

Minutes of the REGULAR MEETING OF THE COMMITTEE OF THE WHOLE

Wednesday, July 7, 2021

Committee Members Present:

Atlas-Ingebretson, Chamblis, Cummings, Ferguson, Fredson, Johnson, Lee, Lilligren, Lindstrom, Muse, Sterner, Vento, Wulff, Zeran, Chair Zelle

Committee Members Absent:

Barber, Gonzalez

CALL TO ORDER

A quorum being present, Vice Committee Chair Cummings called the regular meeting of the Council's Committee of the Whole to order at 4:03 p.m. on Wednesday, July 7, 2021 on the following roll call vote:

Aye: 13 Chamblis, Cummings, Ferguson, Fredson, Johnson, Lee, Lilligren, Lindstrom, Muse, Sterner, Vento, Wulff, Zeran,

Nay: 0

Absent: 2 Barber, Gonzalez

Not Recorded: 2 Atlas-Ingebretson, Chair Zelle

APPROVAL OF AGENDA

Council Members did not have any comments or changes to the agenda.

APPROVAL OF MINUTES

It was moved by Johnson, seconded by Sterner to approve the minutes of the June 16, 2021 regular meeting of the Committee of the Whole. **Motion carried** on the following roll call:

Aye: 13 Chamblis, Cummings, Ferguson, Fredson, Johnson, Lee, Lilligren, Lindstrom, Muse, Sterner, Vento, Wulff, Zeran,

Nay: 0

Absent: 2 Barber, Gonzalez

Not Recorded: 2 Atlas-Ingebretson, Chair Zelle

INFORMATION

1. 2021 Legislative Session Review

Judd Schetnan, Director of Government Affairs, gave an overview of the 2021 legislative session. The 2021 legislative session was held almost entirely remotely, with no access to the Capitol during the regular session. 2021 was a budget year; the legislature and the Governor were required to enact a budget for the state fiscal year 2022-23. Major swings in the state financial forecast and infusion of federal funds also complicated the budget process. Leaders agreed to a broad outline of budget targets the last day of the regular

session. Working groups were tasked with negotiating details; leadership was engaged to settle outstanding issues. A special session beginning on June 14 was required to pass bills. Negotiations were continuous up to the final bill passing on June 30.

The transportation bill agreement provides continuation of base level General Fund appropriation for transit system operations and Metro Mobility; \$250,000 one-time appropriation for analysis of transit service improvements in the Highway 55 corridor from Medina to downtown Minneapolis; \$57.5 million one-time appropriation for arterial bus rapid transit projects; authorization for the Council to issue Regional Transit Capital (RTC) bonds. Transportation also includes Metro Mobility established as a forecasted program beginning in the state fiscal year 2026 budget. Also included was a zero-emission transit vehicle transition plan must be developed, maintained, and revised every five years. The Council must submit a report to the legislature each year with projected total operating expense and reserve fund balance. Replacement service providers must submit a report to the legislature detailing all expenditures of federal relief funds that were allocated through the Council. Also included was the City of Minneapolis authorization to finance “streetcar” projects through a value capture district amended to apply to “transit lines.” The Center for Transportation Studies at the University of Minnesota will conduct a study on public transportation post-COVID-19 pandemic. Items not included in the final bill were: authorization for the Council to establish an administrative citations program for fare enforcement; provisions in the House transportation proposal that would create a new metro area sales tax for transit or increase the MVST rate, and require deployment of transit vehicles according to air quality data provided by the MPCA. Also not included in the final bill were provisions in the Senate transportation proposal that would reduce General Fund appropriations to \$5,000 per year for Metro Mobility and transit operations through 2025; require the Council to use federal relief funds in a specified priority order; make transit the last priority for MnPASS revenue allocation; prohibit the use of funds from a local government unit to pay for costs of operations or maintenance for certain busways; require the Council to distribute federal COVID-19 funds to opt-out providers requiring a formula; require MnDOT and the Council to request approval from the Federal Transit Administration (FTA) to discontinue operations of the NorthStar commuter rail; require “host counties” to fund all planning, operating, and capital maintenance of guideways.

The Regional Park System was awarded the Legacy Parks and Trails Fund, which continues the 40/40/20 split for Regional Parks, State Parks, and Greater Minnesota Parks and Trails. The Omnibus Environment Bill included \$9.99 million each year for parks operations and maintenance; distributed to the ten implementing agencies, \$2.54 million each year from the General Fund and \$7.45 million from the Natural Resources Fund. This is an \$850,000 per year increase from the Natural Resources Fund. Not included in the final bill was a definition change in stature that would authorize the Council to establish an inflow and infiltration program to address private property mitigation. The Clean Water Fund appropriations include \$919,000 each year for Metro Area Water Supply Sustainability Support and \$625,000 each year for the water demand reduction grant program. Schetnan also recognized Government Affairs Liaison Brooke Bordson for her work during the legislative session.

Council Member Cummings thanked Schetnan and other staff for their work during the session and noted the dependence on years of trust and relationships that led to a successful session. Council Member Cummings also asked for clarification about the City of Minneapolis authorization to finance “streetcar” projects. Schetnan responded that as he understands it, this incorporates a streetcar line into the definition of a transit line and allows the City of Minneapolis to pursue the streetcar project with value capture.

2. Metro Transit Police Department Policy Overview

Metro Transit Police Department Chief Eddie Frizell gave an overview of the Metro Transit Police Department (MTPD) policies and use of force. Chief Frizell began with the MTPD statutory authority.

State Statute § 473.407 establishes the Metro Transit Police Department. Subd. 1 says that “The council may appoint peace officers...to police its transit property and routes, to carry out investigations, and to make arrests.” MTPD can also “exercise general...authority to assist any law enforcement agency.” Subd. 4 says that “the regional administrator shall appoint a [full time] peace officer...[who] is responsible for the management of [MTPD].” The Chief can hire, discipline, and discharge transit police personnel. Chief Frizell shared the diversity numbers of the MTPD. People of color make up 47.3% of officers; for the entire department, 41.3% of staff are people of color. 21% of officers are women and 79% of officers are men. Statewide, only 12% of POST licenses are held by women. January 1 through June 30, 2021, the MTPD responded to 23,737 calls for service and 39,648 total calls for service. The top five calls for service from the public are disorderly conduct, prohibited acts, check welfare, medical, and sleep. None of the top five calls for service from the public are for violent or serious crime, though these are livability issues that do affect riders. Council Member Johnson asked for a clarification on calls for service as compared to other agencies throughout the state.

MTPD is dedicated to focusing on diversity hiring that reflects the customer base, caring for the vulnerable, and ensuring safety and security for all. The MTPD conducts very few traffic stops, does not execute no-knock warrants, MTPD K9s are not used for apprehension, and the MTPD does not have holding cells. The MTPD policy manual is posted on Lexipol, which is a policy manual service that offers policy revisions, is adaptable for unique transit agency’s needs, notifies officers of policy changes, and requires and tracks employee acknowledgement. The entire police policy manual is posted on the MTPD’s public-facing website. Sources of policy are Lexipol, best practices, law or court precedent, and other police agencies.

Chief Frizell gave an overview of the MTPD use of force. In 2020 there were 536 use of force incidents out of 65,461 total calls for service. In 2020, 0.8% of all police incidents resulted in force being used. Chief Frizell cited a U.S. Supreme Court case *Graham v. Connor*, which is taught to officers early in their training. After a 1984 encounter, Mr. Graham filed suit citing equal rights under the 14th amendment, and the case went all the way to the Supreme Court in 1989. In a majority decision issued by justices across the political spectrum, they declined to consider the 14th Amendment’s equal rights clause. Instead, they used the 4th Amendment’s right to unreasonable search and seizure – in this case, the seizure of a person when they are stopped by the police. By applying the 4th Amendment, the “reasonableness” clause governs what an officer may do if an uninvolved officer would reasonably do the same thing, given the circumstances. This standard has therefore become the bedrock for use of force cases since 1989.

Per Minnesota State Statute § 609.06, officers may use non-deadly force under the following circumstances: while arresting a person, execution of legal process, enforcing a court order, and while carrying out any other duty imposed by law. Unless deadly force is the only option, officers may not: use choke holds, use “hog-tie”-type restraints, nor transport someone face down. Deadly force can only be used to protect a person or an officer from death or great bodily harm. The threat must be expressed clearly, must be imminent, and could happen if the officer did nothing. Use of force must be documented promptly and accurately, must include the circumstances perceived and why it was reasonable, and supervisors must review all reports. Officers should always evaluate the person’s health condition upon using force and request medical assistance if requested or if needed. Officers must watch for symptoms of physical distress and recognize potential issues related to special populations such as juveniles or pregnant women. The use of force continuum is a balance between de-escalation and escalation and allows officers to use the level of force dictated by the circumstances. They do not have to start at the end and work their way up if the situation is more serious, and they can always de-escalate their force if the situation comes under control. The Duty to Intercede requires that officers must intercede if they see another MTPD officer or an officer from any other police department using excess force. Minnesota Stat. § 626.8452 and 626.8475 require officers to: intercede, prevent when possible, and report. MTPD policy requires this report to be made in writing to the Chief of Police

within 24 hours. With regard to handcuffing, the types of restraints used are handcuffs, leg restraints and spit guards. Considerations for types of restraints are age, health (including pregnancy), and disability. It is illegal under Minnesota State Law to use hog-tie restraints. Control devices are batons, OC spray (mace), chemical irritant, and less-lethal impact rounds. TASERS are considered a less-lethal tool. Officers must be trained and certified to carry and use a TASER. They also must be re-certified every two years. TASERS must be carried on the opposite side of the officer's firearm in an approved holster, and officers are discouraged from using more than three 5-second cycles, as this may increase the possibility of injury.

Council Member Atlas-Ingebretson asked for consideration of how MTPD policies affect youth who ride Metro Transit buses, in particular children who take the bus to school. Council Member Lindstrom asked if the MTPD has a use of force board review process. Some municipalities do have use of force boards that are successful to an extent. Council Members had other questions and comments about permit to carry, safety on transit and visibility of officers, and fare evasion. Chief Frizell gave a brief overview of the newly created position of Community Service Officers, who will be paired up with police officers to expand presence and the perception of safety across the transit system. Council Member Johnson asked about fare evasion in regard to bad actors using the trains as an easy refuge. Chief Frizell replied that protection is in place through the Real Time Information Center, Transit Response Unit, and the increased police presence with transit ambassadors. Council Member Wulff asked for more information about what happens after a person arrested, as the MTPD does not handle prosecution after arrest. Chief Frizell replied that misdemeanors are sent to the city attorney, and gross misdemeanors and felonies are moved to the county attorneys for prosecution. Chief Frizell also said that the cities often do not move fare evasion misdemeanors forward, especially recently due to COVID restrictions.

ADJOURNMENT

Business completed; the meeting adjourned at 6:08 p.m.

Bridget Toskey
Recording Secretary