Meeting Title: **SAC Task Force Meeting #6**

Date: February 21, 2016 **Time: 8:30AM – 11AM** **Location: League of MN Cities**

Members in Attendance: Wendy Wulff, Metropolitan Council Member; Patty Nauman, Metro Cities; Steve Ubl, St. Paul; Ron Hedberg, Apple Valley; Dave Englund, Roseville; Katrina Kessler, Minneapolis; Loren Olson, Minneapolis; Kevin Schmieg, Eden Prairie; Merrill King, Minnetonka; Bob LaBrosse, Cottage Grove; Brian Hoffman, St. Louis Park; Kyle Klatke, Brooklyn Park

Non-Task Force Members in Attendance: Mary Ubl, Minneapolis

Members Absent: Dan McElroy, MN Restaurant Association; Tom Thomasser, MN Chamber of Commerce; James Dickinson, Andover; Sue Virnig, Golden Valley

Staff in Attendance: Cara Letofsky, Metropolitan Council Member; Ned Smith, MCES; Kyle Colvin, MCES; Jessie Nye, MCES; Sara Running, MCES; Cory McCullough, MCES; Toni Janzig, MCES, Jeanne Landkamer, MC

Item	Notes
1. Review and Approve Minutes from Meeting 5	Send changes to Sara Running by this Friday.
2. Present data on determination types	Ned discussed the numbers MCES put together regarding the criteria change. A member (Kevin S.) asked, with remodel change of use there are two different types. Did we look through historical records? Jessie Nye, MCES, replied we looked at reported SAC between 2013-2015 and what potential criteria change would be. Kevin added, do you have a feeling of what it would be from historical, like 10 years ago? Her assumption is it would be half. Kevin continued that the 14% (remodel change of use) is what gives us all our problems. MCES could do another sub pie chart of the 14% (remodel change of use). If you limited your lookback period to 6-7 years, you (MCES) would eliminate a lot of your problems. He cited Section 5.5.1.7...recommendation to strike that second statement in determinations and audits. **Action item for Jessie:** How many credits were given within 6-7 years and over 7 years (break down of the 14% remodel change of use on the pie chart)? Ned S. stated there is a process disconnect if the cities only keep records 6 years and Met Council is asking for longer than that.

	A member (Kyle K.) asked, is there a way to find how many full SAC is collected on showers? That issue is unfair (to charge a full SAC on an office shower versus a shower in a gym). Ned Smith, MCES, added he could see differentiating between office versus gym showers. The Chair (Wendy Wulff) commented it would seem fair to change the criteria for showers. Jessie N. added that the remodels that were adding showers to existing offices or churches went into the "remodel no change of use" category of the pie chart. A member (Kyle K.) commented, we have a church that has not hooked up and they have 2 showers in there. I know they don't get used much. 2 out of 6 of their SAC were because of the showers which barely get used. I think it would be fair to charge the same for showers, by classifying all as gang showers. Chair (Wendy W.) added we could look at simplifying showers.
3. Discuss potential approaches & scope discussion	A member (Brian H.) wanted to clarify point two that to make up the loss of the 6% or $127, we could just change the specific criteria. Ned S. replied yes. Jessie N. commented that the 6% remodel no change of use that is made up of office/warehouse, restaurant, and school remodels each made up 16-18% of that 6%. Salons were about 8%. A member (Kevin S.) asked, would that be someone going from retail to restaurant, retail to hair salon, or office to warehouse? Jessie N. answered that it would be the office/warehouse remodeling to add a conference room, or restaurant remodeling to a restaurant. The warehouse remodeling to an office would be in the remodel change of use category. Chair (Wendy W.) commented that my assumption with schools is it isn't often schools just add a lab, they add additional space. We should look at what SAC would need to be to include a mix of uses (ex. elementary vs. high school vs. college). A member (Kevin S.) commented in the building code we have gross and net criteria. If the goal was to simplify this it would be to look at the gross, not net square feet for criteria. A member (Loren O.) asked, so would you want to frontload where you think they are going to have a future (remodel without change of use) and how would you identify what to frontload? Ned S. answered we would look at remodel activity. We would want to do a deeper dive on how many restaurants get remodeled (ex. if 1 in 5 get

	remodeled, increase SAC by 20%). Loren added she doesn't like the idea because it seems like a stretch of logic and doesn't like the idea of frontloading space uses. A member (Brian H.) added the frontloading conversation has to be handled carefully. The idea is if you reduce the number of changes you would have to collect the same money up front. It's a negative, just a reality. The goal is to eliminate all of the time spent by doing evaluations every time a permit comes through. If the calculations are right that say if we went to gross square footage (ex. 3,000 sq. ft. restaurant with one making different food than the other, and with one with 100 seats and one with 10), the idea is to just change by 3,000 so you don't get into all the little details. A member (Merrill K.) added the frontloading is a gross description of what we are doing and sounds worse than what we are proposing. A member (Loren O.) commented that are we talking about a new restaurant gets the frontloading, or every restaurant needs criteria. The idea would be how we did it with the change in seating criteria (i.e., seat for seat credits, regardless of initial restaurant type). Change of use (book store changing to a restaurant, or a demo, or greenfield) is when it comes into place. A member (Katrina K.) commented there are a lot of ways you can do this. There are no details to review at this point. MCES wants to hear from us what we want to see in more detail; we all want to see if it might work by evaluating in a few ways (ex. if the cost is absorbed in 6% of the pie, 20% of the pie, etc.). But overall, the group has said something simpler would be better. There will always be concern about credits. A member (Loren O.) asked, have we looked at if we keep the criteria we have now but don't assess the whole property again? If we don't change the square footage model, what if MCES just stopped looking beyond specific change of use and don't reassess the whole property? A member (Kyle K.) added would what Loren O. suggested take away the 14% (remodel change of use) and 6% (remodel no change of use) and have no way to recover that revenue? Loren O. replied that there would still be revenue from an actual change of use, but not look to see if SAC was missed previously. A member (Kevin S.) added he agrees with Loren in limiting the look back period and looking at the

	work being altered. So if you are altering a portion of the building and if you have to do a lookback, only do what the lookback allowed you to do. Smaller restaurants would pay less because they have bigger dining rooms and smaller seating. Kyle Colvin, MCES, added he agrees with Kevin in that if we look at all restaurants in totality, then there would be smaller number of seating for small businesses versus large businesses. It is assuming there is larger, non-seating areas. **Action item: Kyle C. will work up an example to send out.** A member (Merrill K.) added it all comes down to how you distribute the delta. Some examples would be helpful. Merrill added it would be a huge selling point if it would help the small businesses. A member (Loren O.) commented that prorating the charge would be a better plan (business would pay 4.48 SAC, not 4 SAC). A member (Merrill K.) added but that is going back to the complexity. Chair (Wendy W.) added that would really be a wash since some round up and some round down. Member (Brian H.) added it is an interesting idea to use exact, seems more fair. A member (Patty N.) asked, will you be providing here what it is now versus what it could be in a visual comparison? Ned S. replied yes, we would do that.
4. Next steps for Issue 3	Meetings will resume in September with a meeting spot in the western suburbs instead. A member (Patty N.) asked how will we vet these recommendations? Ned S. answered recommendations would be vetted via public hearing. These are changes to MCES procedures which don't necessarily require Council approval. (*editor correction: for a change this significant, after public comment, the staff will present the changes to the Environment Committee and the broader council.)* A member (Loren O.) commented that September seems like a long time to wait to convene again. Customers are looking for change now. Other members agreed and it will be the goal to reconvene at an earlier date.
5. Additional credit ideas	Ned opened the floor for additional credit ideas. What he sees that has been proposed is the 6-year lookback. He asked if everyone feels the same way? (Most of group nodded their heads.)

	A member (Katrina K.) asked what a "lookback" meant. Ned replied that if more than 6 years, MCES would do the 80/20 rule for the unreported use (or 80/50 for restaurants). Katrina K. added does it really help the issue by having a lookback? Jessie N. answered that it would help because the city would only need to go back 6 years for proof instead of all the way to 1972. A member (Kevin S.) asked MCES change section 1.1.5.7 and change the lookback period to 6 years. The city is obligated to maintain records for 6 years. Mary U., Minneapolis, commented Minneapolis also permanently retains documents for unique buildings. Building permit documentation is kept but construction documents (building plans) are not kept past two years. A member (Brian H.) commented if the determination process changes, and an office building is x gross sq. ft. = 1 unit, does it matter how many they paid if it's an old record? Wouldn't it apply that whatever the rate is what the credit would be? Ned S. answered no, because we need to know the old use. A member (Kevin S.) commented we would like to just pay for the capacity. We shouldn't worry about what it was 6 years ago, just what it is right this minute. Mary U. disagrees with the $600,000 amount that was not collected from the Non-Conforming Continuous Use. Those were dollars missed years ago but calculated at the current rate. Had they been collected in 1988, they would have been less due to inflation. We have already absorbed that amount in rate increases over time and economic trends. A member (Loren O.) asked, what is the percentage of SAC collected that was considered unpaid in the past? Jessie N. answered MCES could get those numbers but it would take a few months. We would have to redo every determination. We could figure out which ones paid at the old rate. A member (Kevin S.) said the group today is very different than what it used to be. The City used to do the determinations based upon a once a year meeting with the Metropolitan Council on how they wanted to do determinations. The only time the City re-evaluated a SAC determination is if there was a change in use, to a higher use.

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Utilizing the previous historical use is how the Cities used to approach it. When looking at what his predecessor did, he occasionally only charged 1 SAC per building. The City is now going against an old history where people may have calculated SAC units incorrectly. Since about 2007 SAC determinations are done differently where now MCES has been doing the majority of the determinations. Differences in how determinations have been made over the years continue to create issues since SAC’sinception in 1973.

Mary U. commented MCES won’t get away from the challenge it has with credits if you continue to look at what has been happening since 1973.

Ned S. commented so the alternative is we give credits more freely, e.g., it’s only 6 years... so if you prove it was there 6 years ago, then you get all the credits. His concern is SAC is going to increase.

Mary U. commented she doesn’t get the complaint of customers when there was a rate increase, but the overall SAC credit/history. A member (Kyle K.) agreed that people don’t complain about the rate increase.

Possible action items until next meeting/s:
• What would impact be to revenue if we went to 6-year lookback period?
• What are the different revenue scenarios?

Ned S. proposed that all 22 would need to change, not just the 4 highest volume categories. The Task Force agreed. He also mentioned that his understanding from the group is that a $100 rate increase is not a big deal. Though he would propose no rate increase to see what the actual impact would be with the change in criteria.

A member (Kyle K.) commented that a vast majority of time it is people who worked without permit and it discovered much later. Brian H. added usually we find out about someone working without a permit though.

A member (Merrill K.) asked, how does the 6-year lookback affect positive credits? Ned S. commented if we see it was paid as retail, and the owner says he used to come there in 1982 and it was a restaurant, then in order to get credit as a restaurant, we would need proof.
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	A member (Kevin S.) commented, say we have a space now that converts from restaurant to retail sales. By the time the determination is done the City can keep the credits site-specific or take them city-wide. If they are kept site specific, the form has to be submitted to MCES and retained as site specific. If there is nothing said, they revert to site-specific. But if the city took them, then they are not theirs. A member (Merrill K.) said the 6-year lookback period won't be so cut and dry as we think it would be. So there will still be cases you go back to 1982 for credit for a higher use. A member (Steve U.) commented, if you allow us the opportunity to do some research to justify/substantiate what it once was, then the 6-year lookback would have some merit. A member (Loren O.) doesn't want to issue a report until we are done with the business of all issues. Wendy added we can do executive summaries for the two issues that have been completed. The group agreed summaries would be acceptable until we reconvene.
6. Next steps	Issue executive summaries for issue 1 and 2. Research issues 3 and 4 – hire consultant, analyze, set up future meetings for July or August.