the grandfather clause and that no actions have significantly changed the membership or voting structure of the Council in such a way as to require a re-designation.

Therefore, the Blue Ribbon Committee finds that consistent with federal law (23 U.S. Code section 134) and opinions from the U.S. Department of Transportation that found the Council to be a legitimate Metropolitan Planning Organization in compliance with federal law:

- **The Council is the legitimate regional Metropolitan Planning Organization (MPO)**, is covered under the federal law grandfather provision, and the U.S. Department of Transportation has confirmed that it continues to apply.
- **The federal agencies are fully aware of, and in approval of the Council's status as the legal MPO**; have provided numerous certifications of the region's planning processes; and have recognized the legal status of the Council as the recipient of regional federal transportation funds, and approver of the region's long-range transportation plan and annual Transportation Improvement Program.
- **Re-designating the regional MPO would be a complex process** that under federal law must include the approval of the governor and agreement of local units of government representing at least 75 percent of the region's population, including the region's largest city, Minneapolis. Due to the current urbanized area extending into Houlton, Wisconsin (near Stillwater), re-designation may also potentially require approval of the governor of Wisconsin.
- **The region has developed an effective, collaborative, working process** whereby the Transportation Advisory Board, which includes a majority of local elected officials as required under Minn. Stat. § 473.146, subd. 4(b), plays a major role in the regional planning process and is responsible for allocating the region's federal transportation funds.
- **The Transportation Advisory Board is integral to the regional planning processes under long-standing protocol.** The existing planning process requires that the Transportation Advisory Board provide recommendations on all of the region's federally required documents including the long-range Transportation Policy Plan, Transportation

Improvement Program, transportation public participation plan, and annual Unified Planning Work Program. In addition, for the allocation of federal funds, the Council and the Transportation Advisory Board have adopted a process whereby the Council can only concur with the board's recommended program of projects for federal funding or send it back to the board for revision. This process allows for the Transportation Advisory Board and Council to work out any differences. On only one occasion in 30 years has the Council returned an item to Transportation Advisory Board.

Recommended Actions:

- **The Metropolitan Council and Transportation Advisory Board should require a super majority 3/5ths vote (60 percent) on federally required actions and recommendations from the TAB to the Council** to include the recommendations on the Regional Solicitation project selection, Transportation Policy Plan, Transportation Improvement Program, public participation plan, and Unified Planning Work Program.
- **The Metropolitan Council and Transportation Advisory Board should consider eliminating the term "Advisory" in the board's name** to be replaced with another term or simply dropped (e.g. Transportation Board or Transportation Planning Board).

Committee Minority Counterpoint:

While the regional planning process is working, some state and local elected officials have voiced dissatisfaction with the structure of the Metropolitan Planning Organization and assert that absent the grandfather provision, the current MPO structure does not adhere to federal law. A few committee members expressed casual support seeking a re-designation, but also recognize it would be a complex and contentious process, with simultaneously no clear regional agreement on what issues or problems need to be solved through a re-designation. However, to bring this issue to a resolution, it has been suggested that the state's congressional delegation work to put this issue to rest with clear and straightforward statutory language at the federal level to clarify any real or perceived ambiguity.

3. Effectiveness of Delivery of Regional Transit Services

Executive Order 20-88 directed the Blue Ribbon Committee to explore the present effectiveness of delivery of regional transit services.

Committee Conclusions and Findings

The Committee reviewed the various transit services provided within the region including Metro Transit and Suburban Transit Provider regular route bus services, light rail transit, bus rapid transit, commuter rail, Transit Link dial-a-ride, and Metro Mobility mandated ADA services. The various purposes, structure of the services, ridership levels and general operating measures, such as cost and subsidy, were presented. The role of the counties and Council in developing and

funding transitways was discussed and the Minnesota Department of Transportation provided information on transit services in Greater Minnesota.

The Committee found that the region's transit governance structure is complex, but that services are generally efficient and cost effective when compared to similar services provided in peer regions. Adequate funding for regional transit, particularly for service expansion and transitway development, has been a recurring issue and in the past has led to measures that further complicate the governance structure (i.e. creation of suburban providers, regional transit board, and Counties Transit Improvement Board). In addition, the ridership and costs of Metro Mobility, which is a federal and state mandated service for people with disabilities, have been growing well beyond the rate of inflation with little ability for the Council to reduce or control its cost.

The Committee recognizes that the COVID-19 pandemic has had significant impact on the state's overall financial situation and on the region's transit system both in terms of reduced ridership and revenue. The long-term, ongoing impacts of the pandemic on residents' travel needs and choices, and to the region's transit system will not be fully understood for many months and potentially years into the future. It is very likely that in the coming years, changes to the transit system design and mix of services will need to be made in response to this changing travel demand. Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding provided in response to the pandemic has helped financially support the system in the short term; however, transit funding shortfalls are expected in the next biennium and beyond.

Based upon the testimony and evidence provided, the Blue Ribbon Committee finds the following:

- **The Committee generally agrees that if the region's transit system were designed today, the current structure would not be recommended** as it leads to inefficiencies and conflicting priorities for investment.
- **The Committee recognizes the value of local input that is part of the suburban transit provider model** and that dedicated funding allows suburban providers to try innovative ideas. However, the committee also recognizes that this model can lead to inefficiencies due to small size, inefficient service designs that end at or skip over service area boundaries, and duplication of administrative functions. The committee concludes there should not be a creation of new suburban transit providers and the regional transit system structure should continue to be evaluated for efficiencies.
- **The Committee recognizes that transit funding shortfalls have been an ongoing issue** for decades and that past legislative actions have provided short-term solutions that at times have further complicated the region's transit governance and funding structures without necessarily providing funding to maintain and grow the system.
- **The necessary level of state and federally mandated Metro Mobility ADA service is substantially more expensive to provide than regular transit service.** The service has a growing financial need that competes for funding with general public transit service provided by the Council and the suburban transit providers.

- The Blue Ribbon Committee recognizes that the state will face substantial funding shortfalls during the 2021 Legislative Session due to pandemic-related economic conditions. These shortfalls will present serious challenges to the state's and local governments' ability to assist in maintaining the region's transit services.

Recommended Actions:

- The Committee urges the governor and legislature to provide continued financial support to the regional transit system. High efficiency, low subsidy and high ridership services should be a priority for funding. Consideration of the regional and racial equity impacts of any significant reductions in transit service should be determined before making final funding decisions.
- The governor and legislature should statutorily shift the Metro Mobility budget from a base general fund appropriation to a forecasted budget program based upon demand. Metro Mobility/ADA program funding should be forecast and separated from funding provided for general public transit. Appropriations for forecasted programs are based upon forecasted usage (ridership) and will increase as ridership grows. This action would help ensure that the growing demand for mandated Metro Mobility service is addressed but does not lead to budget shortfalls for general transit services.
- The Council and its regional partners, Transportation Advisory Board, local governments, and transit providers should continue to cooperatively:
 - Seek long-term funding solutions that allow for system growth and do not further complicate the region's transit system structure.
 - Evaluate transit governance options that support transit service efficiencies and allow for strong local input into decisions about investment and operations.
 - Develop, adopt, and articulate agreed-upon regional transit service outcomes and measures that at a minimum consider ridership demand, efficiency and subsidy. These measures should be used regionwide to help prioritize transit service investment.
- The Council should contract for an efficiency and geographic equity study every five years to evaluate the regional transit system, including an analysis of light rail, passenger rail, regular route bus, bus rapid transit, Metro Mobility, and suburban transit providers. In addition, the study could examine where transit services exist and are most efficient, where services are less efficient, and where services are not available within the metropolitan area. This study could inform the decision-making process for transit investments and operational plans.
[For consideration at the December 7 meeting]