The Metropolitan Council:
Minnesota's Comprehensive, Compelling, and (*believe it or not*) Controversial Model for Metropolitan Land Planning

Presented to the
International Municipal Lawyers' Association
October 2003

Minnesota's Comprehensive, Compelling, and (*believe it or not*) Controversial Model for Metropolitan Land Planning

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In the preparation of this paper, he gratefully acknowledges the assistance of the Metropolitan Council's Office of General Counsel (Nils Grossman, General Counsel, and David Theisen, Associate General Counsel) and third year New York University law student, Emily Willits, who was a 2003 Summer Associate at Dorsey & Whitney LLP.

I. Tale of Twin Cities

The Minneapolis-Saint Paul area has always been somewhat progressive (in a bashful, Midwestern sort of way). Maybe the cause was history of northern European immigrants with a hard work ethic, combined with corporate barons with a heart. It might have been as simple as two cities growing up on opposite sides of the Mississippi River and needing to "bridge" more than the river. Or perhaps it simply was something in the water in all those lakes. Whatever the cause, leaders in Minnesota's metropolitan area seemed to recognize early on that with two downtowns, this region needed coordination. Enter the Metropolitan Council. Since 1967 this "public corporation and political subdivision" has been at the center of regional growth issues in the seven-county area surrounding Saint Paul and Minneapolis. This agency's role, governance structure and services have changed over the years, yet it has always been at the heart of regional issues.

This paper provides a brief history of the "Met Council" and takes a look at two key aspects of Minnesota's metropolitan policy: The Metropolitan Land Planning Act and the Fiscal Disparities Program.

II. Brief Overview & History

The Met Council is a regional governmental entity with jurisdiction in the seven-county area of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington counties. Minn. Stat. §§ 473.121, subd. 2, and 473.123, subd. 1. The 2000 Census indicated that the population of this seven-county area was 2,642,056. The Met Council is governed by a 17-member Council appointed by and serving at the pleasure of the Governor (Chair from the region-at-large and 16 members from Districts). Minn. Stat. § 473.12.

The history of the Met Council is tied to regional planning and the issues associated with urban growth. These issues have long been recognized as important to this region.

> The history of the Metropolitan Council as well as its present day functions are linked to pollution, sewage disposal, land use, land and water contamination, and other issues associated with urban growth and expansion. The Council's origins can be traced back over sixty years through a series of legislative initiatives that established and shaped the regional governance structure that exists today in the seven-county metropolitan area. For instance, in 1939 the Legislature made one of its first attempts to address urban growth issues on a cross-jurisdictional basis when it created a joint sanitary sewer district comprising Minneapolis and Saint Paul and the adjacent suburbs. [*1939 Minn. Laws ch. 202*]. The legislation and the Minneapolis-St. Paul Sanitary Sewer District created by that legislation were

> intended to help Minneapolis and Saint Paul address some of the cities' individual sewage disposal and treatment issues and capitalize on the economies of scale that could result from the joint operation and maintenance of a large-scale sewage disposal system serving more than one jurisdiction…. In 1957, the Legislature created the Metropolitan Planning Commission because the Legislature deemed it appropriate to establish a regional agency "of sufficient territorial scope" to address various problems that result from "urban growth and development in metropolitan areas." [*1957 Minn. Laws ch. 468, § 1*].

Metropolitan Council Statutory Authorities: An Overview, prepared by the Metropolitan Council's Office of General Counsel, June 2003.

This background led to the establishment of the Metropolitan Council by the Minnesota Legislature in 1967. 1967 Minn. Laws ch. 896. As originally established, the Metropolitan Council was required to prepare and adopt a comprehensive guide for the metropolitan region and to continuously study the range of issues impacting metropolitan growth. 1967 Minn. Laws ch. 896 § 7. These regional planning functions have been modified and expanded over the last four decades. It is important to note that the Met Council is more than a planning agency. It also is responsible for certain large regional services, in particular regional wastewater treatment and the largest share of the regional transit system. This means the Council also has a large operating budget ($395,000,000 2003 operating budget) and a large workforce (approximately 3,600 total employees).

The Met Council's website describes its role as follows:

"The Council works with local communities to provide these critical services:

- operates the region's **?????????**
- collects and treats wastewater
- engages communities and the public in planning for future growth
- provides forecasts of the region's population and household growth
- provides affordable housing opportunities for low- and moderate-income individuals and families
- provides planning, acquisitions and funding for a regional system of parks and trails
- provides a framework for decisions and implementation for regional services including aviation, transportation, parks and open space, water quality and water management."

This paper focuses primarily on the planning functions. It is, however, important to keep in mind the entire range of functions that the Met Council performs. In the opinion of this writer, it is the combination of planning authority and service delivery that makes the Council unique, relevant and often controversial.

III. <u>The Metropolitan Land Planning Act of 1976</u>

The Minnesota Legislature passed the Metropolitan Land Planning Act (the "Act") in 1976 to facilitate the region-wide coordination of planning efforts. In passing the Act, the Legislature recognized that "[s]ince problems of urbanization and development transcend local governmental boundaries, there is a need for the adoption of coordinated plans, programs and controls by all local governmental units and school districts in order to protect the health, safety and welfare of the residents of the metropolitan area and to ensure coordinated, orderly and economic development." Minn. Stat. § 473.851. Accordingly, the Act establishes requirements and procedures to accomplish comprehensive local planning that is consistent with metropolitan regional plans. The Act reflects an early recognition of the nationwide trend away from piecemeal local planning and towards comprehensive regional or statewide planning. The statutory framework of the Act is summarized below.

A. Metropolitan Development Guide ("Framework")

The Metropolitan Land Planning Act directs the Metropolitan Council to prepare a comprehensive development guide (at times known as the "Blueprint" and currently referred to as the "Framework") for the metropolitan area. The Framework consists of a compilation of policy statements, goals, standards, programs and maps prescribing guides for the orderly and economical development, public and private, of the metropolitan area. It must recognize and encompass physical, social or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including matters such as land use, parks and open space, airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings. Minn. Stat. § 473.145.

The Act also authorizes the Metropolitan Council to review all matters of metropolitan significance to be undertaken by any private organization, independent commission, board or agency, or local government unit (city, town, or county). Minn. Stat. § 473.173. At the request of local governmental units, the Metropolitan Council may contract to provide planning assistance as well as grants and loans. Minn. Stat. § 473.191, 473.867. The Metropolitan Council must establish an advisory metropolitan land use committee pursuant to Minn. Stat. § 473.127.

B. Local Comprehensive Plans

1. Overview

Under the Metropolitan Land Planning Act, all local governmental units within the seven-county metropolitan area must prepare a comprehensive plan for submission to the Metropolitan Council. Minn. Stat. § 473.858. The procedures for reviewing the comprehensive plans are summarized below.

(a) The Metropolitan Council reviews the comprehensive plans of local governments for compatibility with one another and with metropolitan system plans. Minn. Stat. § 473.175. Metropolitan system plans consist of the airport and transportation portions of the Framework, as well as the policy plans and capital budgets for metropolitan wastewater service, transportation and regional recreation open space. Minn. Stat. § 473.852, subd. 8. The Metropolitan Council

may require a local government unit to modify any part of its comprehensive plan that may have a substantial impact on or contain a departure from metropolitan system plans. Minn. Stat. § 473.175.

(b) Within nine months of receiving an amendment to a metropolitan system plan, each affected local governmental unit must review its comprehensive plan and each affected school district must review its capital improvement program to determine if an amendment is necessary to ensure continued conformity with the metropolitan system plan. If an amendment is necessary, the governmental unit or school district must submit the amendment to the Metropolitan Council for review. Minn. Stat. § 473.856.

2. Contents

Each local comprehensive plan must contain objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and waters within the jurisdiction of the local governmental unit. The plan must specify expected industrial and commercial development, planned population distribution, and local public facility capacities upon which the plan is based. In addition, the plan must contain a discussion of the use of public facilities and the effect of the plan on adjacent local governmental units and school districts. Minn. Stat. 473.859 § 473.859, subd. 1.

In addition to the required elements, each comprehensive plan may contain an intergovernmental coordination element that describes how its planned land uses and urban services affect other communities, adjacent local governmental units, the region and the state. This portion of the plan may include guidelines for joint planning and decision-making with other communities, school districts, and other jurisdictions for siting public schools, building public facilities, and sharing public services. Each plan may also contain an economic development element that identifies types of mixed-use development, expansion facilities for businesses, and methods for developing a balanced and stable economic base. Finally, each comprehensive plan may contain any additional matter which is permissible under the applicable statute. Minn. Stat. § 473.859, subd. 1. The elements of the comprehensive plans are discussed in more detail below.

(a) Land use plans included in comprehensive plans under Minn. Stat. § 473.859, subd. 1, must include the following information:

(1) Each land use plan must include a water management plan as required by Minn. Stat. § 103B.235, and it must designate the existing and proposed location, intensity and extent of use of land and water, including lakes, wetlands, rivers, streams and natural drainage courses. The plan also must identify adjoining land areas that affect water natural resources for agricultural, residential, commercial, industrial and other public and private purposes, or any combination of such purposes. Minn. Stat. § 473.859, subd. 2(a).

(2) Each land use plan must provide elements for the protection of historic sites and access to direct sunlight for solar energy systems. Minn. Stat. § 473.859, subd. 2(b).

(3) Each land use plan must include a housing element containing standards, plans and programs for providing adequate housing opportunities to meet existing and projected local and regional housing needs, including the use of official controls and land use planning to promote the availability of land for the development of low and moderate income housing. Minn. Stat. § 473.859, subd. 2(c).

(b) Public facilities plans included in local comprehensive plans under Minn. Stat. 473.859, subd. 2, must describe the character, location, timing, sequence, function, use and capacity of existing and future public facilities of the local governmental unit. Public facilities plans must be detailed enough to identify existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. A public facilities plan must at least contain the following items:

(1) a transportation plan describing the location, extent, function and capacity of existing and proposed local public and private transportation services and facilities;

(2) a sewer policy plan describing the areas to be sewered by the public system, the existing and planned capacities of the public system, the standards and conditions under which the installation of private sewer systems will be permitted, and the areas not suitable for public or private systems because of public health, safety and welfare considerations;

(3) a parks and open space plan describing, designating and scheduling the existing and proposed parks and recreation open spaces within the jurisdiction; and

(4) a water supply plan including a description of the existing system; a statement of the community's objectives and policies for operating the water supply system; a conservation program; an emergency preparedness or contingency plan; an indication of the possibility of water sharing plans with neighboring communities; a statement of existing or expected water supply problems and solutions; and a wellhead protection plan. Minn. Stat. 473.859, subd. 3. The Metropolitan Council must review each water supply plan pursuant to Minn. Stat. 473.859, subd. 6.

(c) Each comprehensive plan must contain an implementation program describing public programs, fiscal devices and other specific actions to be undertaken to implement the comprehensive plan and ensure conformity with system plans. An implementation program must be detailed enough to establish potential effects on

or departures from metropolitan system plans and to protect metropolitan system plans. An implementation program must at least contain the following provisions:

(1) a description of official controls addressing matters of zoning, subdivision, water supply, and private sewer systems, along with an implementation schedule;

(2) a capital improvement program for transportation, sewers, parks, water supply, and open space facilities; and

(3) a housing implementation program, including official controls to implement the housing element of the land use plan. Minn. Stat. § 473.859. subd. 4.

(d) Finally, the comprehensive plans may designate, when appropriate, five-year urbanization areas with official controls to ensure that urbanization only occurs in urbanization areas and in accordance with the plan. The comprehensive plans may also designate redevelopment areas with fiscal devices or official controls to ensure that redevelopment occurs in accordance with the plan. Minn. Stat. § 473.859, subd. 5.

3. Implementation

Each local governmental unit must adopt official controls (*e.g.* local zoning ordinances) as described in its adopted comprehensive plan. A local governmental unit may not adopt official controls or fiscal devices that conflict with its comprehensive plan or that permit activity in conflict with metropolitan system plans. If an official control conflicts with a comprehensive plan as the result of an amendment to the plan, the official control shall be amended by the unit within nine months following the amendment to the plan so as not to conflict with the comprehensive plan. Minn. Stat. § 473.865.

IV. The Twin Cities Metropolitan Area Fiscal Disparities Program

In 1971, the State of Minnesota enacted a commercial-industrial tax base sharing program within the Twin Cities metropolitan area. After an unsuccessful court challenge, the program was implemented in 1975. The official name of the program is the Charles R. Weaver Metropolitan Revenue Distribution Act, but it is commonly referred to as the Fiscal Disparities Program. The Fiscal Disparities Program is unique in the United States because of its size and scope. In 1995, a similar program was established on the Iron Range of northeastern Minnesota. *See* Steve Hinze & Karen Baker, Minnesota's Fiscal Disparities Programs, House Research Dept. at 3 (Feb. 2000), *available at* http://www.house.leg.state.mn.us/hrd/pubs/fiscaldis.pdf. The Fiscal Disparities Program is codified in Minn. Stat. § 473F.

A. Objectives of the Fiscal Disparities Program

When the Minnesota Legislature enacted the Fiscal Disparities Program, it articulated six objectives:

1. to provide a way for local governments to share in the resources generated by the growth of the area without removing any resources that local governments already have;

2. to increase the likelihood of orderly urban development by reducing the impact of fiscal considerations on the location of business and residential growth and of highways, transit facilities and airports;

3. to establish incentives for all parts of the area to work for the growth of the area as a whole;

4. to provide a way whereby the area's resources can be made available within and through the existing system of local governments and local decision making;

5. to help communities in different stages of development by making resources increasingly available to communities at those early stages of development and redevelopment when financial pressures on them are the greatest; and

6. to encourage protection of the environment by reducing the impact of fiscal considerations so that flood plains can be protected and land for parks and open space can be preserved.

Minn. Stat. § 473F.01. Tax base sharing equalizes the imbalance between the needs and financial services of some local governments. This imbalance is often caused by the uneven distribution of the commercial-industrial property tax base. In addition, tax base sharing promotes regional planning by reducing competition for commercial and industrial development and by encouraging communities to accept low tax yield public amenities such as parks. Hinze & Baker at 5.

B. Scope of the Fiscal Disparities Program

Six counties in the Twin Cities Metropolitan area participate in the Fiscal Disparities Program: Carver, Dakota excluding the city of Northfield, Hennepin, Ramsey, Scott excluding the City of New Prague, and Washington. Minn. Stat. § 473F.02, subd. 3. Under the program, each taxing jurisdiction must contribute 40 percent of the growth from its commercial-industrial property tax base since the 1971 assessment to an area-wide pool. Growth is calculated as the total net change in net tax capacity since 1971, including the effects of new construction, inflation, demolition, revaluation, appreciation, and depreciation. Hinze & Baker at 6; Minn. Stat. § 473F.06.

C. Distribution from the Area-wide Pool

Distributions from the area-wide tax base are determined by a distribution index based on the relative market value per capacity, called fiscal capacity, of each municipality. For each municipality, the program's administrator determines the product of (a) its population, and (b) the proportion which the average fiscal capacity of all the municipalities for the preceding year bears to the fiscal capacity of that municipality for the preceding year. The resulting product is the tax base distribution index for that municipality. Minn Stat. § 473F.07, subd. 3. If the

municipality's fiscal capacity equals the metropolitan area average, the municipality's share will be equal to its population as a percent of the area-wide population; if its fiscal capacity is greater than average, its share will be smaller; and if the municipality's fiscal capacity is less than average, it will receive a greater share of the pool. Hinze & Baker at 7.

D. Impact of the Fiscal Disparities Program

1. Under tax base sharing, as with any tax system, a given jurisdiction decides what amount it will levy to provide local services. Under tax base sharing, however, the tax burden on taxpayers within the jurisdiction may be more or less than the jurisdiction's levy. If the jurisdiction contributes more to the area-wide pool than it gets back, the properties within the jurisdiction will pay more tax than the jurisdiction's levy. If the jurisdiction contributes less to the area-wide pool than it receives in return, the properties in that area will pay less than the amount levied. Hinze & Baker at 7.

2. Under the Fiscal Disparities Act, a portion of the taxes paid by any given property each year are determined by an area-wide tax rate. For that reason, the tax burden on similar parcels of property will vary less from jurisdiction to jurisdiction than they would under a non-sharing tax system. Hinze & Baker at 7. During the 1990s, for a typical commercial-industrial parcel, more than one-fourth of the tax was based on the area-wide rate and less than three-fourths on the local rate. Id. at 15.

3. The result of tax base sharing is that some communities receive less from the area-wide pool than they give, while other communities receive more. In 2003, 48 communities received less from the area-wide pool than their contributions, while 135 communities received more than their contributions. Scott McMahon, Fiscal Disparities Pool Rebounds Some in 2003 After Tax Reform, Minnesota Journal (Feb. 18, 2003), *available at* http://www.citizensleague.net/fd0203.pdf.

V. Conclusion

Through establishment of the Metropolitan Council and adoption of the Metropolitan Land Planning Act and the Fiscal Disparities Program, Minnesota has created an approach to regional planning that is unique within the United States and perhaps worldwide. These programs are designed to facilitate comprehensive, deliberate strategies for growth and to ensure that the economic and physical development of the region occurs in an orderly fashion. The result is a metropolitan region that has earned a reputation as one of the most well-planned regions in the country.