

Metropolitan Council

Beth El Synagogue, 5224 W. 26<sup>th</sup> Street, St. Louis Park 55416

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Meeting of the Southwest Corridor Management Committee

July 9, 2014

Members Present	Chair Susan Haigh	Brian Lamb	Terry Schneider
	James Brimeyer	Matt Look	Nancy Tyra-Lukens
	Jan Callison	Scott McBride	Cheryl Youakim
	Linda Higgins	Peter McLaughlin	Jake Spano (Alt)
	James Hovland	Will Roach	Peter Wagenius (Alt)
Members Absent	Keith Bogut	Bill James	
	Betsy Hodges	Jeff Jacobs	

**1. CALL TO ORDER**

Chair Susan Haigh called the July 9, 2014 special meeting of the Southwest Corridor Management Committee to order at 10:05 a.m. at the Beth El Synagogue.

**2. APPROVAL OF MINUTES**

Chair Haigh presented the June 4, 2014 SWLRT Corridor Management Committee meeting minutes for approval. Mayor Terry Schneider made a motion to accept the minutes. Commissioner Linda Higgins seconded the motion, which was then unanimously approved.

**3. MUNICIPAL CONSENT PROCESS UPDATE**

Mr. Mark Fuhrmann provided an update on the municipal consent process. On April 22 the Southwest LRT Project Office distributed the municipal consent plans, which started the first round of municipal consent that has progressed leading up to the deadline of July 14. The cities of Hopkins and Minnetonka did give their municipal consent approvals in June. On July 14 St. Louis Park and Eden Prairie are scheduled for their actions. Hennepin County on July 9 took action and approved municipal consent for portion of the project in Eden Prairie, Minnetonka, Hopkins and St. Louis Park.

Mr. Fuhrmann provided an update on the progress with the City of Minneapolis. The City of Minneapolis and Met Council had discussions in several mediation sessions with retired Judge Arthur Boylan to resolve outstanding items. The outcome of these sessions reflect an understanding between the City of Minneapolis and the Met Council for the project to move forward. There are two memorandums of understanding (MOUs) which came out of the mediation. The first MOU speaks to the physical design components of the project. This agreement captures \$60M of savings, of which \$30M will be deducted from the overall project budget and \$30M identified and programmed for improvements in pedestrian and bicycle access, safety and ADA accessibility for the five Minneapolis stations. This agreement reinstates the 21<sup>st</sup> Street Station which will be at-grade and eliminates the shallow LRT tunnel north of the Kenilworth Channel. It also improves and enhances the park-like setting within the Kenilworth Corridor.

**4. SWLRT Revised Project Scope and Budget Resolution**

Mr. Jim Alexander reviewed the access and safety improvements referenced by Mr. Fuhrmann.

Mayor James Hovland asked about the distinctions between station area enhancements versus the category of betterments. Mr. Alexander stated that the design elements are a part of the agreement between Minneapolis and Met Council, and these items will be included in the base of the project. The next step,

pending approval of the updated scope and budget by the Met Council, will be for the project office to update the municipal consent plans for the Minneapolis area for consideration by the city and the county.

Mr. Peter Wagenius said the City does not consider these to be enhancements, but mitigations for co-locating freight and LRT in the Kenilworth Corridor. Minneapolis has always planned that freight was not going to be in the West Lake Street Station area or Kenilworth Corridor. Pedestrian access is different when freight continues to be present. West Lake Street Station project components are the most expensive of the five and are all directly related to making sure we are doing everything we can short of removing the freight to also have the pedestrian access mimic the condition that was expected if freight had been removed. We are also making sure we are facilitating the development we expect. West Lake is expected to be a high development area, and with the compensation for the lack of freight we can ensure we get what we thought we were going to get out of ridership and development.

Mr. Alexander reviewed some of the safety features that will be added, which include guard rails for the freight tracks, which is an inner rail type to help prevent the rail cars from slipping off the tracks. Additional guard rail will be added where there is curvature in the freight rail alignment. Also fencing will be used to keep pedestrians out of the track areas, and crash walls will be located near the LRT tunnel portals. Signage and lighting will be added to the trail at the Penn Station Area. Mr. Alexander reviewed the pedestrian connections that will be added.

Councilmember Cheryl Youakim understood memorandums of understanding to be separate from municipal consent. She asked how the betterments in the Minneapolis area are different than Locally Requested Capital Investments (LRCIs) or other items to be addressed with contingency funds? Mr. Fuhrmann stated the design elements that will be added to the five stations will become part of the base scope and budget, which will be part of the municipal consent round with Minneapolis and Hennepin County. Mr. Fuhrmann stated that the path forward from the discussions in mediation was to seek and memorialize what those design components entailed. The list of identified LRCIs will be assembled for the entire project, and as the project moves forward in advanced design and contingency becomes available, the list will be reviewed. Councilmember Youakim feels the items around West Lake Station seem like betterments and not part of the base budget. She wants to make sure everyone is on an equal playing field when contingency is used. Mr. Fuhrmann stated that because of the changed condition from the city's perspective with freight rail remaining in place through the Kenilworth Corridor, it dramatically impacted in a negative way that access provided for those pedestrians getting to the West Lake Station. Councilmember Youakim stated there are other stations along the alignment where pedestrians will have to cross the tracks. Have the railroads been met with to see if an at-grade crossing by those can be made? Mr. Fuhrmann stated that in Hopkins, where there may need to be a crossing of the existing freight rail line, we would look to control those at existing crossings. We need safety first, so there will be intertrack fencing which greatly limits random crossings of the tracks. Councilmember Youakim asked if areas such as Blake, where there are no signalized crossing at the railroad tracks, have signals? Mr. Alexander stated that the crossing at Blake will have gates and this will be further discussed in advanced design, where we will continue to work with the city and county. This crossing is being designed to be freight rail quiet zone ready.

Chair Haigh stated that the discussions SPO staff had with the other cities happened earlier in the process. These discussions with Minneapolis are coming later in the process, but are the same nature and types of issues. Designing the stations to reflect the work done to provide safety, good access for pedestrians and to be attractive and safe for our transit customers.

Mayor Nancy Tyra Lukens asked to have the bike and pedestrian improvements pointed out that are within the three mile radius of stations as mentioned in the MOU. She said the three mile radius wasn't discussed with the other cities, but a one mile radius. Mr. Alexander clarified that the FTA guidelines for

pedestrian access is for one mile around the stations platforms. For bicycle connections, FTA looks at a three mile radius. Mr. Fuhrmann confirmed that it is a one mile radius for pedestrians and three mile radius for bikes, not up to three miles for either.

Mr. Jake Spano stated that they have come up with savings around the Louisiana Station and were told the savings could not be used for station area improvements, but it would need to go back in the general pot. Why can't the other cities that come up with improvement that result in savings be given the money back to their area? Chair Haigh mentioned that the total project budget scope has been reduced by \$30M. The other \$30M has not been given back to Minneapolis, but what was agreed to was to include clear engineering design improvements that need to be made at station areas with a cap of \$30M. Mr. Fuhrmann stated that as we approach 30% design milestone, we will continue conversations with city staff and may identify good ideas that allow for incremental savings to the project costs and some ideas that will identify project cost additions. That will inform our much more specific project cost budget that will be needed to submit to FTA, who will then review before they ultimately give approval to enter engineering. That will also speak to the contingency level that FTA requires we carry on the project. We have a long ways to go on design development, and with the additional ideas, it will move the project scope and budget incrementally by small amounts, which will ultimately inform our final project cost.

Mayor Tyra Lukens asked if there was no additional money for LRCIs, do the four cities then get nothing, and Minneapolis still gets the \$30M? Otherwise, if there is money for LRCIs, then does Minneapolis no longer share in the pot for LRCIs? Mr. Fuhrmann stated that if there is no contingency money available for LRCIs, then no city will be able to access contingency to pay for them. If contingency money is available for LRCIs, then those design elements that have been identified as LRCIs in all five cities and county could be considered for eligibility for contingency use. The design elements that were highlighted today would be part of the base project, so it would lessen the demand for use of contingency funds for LRCIs.

Mayor Terry Schneider stated that each city has their own issues and processes to deal with so the alignment through their city works for their residents and businesses. We should look at the line as a whole and prioritize what those LRCIs are and what is the best benefit for the whole line for access and development. They need to be weighed and prioritized in total regardless of which city they are in, which the CMC will be weighing in on later. Minnetonka early on identified our desire to go underneath Crosstown (TH 62) instead of over a bridge. That proved to be less expensive and was early on was included in the base project budget. Also, going under Smetana Road saved money, which was put in the base. We understand fully that we didn't get credit for the savings, but we will have our items prioritized with the others.

Mayor Hovland stated at an earlier CTIB meeting, it was discussed about the Green Line money available from contingency. The process discussed was a solid process, where staff recommendations would be to work with the cities and county to prioritize the enhancements/betterments. If there is money available to help us with potential betterments, would the recommendation then come to CMC for a decision to make a recommendation to the Council? Chair Haigh mentioned there will be a process to discuss LRCI requests and contingency process. There is a lot of engineering work to do prior to this. We also have to submit them for approval to the FTA. This process will be brought back to CMC in the future. Each community has important areas to address, and there will be opportunities to do that with the technical staff to clearly identify those projects, it will then be brought to CMC, working with Hennepin County and our partners at CTIB.

Commissioner Jan Callison stated that we need to think regionally and not think about what one community received and another did not, but to look at what is good for the region. This is a good step

forward and we all have the opportunity to set a new way of thinking about these projects and our communities.

**Mayor Hovland made a motion to move the resolution on the revised scope and budget, with the following minor edits: under #4, where it says ‘other adjustments,’ change to read, ‘other transit and non motorized facilities adjustments’ In the first ‘Be It Resolved’ section, following the word exhibit, add ‘attached hereto and made in part hereof’ In the second ‘Be It Resolved’ section, where it says adopted, delete and substitute, ‘amended and revised project scope’ With these minor changes, Mayor Hovland moved this motion. Councilmember Brimeyer seconded the motion. The motion was voted on and unanimously approved. (Resolution attached)**

##### **5. Public Property Ownership in the Kenilworth Corridor Resolution**

Mr. Fuhrmann stated the other item discussed in mediation was related to freight rail as it continues to reside in Minneapolis under the co-location arrangement in the Kenilworth Corridor. The Council agreed that the ownership, currently with Hennepin County Regional Railroad Authority (HCRRA), must stay in public ownership. The second MOU is to make sure we work together to maintain ownership of that corridor in public hands and to keep the property underneath the freight rail track in public hands. It was also agreed that the ownership be married with the trackage rights agreement and once the project is complete, any excess right of way after construction is then transferred to the Minneapolis Park and Recreation Board. This would then preserve the pedestrian and bicycle trail in the Kenilworth Corridor.

Mr. Wagenius stated that the ownership in the Kenilworth Corridor is a direct consequence of the decision to co-locate the rail in the corridor. If freight wasn't there, the land ownership issue would not have the urgency in the neighborhood. Since there will be a private sector operating over public land, there are issues that we must deal with, such as liability and safety. The agreement does not assume who the ultimate owner will be, what it does state that it will not be owned by a private entity.

Mayor Schneider stated that he doesn't look at the agreement as something mitigating the fact that there is co-location as much as the fact that with co-location this is the right solution for that sensitive area. It would not make sense to have BNSF or anybody else own that public land. He feels keeping it in public ownership is the right thing to do. Having it documented and worked out in this process is a good solution for the region.

Councilmember Brimeyer asked about the trackage rights agreement, and who owns it and what type of rights does the owner have when dealing with the railroads. Mr. Wagenius stated that no local unit of government has the ability to tell railroads to do certain things. His understanding of the trackage rights agreement is that it prevents TC&W of being able to continue to be the owner and grant access to other railroads. That is worth preserving, keeping the trackage rights agreements to prohibit TC&W to allow other carriers to use those tracks. It also will act as a disincentive for TC&W being bought out by a bigger railroad. Howard Orenstein, Counsel for Hennepin County Regional Railroad Authority, stated that HCRRA currently owns the property and the trackage rights agreement with TC&W and Canadian Pacific (CP) operating over the line based on the trackage rights agreement.

Councilmember Spano said we don't want to see further freight in the area, but this takes a veto authority to one city only. In the future, if TC&W brings in someone that Minneapolis says no to, then the freight has to go somewhere else, maybe going to St. Louis Park, Hopkins or elsewhere. Chair Haigh mentioned that the operative language in this agreement is that the Met Council will exert whatever influence it has to the current owner of the rail line. What we are agreeing to is to insert these issues in our conversations with Hennepin County. Councilmember Spano stated he feels providing one city a veto over the way land is used in another community sets a dangerous precedent.

**Mayor Hovland made a motion for the language in the resolution be changed to say, ‘be it resolved that the CMC recommends the Met Council enter into an MOU with the City of Minneapolis, Hennepin County and the Minneapolis Park and Recreation Board pertaining to preservation of public ownership and public control of the Kenilworth Corridor.** Mayor Schneider seconded the motion.

Chair Haigh said the resolution speaks to having the CMC support the concept of public ownership, recognizing that Met Council and Hennepin County agreed to continue to work on this issue.

Mayor Schneider said we are not approving the MOU attached to the resolution, it is just for our review. Mr. Wagenius confirmed that the MOU is being shared with the CMC as information only. He stated that municipal consent is not a cumulative process and exists between each government entity and the Met Council. This MOU is being shared with CMC, but only pertains to Minneapolis and Met Council. Also, the issue of public ownership and trackage rights only applies where there is currently a public owner.

Councilmember Youakim is comfortable having it in public ownership, although not comfortable with all the details added in. CMC is an advisory body, but we are now being asked to vote on something very detailed. Councilmember Youakim stated the photocopied map shows the public ownership going across the city boundary. Mr. Alexander clarified that the map is from the trackage rights agreement between HCRRA, Soo Line and TC&W. For clarification, the trackage rights, as he understands them, runs from mile post 16.3 up to mile post 13.7. The milepost does go into St. Louis Park.

Councilmember Spano said with the MOU, the provision that allows one city control, he can’t support that. He supports the idea of public ownership. Mr. Wagenius stated the City of Minneapolis agrees that while not necessary for CMC to do anything, it would be helpful to embrace the principal of public ownership. **Mr. Wagenius would like to add a friendly amendment to have the language changed to says, ‘be it resolved that the CMC supports the principle of public ownership and control of the Kenilworth Corridor.’** Mayor Hovland who made the motion, and Mayor Schneider who seconded the motion both accepted the friendly amendment. The motion was approved, with Councilmember Spano and Councilmember Youakim voting against. (Resolution attached)

Mr. Fuhrmann stated that the next step is for the Met Council to take action and then issue updated municipal consent plans to the City of Minneapolis and Hennepin County. The County authorized a joint Hennepin County/Met Council public hearing for August 13. Hennepin County is scheduled to vote on the updated plans on August 19. Minneapolis has scheduled their public hearing for August 19, and plans to take it for action on August 29. The project office is preparing the project update to the FTA, which will include the revised scope elements and the municipal consent approvals. We are working with the five cities and the county on the community works initiative, which will also be included in the update. This keeps FTA fully engaged and keeps SWLRT on the front radar and keeps the project in line for the federal funding.

Councilmember Spano asked what’s the rationale for not restarting the municipal consent clock for all cities. Also, for those cities that have not yet taken action, what’s the rationale for not restarting the clock? Mr. Fuhrmann stated that the state statute reads that if there is a substantial change in the project scope, there would be cause to reset and restart a municipal consent process. We believe that these changes as identified today are substantial, which will trigger the second round for municipal consent, but only in those municipalities where that substantial change occurs, which is City of Minneapolis and Hennepin County.

Councilmember Spano asked if in the next 45 days, if there is a portion of the project that substantially impacts St. Louis Park or another city, would the municipal consent clock restart? Mr. Fuhrmann stated

yes, in Minneapolis, moving from a shallow tunnel to at-grade north of the channel and adding a station do constitute substantial changes. Commissioner Callison said municipal consent is approving the alignment in your city. If a change is somewhere else, the clock would only start in that city. It is the physical alignment of the project.

Councilmember Youakim asked how this lines up with the deadline CTIB had given. Commissioner McLaughlin said at the last CTIB meeting, action was taken to extend the deadline to July 14 to coincide with the process. CTIB will be taking up the matter again on July 16. His recommendation as Chair will be as we are making substantial progress and because there is an agreement in concept between Minneapolis and Met Council that we allow the process to finish up. The critical part for CTIB is that the project keeps moving forward.

Mayor Hovland thanked the Chair and the staff, along with the City of Minneapolis who worked on this and getting this process solved.

## **5. ADJOURNMENT**

Chair Haigh said the next scheduled CMC meeting will be August 6.

Meeting adjourned at 11:35 a.m.

Respectfully submitted,

**Dawn Hoffner, Recording Secretary**

July 9, 2014

**Southwest LRT Corridor Management Committee Resolution On Revised Project Scope and Budget**

WHEREAS:

1. The Governor designated the Metropolitan Council (Council) as the responsible authority for the Southwest LRT (SWLRT) Project;
2. The Council established the Corridor Management Committee (CMC) to advise the Council in the design and construction of the SWLRT Project;
3. The Council established the Southwest LRT Project Office (SPO) to advance the design, manage construction and overall delivery of the SWLRT Project; and
4. The Council engaged with the city of Minneapolis in a series of sessions regarding physical design components within the Kenilworth Corridor portion of the SWLRT Project and other transit and non motorized facilities adjustments elsewhere in Minneapolis.

NOW, THEREFORE:

BE IT RESOLVED, that the CMC recommends the Metropolitan Council adopt the revised SWLRT Project scope that includes the reinstatement of the at-grade 21<sup>st</sup> Street Station and the elimination of the north shallow LRT tunnel located north of the Kenilworth Channel and other adjustments in the city as presented in Exhibit 1 as attached hereto and made a part hereof; and

BE IT RESOLVED, that the CMC recommends the Council adopt a revised project budget of \$1.653 billion consistent with the above referenced amended and revised project scope; and

BE IT FURTHER RESOLVED, that the CMC recommends the Council direct the SPO to proceed with advancing the design and complete and resubmit Municipal Consent Plans in July 2014 to the city of Minneapolis and Hennepin County for their approval as provided in Minnesota Statutes Section 473.3994.

Approved 7/9/14

July 9, 2014

**Southwest LRT Corridor Management Committee Resolution On Public Property Ownership In The Kenilworth Corridor**

WHEREAS:

1. The Governor designated the Metropolitan Council (Council) as the responsible authority for the Southwest LRT (SWLRT) Project;
2. The Council established the Corridor Management Committee (CMC) to advise the Council in the design and construction of the SWLRT Project;
3. The Council established the Southwest LRT Project Office (SPO) to advance the design, manage construction and overall delivery of the SWLRT Project;
4. The Council engaged with the city of Minneapolis in series of sessions regarding property ownership within the Kenilworth Corridor portion of the SWLRT Project in Minneapolis; and
5. Hennepin County and the city of Minneapolis indicate a strong long-term objective is to keep the Kenilworth Corridor in public ownership and control including the property upon which freight rail operates.

NOW, THEREFORE:

BE IT RESOLVED, that the CMC supports the principle of public ownership and control of the Kenilworth Corridor.

Approved 7/9/14