

Metropolitan Council

Metropolitan Council Chambers, 390 No. Robert St., St. Paul, Mn. 55101

Meeting of the Central Corridor Management Committee
March 10, 2010

Members Present	Peter Bell, Chair	Kathleen O'Brien	Reynaldo Aligada
	Jim Westerhaus	Rafael Ortega	Khani Sahebjam
	Toni Carter	Peter Wagenius (Alt)	
Members Absent	Paul Krause	Tom Hanson	Chris Coleman
	R.T. Rybak	Robert McFarlin	Peter McLaughlin

1, CALL TO ORDER

A quorum was not present when Chair Peter Bell called the March 10, 2010 meeting of the Central Corridor Management Committee to order at 1:15 pm at the Metropolitan Council offices at 340 North Robert St., St. Paul. Bell proceeded with the meeting business while waiting for a quorum, after which the minutes from the last meeting can be approved.

2. APPROVAL OF 2/10/10 MINUTES

A quorum was reached during the regular business of the CCMC after which a motion was made by Carter, seconded by Wagenius to approve the minutes from the 2/10/10 meeting. **Motion carried.**

3. COMMUNITY ADVISORY COMMITTEE (CAC) REPORT

Robin Kaufman reported that the CAC is transitioning from the large group to geographic-based construction communication committees that will have smaller meetings. The last large CAC meeting will be Thursday 3/18. Chair Bell will be present and there will also be a presentation on business construction. The construction communication committees will be formed this spring and summer, and communication plans for the rest of the corridor will be developed. The outreach coordinators are beginning to meet individually with properties and discussing access issues.

4. DISADVANTAGED BUSINESS ENTERPRISE AND WORKFORCE PARTICIPATION

Wanda Kirkpatrick, Director of Office of Diversity and Equal Opportunity, presented an update on the disadvantaged business enterprise and workforce participation. The work was done by a group of people called the Affirmative Action and EEO Oversight Committee, made up of DBEs, women's businesses, contractors, governmental agency staff, Metro Council staff. A retreat was held to present and exchange information; provide opportunity for stakeholders to become acquainted; revisit, discuss, develop and present strategies for CCLRT DBE and Workforce goal achievement; and develop action plans for strategies. There was more than twice the anticipated attendance at this retreat. Discussions from the retreat gave attendees a better idea of what goes into the DBE goal setting and good faith efforts. Kirkpatrick presented the DBE and Workforce achievements to date. Carter requested information about

circumstances when items are taken out of a contract, whether there is money to be made available to enhance achievement in another area. Kirkpatrick stated that a Workforce Sourcing Collaborative has been formed. The Workforce Sourcing Collaborative is a group that will act as a go-between to help contractors fill the DBE needs. Kirkpatrick presented the focus areas on DBE participation and plans for outreach and support, including: DBE/prime/major subcontractor networking, DBE/AA Joint Committee, Pre-award DBE/Workforce interview panels, site visits, E-blast bid/workforce opportunities, and community workshops for each major ethnic/social group.

Sahebjam noted that the FTA was not involved in Metro Council DBE Workforce Collaborative. He stated that the FTA may need to know, and may benefit from, being a part of the collaborative. This may aid in showing a good faith effort to the FTA. Sahebjam also voiced concern with the low numbers of DBE achievement early in the project and reminded staff to keep a close watch on the achievement numbers as the project progresses. Sahebjam asked for, and received from Kirkpatrick, further explanation of invitations to the three low bidders to meet with staff, and the processes the Office of Diversity/EEO.

5. CIVIL EAST CONSTRUCTION PACKAGE

Chris Weyer, Assistant Director of Construction presented an update on the Civil East Construction Package. This is the first major, and largest, of the Central Corridor contracts. Weyer reviewed the timeline/schedule, scope overview, phasing and contractor accountability. Bids are anticipated to be opened April 30 and a Limited Notice to Proceed issued in July 2010. A Limited Notice to Proceed would allow some portions of the work to be done this year. There were no questions from committee members.

6. PROJECT SCHEDULE UPDATE

Chris Beckwith, Manager of Project Controls, reported an update of the procurement schedule(s). The FTA issued the FONSI for the infill stations 2/26/10. One change from the last meeting is the Advanced Traffic Improvements contract; the Metro Council award is now scheduled for March 24 (was March 12). Beckwith clarified to Bell that those traffic improvements are to take place around the University of Minnesota Campus. Beckwith said that (as Wanda Kirkpatrick mentioned earlier), e-mail blasts are sent to contractors and others that have expressed interest in the bidding information. Interested parties should contact cclrtbids@metc.state.mn.us to be added to the e-mail list. Sahebjam questioned whether contractors have expressed concerns about pre-qualifying, specifically with civil and bridge construction work. Beckwith replied that this was a recommendation from the consultants – AECOM, who stated that this process has been used in other parts of the country. They will ensure that the contractor doing the bidding is qualified to perform the work.

Bell raised two issues that are important for the CCMC to be aware of:

1. University of Minnesota. The Metro Council has made a request to the U of M for a temporary easement to do some traffic work at the U. In addition, the U of M has asked to include some work that the U of M would like done as well. The U of M has also made an additional request that this type of work not be performed during the fall school session. Bell has written a letter to the U of M (last week) and has not heard back as yet. Bell stated that a temporary easement seems like a small issue, but it is not. If the U of M refuses to give a temporary easement to the MC, then MC cannot do the work, MC could ask the contractor to

extend the bid (contractor may or may not allow). This has the potential to delay the project. This will be the first action by the U of M that will have a real potential to cost the project money and to delay the project. There is no reduction in the U of M's leverage, there are other easements that will be needed from the U of M. Bell stated that the University of Minnesota can no longer state that they support transit and the Central Corridor on the one hand, if they will not grant a temporary easement that allows the CCLRT project to do work that the U of M wants in addition to the CCLRT work, save the project money, and prevent a delay – with no reduction at all in the leverage that they (U of M) have because of additional easements that will be required. He stated that he is increasingly pessimistic that an agreement will be able to be reached, in part because of the inability of the U of M to make a decision on what could be a simple matter, with zero consequence to the U of M. There are many significant issues to deal with, and if the U of M cannot give a temporary easement to do work that they would like to do, that point in and of itself, makes Bell increasingly pessimistic that the CCLRT project will be able to negotiate substantive and numerous issues that we have.

2. Letters of No Prejudice (LONP).

Bell stated that the Federal Government gives authority to do construction work prior to receiving the FFGA and the locals have to fund the cost with the understanding that they will be reimbursed. The money that goes into these efforts is spread throughout all of the parties (CTIB, Hennepin County Regional Rail Authority, Ramsey County Regional Rail Authority, State/Metro Council). An unresolved issue is, in the event that the project is not completed, would any party be disproportionately stuck with a disproportionate amount of the payment. At this time, the parties have contributed the following: CTIB-340%, HCRRA and RCRRA-10% combined, Metro Council-10%. When capital work is needed, the percentages for all doubles. Bell's position is, if the project does not go forward, that the Metro Council cannot be responsible for more than a pro-rata share. Ortega asked for, and received, clarification of the local funding issue. Bell stated that there has never been a LONP issued without a FFGA following. However, he feels that there should be a Master Agreement in place that states that whatever the entities put into the project up front, they will get out once the FFGA is issued. CTIB wants entities to take more risk, as the project sponsors. Bell stated that there could be circumstances beyond project sponsor control causing delay and causing inflationary costs.

Comment [P&AM1]: Verify my edit is correct with Mark.

In response to Bell, O'Brien stated that the U of M is committed to the project. Regarding the easements, O'Brien stated there are three: a temporary easement for advanced traffic improvements, a temporary easement for construction project itself, and a permanent easement for the operation of the CCLRT through the campus. The alignment through the campus is over 6500 feet (2700 feet is on U of M property that the U of M will be contributing to the project for its operation permanently). Those three easements are valued at over \$6M and need to be acted on by the Regents of the U of M. It was envisioned that there would be a needed agreement in place between the U of M, Metro Council, Metro Transit before easements would be granted by the U of M. There has been much collaboration and hard work between project office staff, U of M staff, traffic engineers from Henn. Co. and Minneapolis on the traffic improvements. There are some elements on campus that are part of these traffic improvements, just as there are some elements of the project corridor line that will be assumed by the U of M in other contracts. It is O'Brien's understanding that the bids that were opened on 1/27 are good for 90 days - until the end of April. Then there is a time to get insurance, bonds, etc. in place before issuing a NTP. She stated there are 5-6 weeks in which to complete the agreements. She stated that focus should

be on getting the agreements with the U of M in place. There is a draft agreement that is being worked on.

Bell suggested that the temporary easement for advanced traffic work could be granted while working on the agreement with the U of M, without the U of M losing any leverage, or without compromising the U of M's legal position. Bell has asked to meet with the Regents, and has been denied. Bell has invited the Regents to CCMC meetings to present their views, and they have chosen not to appear.

O'Brien stated that the last written document that the U of M received from Metro Council was mid-January. The U of M is eager to see and consider the documents being worked on now. The U of M has stated that they would be open to utilizing a mediator to ensure that the agreement is done. Last week the Board of Regents decided not to file an additional federal lawsuit, but to focus on getting the agreement completed.

Westerhaus noted as a reminder that this is public money being dealt with, that two public bodies should be able to work out the temporary easement issue in a timely manner. Wagenius spoke on behalf of the City of Minneapolis. He stated that 5-6 weeks is not a lot of time to work on the agreements, considering the review and approvals needed. In answer to Wagenius as to the timeline, Bell responded that the time has already passed to acquire the temporary easement- Metro Council action has already been delayed; there are major issues of impasse in the MOU II to be worked out in 5-6 weeks. There are still 15-20, plus additional new issues from the U of M of concern. O'Brien stated that that finalizing language may bring out additional points that appear to be new issues, and some are a different way of looking at things. \$6M of land value toward the project is not a trivial item for the U of M.

Wagenius pointed out to all partners that, whatever the timeline is that needs to be met, there are other entities with issues that need to be resolved that will also require time. The other entities' concerns should not be short shrifted at the end of the process because of the deadlines. The City of Minneapolis will take a different stand on deadlines that are externally imposed (i.e. FTA), as opposed to internally imposed (partners at the table).

7. BUSINESS RESOURCE COLLABORATIVE

Because of time constraints and with Committee approval, Bell stated that this item will appear at the next CCMC meeting.

8. NEXT MEETING – April 14, 2010, at 1:00 p.m.

A motion was made by Wagenius, seconded by Aligada to adjourn the meeting at 2:50 p.m.

Motion carried.

Respectfully submitted, LuAnne Major