

MET COUNCIL POWER GRAB

HOW THE DAYTON ADMINISTRATION INTENDS TO TRANSFORM THE TWIN CITIES REGION FOR DECADES TO COME

Katherine Kersten and Kim Crockett

EXECUTIVE SUMMARY

The Metropolitan Council (“Met Council”) is an appointed body created by the Minnesota legislature to plan for the growth and delivery of regional services in the seven-county Twin Cities metro area. It has many of the broad powers normally entrusted to elected officials, but none of the Council members are elected by the people they govern. The governor appoints all 16 commissioners and the chair; they serve at his pleasure and direction.

The Met Council has rejected the mission the legislature assigned it—to *accommodate growth* in the region by planning for and delivering regional services—and flipped the mission to *directing growth* by leveraging its power over planning, transportation, and sewers.

Thrive MSP 2040 is the Dayton administration’s 30-year plan for development in the Twin Cities seven-county region. The plan entrenches a model of regional administration that neuters the power of local elected officials and centralizes decision-making authority in the unelected, unaccountable bureaucrats of the Met Council.

The Council’s ambitions in the *Thrive* plan—unauthorized by statute—range from solving income inequality and the racial learning gap to mitigating climate change.

Thrive MSP 2040 seeks to commit future administrations to reshape the region to reflect



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an urban-centric vision of an “ideal society” that is planned and administered by people who have not been elected by the region’s residents. It threatens to:

- **Impose “transit-oriented development”** designed to remake the region around transit; move many of us into high-density, “stack and pack” housing along fixed-rail lines; deplete road funding and increase congestion; and wean us out of our cars so we walk, bike, or take public transit to work and leisure activities, even in Minnesota’s harsh winters.
- **Empower unelected bureaucrats to funnel jobs and economic growth** into the central cities and areas within a half-mile of transit stations, distorting market forces and sapping development in the rest of the region.
- **Calculate “Housing Performance Scores” to allocate poverty** across the metro area, apportioning people on the basis of race, ethnicity, and income and pressuring cities to pay for low-income housing. As one observer put it, “The Council has embraced dilution as the solution to poverty.”
- **Redistribute wealth from the suburbs to the urban core** to pay for all this. Under “regional government,” suburban residents will pay more in taxes but receive less in infrastructure and services.

Regional administrators dictate to local officials. The Met Council already wields major control over our region’s 186 municipalities. Cities must submit for approval a “comprehensive plan” over which the Council exercises arbitrary and unchecked power—the Council sets the agenda, and cities have no right of appeal.

The Council holds the ultimate trump card—the power of the checkbook—allocating millions of dollars in funding for road improvements, sewer-related projects, and low-income housing. Local officials must cower and bow, unable to object on behalf of their constituents for fear of retaliation.

The Council’s new plan, wrapped in vague and noble-sounding goals, imposes a host of new, ideologically driven criteria for municipal development that will give it the raw power, unchecked by elected representatives, to remake our region dramatically.

The *Thrive* Housing Policy Plan will vastly expand the Council’s *de facto* power over housing and local land-use decisions.

- The plan’s crusade to “densify” our region’s housing will impose “development patterns that support high transit demand” to “improve residents’ ability to live without a personal vehicle.” *Thrive* calls for herding people into dense urban enclaves to build ridership for fixed-rail transit and buses.
- The plan threatens to push so much land into high-density zoning that it will create an artificial shortage of single-family-zoned land—causing higher prices for all new homes in the region.
- The Council aims to engineer “socioeconomic integration” across the sev-

en-county metro area but lacks the statutory authority to do so. As a result, its housing plan aims to strong-arm cities into meeting its goals by tying their receipt of vital, Council-controlled funds for roads (and other benefits) to how much their housing and zoning policies disperse regional poverty.

The *Thrive* Transportation Policy Plan misallocates scarce public resources by funding Council planners' priorities rather than the needs and preferences of the people.

- The plan will lavish funds on fixed-rail transit, while virtually ignoring funding for expanding roads—which are vital to regional prosperity and on which the vast majority of people rely to get around.
- In *Thrive*, the Council declares that “expanding the roadway system is not a sustainable way to address congestion, climate change, equity, and livability.”
- The transportation plan endorses other policies designed to make driving more expensive and inconvenient, such as narrowing streets and “limited, managed parking,” and elevates biking and walking over driving.
- The plan greatly favors the urban core over suburbs and exurbs and uses limited transportation funds as a tool to promote its social agenda.

The county boards of the five “ring” counties—Anoka, Carver, Dakota, Scott, and Washington—have unanimously denounced the Council’s transportation plan.¹

- At an unprecedented joint meeting on September 29, 2014, the county commissioners declared that the plan “represents a bleak future for the regional highway system.”
- They charged that the plan will provoke a “radical shift” in how the transportation system is built and operated, causing “severe congestion and safety issues” and “reduc[ing] the economic vitality of the region.”

The people of the Twin Cities have a right to govern their own communities. Social planning by unelected regional bureaucrats who use government power to tell us where to live and how to get around undermines democracy and is hostile to our cherished American traditions of freedom and local self-government.

Summary of Recommendations:

1. Governor Dayton should immediately rein in Chair Susan Haigh and his appointed Met Council.
2. The governor in January 2015 should appoint a new Council that includes elected officials.
3. The governor and legislature in January of 2015 should reject *Thrive MSP 2040* in its entirety and call for a moratorium on all light rail projects.
4. The legislature and Council should not commit capital funds to transitway development projects without ensuring that operating revenues for the first five to ten years





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- have been identified.
5. The Legislative Commission on Metropolitan Government (LCMC) should be given authority over the Council's operating and capital budgets to introduce real legislative oversight.
 6. Any redesign that retains a regional body must match the mission and powers with appropriate measures to hold that body in check and accountable.
 7. Any redesign should include staggered terms to promote stability while favoring local control.
 8. Cities should reject the Livable Communities Program.
 9. The legislature should repeal the 1995 Livable Communities Act and transfer housing programs to the state HFA and local housing programs.
 10. The Metropolitan Council should cease performing tasks carried out by other government agencies.

THE PROBLEM

Twin Cities' Model of Regional Government is Broken

The seven-county Twin Cities region is governed by an unelected, unaccountable body with broad, vague policy-making and funding powers and no meaningful oversight. Under Governor Mark Dayton, the Met Council is aggressively seeking to expand its reach. It is planning social transformation of the region and issuing dictates to elected local officials in policy matters far beyond its statutory authority. The resulting overreach threatens both local self-government and the economic well-being of the region.

The Council's credibility problem began almost at its inception in 1967. The Minnesota legislature narrowly rejected elective council members and instead embraced a regional governance model that put planning in the hands of 17 commissioners appointed by the governor.²

That decision, and the legislature's subsequent actions, created a perfect storm for egregious mission creep. Over the decades, the legislature expanded the Council's power to control planning and allocate funds through a patchwork of laws and amendments.

It gave the Council power over regional comprehensive planning³ and the power to tax. It made the Council both planner and operator of the region's sewer and transit systems—transforming it overnight into one of the state's largest agencies, with an annual operating budget of \$830 million.⁴ It gave the Council control over certain affordable housing and transit-oriented development grants, though, significantly, it did not add authority over housing or affordable housing as a regional system.

As it piled on these powers, the legislature—along with past governors—failed to provide meaningful oversight of the unelected, unaccountable Council, and that travesty continues today.

The Met Council's escalating overreach raises two vital sets of questions:

- 1) *Will the people of the Twin Cities region continue to govern their own communities through their elected representatives? Or will the Met Council increasingly usurp the authority to decide how we live and what the character of our communities will be?*
- 2) *Is urban planning for people or the other way around? Do people exist to serve transit and sewers or does infrastructure exist to serve people?*

Sources of the Met Council's Inordinate Power over Local Communities

The Council's power over the destiny of the region's 186 municipalities has three primary foundations:

- 1) As owner and operator of the regional wastewater treatment system, it controls the location of sewer interceptors and lines and therefore can dictate where new development will occur.
- 2) As the planning body for the seven-county area, it unilaterally develops a comprehensive framework for regional development, including four statutory systems: transportation, wastewater, parks and open space, and aviation. Local government units' comprehensive plans must conform to this framework, and municipalities cannot change or develop in significant ways without the Council's approval.
- 3) As a funding gatekeeper, it allocates federal, state, and regional funds among local governments for a host of important projects. In its role as the region's "MPO" or Metropolitan Planning Organization, the Council distributes competitive federal grants for transportation projects such as highway improvements, bikeways, and transit improvements.⁵ It also distributes Livable Communities grants for redevelopment, brown fields clean-up, and low-income housing.

Our Right to Self-Governance is at Risk: Balancing Efficiency and Local Control

The idea behind the Met Council was that communities in the metro area would give up certain controls over local planning in exchange for the efficiencies of high-quality, low-cost planning and services. The equilibrium of that exchange, while always a source of conflict, is now completely out of balance.

Today, the Council is using its dual role as planning czar and funding gatekeeper to pick winners and losers among the region's municipalities and to impose its own sweeping priorities on local communities as a condition for receipt of funds and planning approval.

It is a waste of time, however, to direct critiques and complaints about the Met Council to the Met Council. Only the governor and legislature can fix this problem.



Regional planning should facilitate citizens' choices about how and where they want to live, not impose the Council's preferences and penalize people for their choices. Towns and cities should be free to shape their own character, as long as they pay the costs of those choices.



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A Brazen Assault on Local Control: *Thrive MSP 2040*

The Met Council's mission creep has escalated markedly under Governor Dayton, who appointed all the Council's current members. The Council is now on the cusp of a significant new power grab, driven by an ideologically charged "social justice" agenda that goes far beyond its statutory planning powers.

The assault on local control has reached a watershed with the release of *Thrive MSP 2040*, the Council's new 30-year comprehensive development framework for the seven-county metro area. The plan delineates a blueprint to reshape the region to conform to the Dayton administration's vision of an ideal society.

The plan's central premise is that urban planners (inspired by lofty and noble ideals) know best what the future holds and are thus best equipped to determine how the region's residents should live.

The Council has a two-pronged vision of how to transform the region:

- First, it will promote compact, high-density living and "transit-oriented development" (TOD).⁶ TOD seeks to pivot from an "auto-friendly" to a "transit-friendly" transportation system by discouraging driving and pushing people to walk, bike, or take public transit.
- Second, it will attempt to engineer "socioeconomic equality" among demographic groups by dispersing people across the region in a government-approved mix of race, ethnicity, and income.

The *Thrive* Vision: The Council Knows Best

The *Thrive* plan includes an overarching themes document, adopted in May 2014, and detailed policy plans on housing, transportation, water resources, and regional parks. The housing and transportation plans were released in July 2014, with adoption scheduled for December 2014 and January 2105, respectively. The other plans are scheduled for approval in 2015.

In *Thrive*, the Council lays out five sweeping "outcomes" (equity, sustainability, livability, prosperity, and stewardship) and three "principles" (integration, collaboration, and accountability) that serve as the basis for all its plans and policies. None of these highly subjective terms is clearly defined.

The Council acknowledges that it lacks statutory authority to reframe its regional planning function in such a vague and open-ended way. However, it seems to view its goals as so noble as to need no clear basis in law:

The *Thrive* outcomes...are lofty ideals that *defy simple categorization into the Council's authorities*. Instead, progress toward these outcomes *demand*s that the Council use its full range of authorities and activities in a new, coordinated way . . .⁷ (emphasis added)

In other words, the Council intends to “weave” its authorities together in unprecedented ways in an attempt to justify its overreach, as its Housing Policy Plan openly admits.⁸

The Council does not mean to let lack of statutory authority stand in the way of achieving its goals. Its strategies to expand its regional influence include:

- Issuing a highly prescriptive “policy plan” on housing, an issue over which it has no “system” authority.
- Using broad policy areas over which it has no authority—such as “economic competitiveness” and “climate change”—as “lenses” to evaluate all future development policies.⁹
- Employing its so-called “convening authority” to lead regional “conversations”¹⁰ on a host of topics outside its statutory authority—including the racial achievement gap and housing discrimination. Its goals in this respect include creating a high-profile forum for special interest groups that share its ideological objectives.¹¹

Question: The legislature has created very few checks on the Council's power. Why, then, is it doing so little to watchdog the Council's escalating overreach?

***Thrive* Claims More Future Growth in Urban Core and Inner Ring**

A central claim of the *Thrive* plan is that more of the metro area's population growth will be in the urban core and inner ring—a reversal of the last 60 years. The Council's forecasts are inconsistent with demographic trends between 1950 and 2010, when virtually all our nation's population growth occurred in the suburbs, not the core cities. In the Twin Cities region, between 1950 and 2010, 110 percent of population growth was in the suburbs outside Minneapolis and St. Paul. During those 60 years, the share of regional growth in the two core cities' population was *negative 10 percent*.¹²

In its projections for 2040, the Council is now forecasting a major turnaround, with 16 percent of regional growth occurring in Minneapolis and St. Paul.¹³ Even so, it projects that the overwhelming share of growth—84 percent—will take place in the suburbs. (Officials in the metro area's five “ring” counties believe the share of growth in those counties will be even higher.)¹⁴ According to the Council's data, even by 2040, the population of



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Minneapolis and St. Paul will not have recovered to 1950 levels.

In short, in the next 25 years, the vast majority of the metro area's population growth will occur in the suburbs. Even the Met Council knows that. Yet the Council's *Thrive* plan fails to reflect this reality and focuses regional resources on urban center over suburban areas in myriad ways.

Council Claims Shifting Living Preferences

The Council claims that the metro area population's living preferences—led by Baby-Boomers and Millennials—are shifting. Like most “smart-growth” advocates nationally, the Council maintains that over the next 25 years, retiring Baby-Boomers and Millennials (ages 20-29) will flood into the region's urban area, choosing high-density neighborhoods and preferring walking, biking, or transit to travel by car.

The *Star Tribune* characterized the Council's vision for the future as a “return to the tighter live/work/shop neighborhoods that *dominated the streetcar era of the early 20th century*” (emphasis added).¹⁵

The Council relies on this claim about people's changing “live/work/shop” preferences to justify three of its primary planning objectives:

- To lavish transportation funds on enormously expensive fixed-rail transit, while virtually ignoring the roads the vast majority of the region's people use.
- To redesign areas within a half-mile radius of major transit stops around “mixed-use” developments, with apartments on top and commercial realty on the bottom. *Forbes.com* columnist Joel Kotkin has labeled these “adult Disneylands” for hipsters and older, sophisticated urban dwellers: “city as entertainment machine, chock-a-block with chic restaurants, shops, and festivals.”¹⁶
- To funnel as much population growth and economic development as possible into the urban core and inner ring suburbs. Outer-ring residents will disproportionately shoulder the burden and pay more in taxes but get less in infrastructure and services.

Question: If people's preferences about where to live and how to get around are changing as dramatically as the Council claims, why are Thrive's prescriptions and mandates necessary? If market demand really supports these changes, why are public subsidies necessary?

Boomers and Millennials are Not Flocking to Urban Core

Baby-Boomers and Millennials do not appear to be flocking to high-density housing in the core cities, as the Council maintains. Today, Baby-Boomers—as a group—are not abandoning their single-family homes for apartments and condos, as the Council maintains. In fact, the proportion of all Boomers residing in a single-family detached

home actually *increased* between 2006 and 2012, according to a June 2014 study by the Federal National Mortgage Association (Fannie Mae).¹⁷ A 2010 survey by AARP found that almost nine in ten Boomers prefer to remain in their current residences as long as possible.¹⁸

Nationally, the percentage of Millennials residing in urban core areas is declining. About 80 percent live in suburbs or exurbs, and Millennial population growth is fastest there.¹⁹ This is true in the Twin Cities as well. In the Minneapolis-St. Paul metropolitan area, 22.2 percent of Millennials lived in the urban core in 2000. By 2010, the number had declined to 21.1 percent.²⁰

***Thrive* Lays Out Top-down Controls to Reshape Region**

Thrive's Housing and Transportation Policy Plans lay out top-down controls to reshape our region in line with an urban-core vision. The Council claims its drive for housing densification and transit-oriented development is merely intended to increase people's "choices." But in the words of "smart-growth" critic Kotkin, "The people designing your city don't care what you want." If Twin Cities-area residents don't actually wish to live the way planners believe they should, *Thrive's* intrusive policies are designed to see they do.

The Council's housing²¹ and transportation policy plans²² divide policy-making and implementation responsibilities into two categories: "Council roles" and "local roles." A quick survey of the documents reveals that the Council intends to dominate on almost every front, while local governments are generally relegated to merely carrying out the Council's dictates.

Question: Why do we need local governments if their role is increasingly just to carry out the policies set by the unelected Council and its permanent staff?

The Housing Policy Plan

Socioeconomic Integration

"If you care about the economy, you should care about the employment gap and the poverty it creates," declared Met Council chair Susan Haigh in the *Star Tribune* in December 2013. Haigh decried the "disparities and inequities that manifest themselves in employment and education gaps and concentrated areas of poverty" and promised that the Council's "Fair Housing and Equity Assessment"—completed in June 2013—would "help us dig deeper into the data and plan to address shortcomings."²³

The Council's Fair Housing and Equity Assessment

The Fair Housing and Equity Assessment mapped every census tract in the Twin Cities' seven-county area by race, ethnicity, and income. Its purposes were two-fold:



**THE MINNESOTA POLICY
BLUE PRINT**
PRESCRIPTION FOR PROSPERITY

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In the words of “smart-growth” critic Kotkin, “The people designing your city don’t care what you want.” If Twin Cities-area residents don’t actually wish to live the way planners believe they should, Thrive’s intrusive policies are designed to see they do.

- 1) To identify “Racially Concentrated Areas of Poverty” and “high opportunity clusters”—essentially those areas with high-performing schools and low crime rates, and
- 2) To identify suburban land use and zoning practices that allegedly deny opportunity and create “barriers” for low-income and minority people.

As Haigh indicated, the Council intends to use the assessment to achieve “socioeconomic integration” and disperse poverty across the seven-county metro area.

Housing is not a “system” over which the legislature has given the Met Council statutory authority. Yet the Council has issued an unprecedented Housing Policy Plan to carry out the Fair Housing Assessment’s prescriptions and to impose a government-sanctioned demographic mix over local land use decisions, including housing development.²⁴

Significantly, the highly prescriptive 106-page housing plan includes no summary. Readers must wade through all its dense verbiage to discover its contents. “Transparency” was clearly not the Council’s objective.

Because the Council lacks the power to regulate local land use directly, it has concocted a scheme to compel municipalities to take the necessary steps to achieve “socioeconomic integration” themselves.²⁵ The Council will dictate to every city how much regional poverty it must plan to absorb through low-income housing, for people at 30 percent, 50 percent and 80 percent of area median income (thus expanding the categories of “income-burdened” people whose needs cities must meet.) Details of how this will work and what it will mean for individual cities are still being determined.

For example, the Council is considering a requirement that “50 percent of all housing units (existing and new)” in every municipality should be affordable to low or moderate-income people.²⁶ If it adopts this policy, high-density, multi-family units will be the only kind of housing that can be built in many municipalities for years to come.

The housing plan pressures cities and their taxpayers to finance subsidized housing themselves, since federal funds for this purpose have largely dried up. Many cities cannot afford the tab. The plan also instructs cities to locate low-income housing in “higher income areas”²⁷ and proposes a “mobility counseling program” to “help ensure access to opportunity-rich communities and neighborhoods.”²⁸

The Council will measure cities’ compliance with its affordable housing dictates with an arbitrary “housing performance” point system.²⁹ Under the law, the Council has no authority to enforce its affordable housing directives. It can comment on a city’s affordable housing plans in reviewing its comprehensive plan, but cannot turn down a plan on this basis.³⁰

But in the *Thrive* plan, the Council announces a two-pronged strategy to pressure and intimidate cities into compliance:

- First, it implies to cities that it will, in fact, condition approval of their updated comprehensive plans on their compliance with its affordable housing directives.³¹ The Council lacks statutory authority for this.
- Second, it proposes to tie a city's receipt of vital transportation grants (and other Council-controlled benefits) to the city's "Housing Performance Score"—that is, to how much that city's housing policies disperse regional poverty.³²

In other words, the Council is attempting to tie its housing and transportation plans together in an unprecedented way to strong-arm cities into meeting its goals. It intends to use its power over transportation—and probably parks and sewer-related funds and other benefits—as a bludgeon to compel cities to carry out a social agenda beyond its statutory authority.

The Council's unprecedented use of transportation funds as a tool to enforce its housing goals is a raw power grab, and cities should investigate a legal challenge. The Council's enabling legislation, the Minnesota Land Planning Act, has not changed since the last round of comprehensive planning. On what grounds, then, does the Council now claim that updates to local plans must meet arbitrary new criteria to be approved, and that it is entitled to withhold transportation funds if they do not?

But time for a challenge is short. The Council will issue new "system statements"—which describe how the Council's "updated forecasts, system and policy plans apply to each individual community"—in September 2015.³³ (Cities have 60 days to request "reconciliation" of differences they may have with the Council.)³⁴ Cities must incorporate the data included in their system plan into their updated comprehensive plans (due in December 2018). The *Thrive* plan will essentially go into effect in October 2015, since local amendments to comprehensive plans proposed after that time must reflect its provisions.

Affirmatively Furthering Fair Housing

The final draft of the Housing Policy Plan—scheduled to be adopted in December 2014—will likely include much more aggressive "fair housing" provisions than the current draft does. The Council is considering the addition of new requirements that dovetail with the Obama administration's proposed "Affirmatively Furthering Fair Housing" (AFFH) rule, which will radically transform the meaning of housing discrimination.³⁵ A Met Council staff person laid out recommendations in this respect in PowerPoint presentations to the Council in September 2014.³⁶

Under current federal law, a city's housing policies must intentionally discriminate against racial and ethnic minorities to be in violation of federal civil rights laws. However, under



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The Council intends to use the assessment to achieve “socioeconomic integration” and disperse poverty across the seven-county metro area.

the proposed AFFH rule’s “disparate impact” analysis, a city may be found in violation merely if its population does not reflect a vaguely defined, government-approved ratio of races and ethnicities. The city’s zoning laws and other land-use policies would be presumed to deny opportunity and create “barriers” for minorities.³⁷

In Minnesota, local communities are empowered to make zoning decisions. However, the new federal AFFH rule—in conjunction with the “fair housing” policies the Council may add to its Housing Policy Plan—is likely to greatly undermine local control. In the future, many metro-area cities may be prevented from adopting common zoning practices that, for example, place limits on the size, type, height, and density of buildings, as the Council may claim these create “barriers” to low-income housing.³⁸

The federal Department of Housing and Urban Development (HUD) is advancing a “disparate impact” analysis in Westchester County, New York. As Rob Astorino, Westchester’s county executive, told the *Wall Street Journal*, “If HUD can define what constitutes exclusionary practices, then local zoning as it is known today disappears. Apartments, high rises, or whatever else the federal government or a developer wants can be built on any block in America.”³⁹

The proposed “Affirmatively Furthering Fair Housing” rule is of dubious constitutionality.⁴⁰ The AFFH-related provisions the Council is considering for its Housing Policy Plan would help lay the groundwork for the rule’s imposition in Minnesota.

Racism Not a Primary Cause of Housing Patterns

The Twin Cities’ rapid diversification suggests that racism is not the primary cause of the region’s housing patterns. The Council seems to view racism as a primary cause of the metro area’s housing patterns. Yet the Twin Cities region is rapidly diversifying, and minority residents have been flooding into the suburbs for the last 20 years.

In 2000, for example, only 16 percent of Hmong residents lived outside the core cities; in 2010, 41 percent did. Only 35 percent of blacks lived outside core cities in 2000; in 2010, 51 percent did.

Our region has strong laws against housing discrimination, and we should vigorously enforce them if violations are occurring. But the Council ignores the fact that housing patterns often reflect people’s choice to live near family, friends, and cultural support systems.

The Council is proposing to expend funds to investigate alleged “mortgage lending discrimination” and “real estate steering” in the metro area,⁴¹ although it lacks statutory authority to carry out these activities for which other agencies are responsible.

The Met Council assumes that for very troubled households, just dropping people into the suburbs will end the causes of entrenched poverty that are unrelated to zip codes. This hope is unfounded, as “Moving to Opportunity,” a federal Department of Housing and Urban Development program begun in 1994, has demonstrated. The program used housing vouchers to move tenants in five cities from poor areas to more prosperous suburbs. In 2004, the National Bureau of Economic Research found “no significant overall effects on adult employment, earnings, or public assistance receipt.” Another study, in 2006, “did not find evidence of improvements in reading scores, math scores, behavior or social problems, or school engagement, overall for any age group.”⁴²

The Met Council seems to believe that “the solution to poverty is dilution,” as one observer put it. It’s impractical to move most or all low-income people to higher-income areas. And *Thrive’s* plan to move low-income people to far-flung suburbs with little or no transit and a high cost of living is likely to harm, not benefit, them.

The best way to aid low-income residents is to improve education and increase jobs through a business-friendly environment—not to move them around like pieces on a chess board to achieve a metro-wide, government-approved mix of income and skin color.

***Thrive* to Require Compact Development**

The *Thrive* housing plan will require “compact” development in both developing and mature suburbs, with a special focus on cramming people into tiny areas around train stations. The Council maintains that to be “sustainable,” the Twin Cities must become a “denser, more compact region.” Density is legitimately related to wastewater treatment. However, a primary motive for the Council’s densification crusade is that the region can’t support enormously expensive new transit projects—both planned and underway—at its current density.⁴³

According to *Thrive*, sustainability requires “development patterns that support high transit demand” to “improve residents’ ability to live without a personal vehicle.”⁴⁴ As a result, the housing plan calls for herding people into dense urban enclaves to build ridership for fixed-rail transit and buses.

In the housing plan, the Council significantly revised the descriptions and density criteria for the geographical planning areas used in the *2030 Regional Development Framework* adopted in 2004. Communities have been reclassified into new categories, many with new and higher “minimum average net density” standards, to match the social engineering agenda of *Thrive*.⁴⁵

For example, the communities of Columbia Heights, Fort Snelling, Hilltop, Hopkins, Richfield, Robbinsdale, South St. Paul, St. Louis Park, and West St. Paul, despite their location and suburban character, are now classified with Minneapolis and St. Paul in the



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“Urban Center” with its “overall density expectation” of 20 units per acre. Some suburbs, such as Minnetonka and Wayzata, must plan to increase density by about 30 percent, through infill, redevelopment and high-density housing.⁴⁶

Forced densification of this kind can cause problems for municipalities whose roads, sewers, schools and parks were not designed for high densities. And if *Thrive* pushes too much land in developing suburbs into high-density zoning, it will create an artificial shortage of single family-zoned land, creating higher prices for all new homes.

The Met Council, despite its illusions, can’t change residents’ housing preferences. If people can’t get what they want here, they will leapfrog outside the seven-county metro area or move to another region with the housing they want and can afford.

The Transportation Policy Plan

The Council’s new Transportation Policy Plan (TPP) ignores our highway system’s pressing needs and seeks to remake the metro area around fixed-rail transit and buses. The massive, 500-page plan—like the Housing Policy Plan—includes no summary. Again, transparency was not the Council’s objective.

A top-quality road system is vital to the Twin Cities region’s prosperity and quality of life. In our spread-out area, about 90 percent of jobs are outside the downtown areas of Minneapolis and St. Paul.⁴⁷ Eighty-four percent of area trips are by car, with only three percent by transit, including less than one percent by fixed-rail.⁴⁸

For most residents, transit is not time-competitive with auto travel. The average employee can reach only seven percent of jobs by transit within 45 minutes, while drivers get to their jobs in about 25 minutes.⁴⁹ The Green Line LRT requires nearly an hour to traverse the 11 miles between Minneapolis and St. Paul. (Travel time by car is less than half that.) “In an end-to-end race with a good long-distance runner a Green Line train would come in second,” in the words of the *Star Tribune*.⁵⁰

In our increasingly congested region, transportation planning should aim at expanding highway capacity and improving travel times and road conditions. But a Met Council staff member made clear at a forum on August 6, 2014, that there will be no new roads except for the completion of Highway 610.⁵¹

Why? The Council’s new Transportation Policy Plan declares that “*expanding the roadway system is not a sustainable way to address congestion, climate change, equity, and livability*” (emphasis added).⁵² The plan instructs municipalities to consider “travel modes other than the car at all levels of development.”⁵³

Council Cites Lack of Funds to Justify Ignoring the Road System

“Demand for highway capacity projects to relieve congestion and to serve [outer-ring suburbs is] well beyond the available resources to pay for transportation improvements,” according to the TPP. The plan continues:

Thus, the focal point for accommodating growth around transportation investments will be having local governments focus their planned growth in areas that support multimodal travel and support this growth with land use and design that integrates transit, walking, and biking” (emphasis added).⁵⁴

TPP Directs Scarce Funds toward Fixed Rail

Yet while the new transportation plan virtually ignores road expansion funding, it lavishes increasingly scarce funds on fixed-rail transit, an inflexible, 19th century technology. Our region is projected to have just \$52 million available annually from 2014 to 2022 for highway congestion relief. After 2022, federal funding is projected to dry up. Fixed-rail transit costs \$100 million a mile to construct, while adding a highway lane in each direction costs just \$10 million a mile.

Despite this massive cost differential, the Met Council intends to spend \$2.7 billion on the Southwest and Bottineau light rail projects, which will serve a tiny fraction of commuters. That’s five times more than will be spent in ten years on highway congestion and bottleneck relief for the entire seven-county region, though 99 percent of area trips use roads in some manner,⁵⁵ while less than one percent use fixed-rail.

The Council’s obsession with fixed-rail is particularly indefensible in light of its projection that 73 percent of the region’s population growth and 59 percent of employment growth by 2040 will take place outside the urban and urban center communities. This growth—and the Council’s drive for densification across the metro area—will actually put more cars on our already-burdened roads. The reason is that as density goes up, driving per capita goes down only slightly.⁵⁶ The Council’s refusal to expand road capacity to meet this increased demand will greatly add to congestion.

Funding Allocated to Planners’ Priorities, Not Citizens’ Priorities

The plan misallocates public resources by funding Council planners’ priorities rather than the needs and preferences of the region’s citizens. The TPP endorses other policies designed to make driving more difficult. They include narrowing streets; use by cities of “Complete Streets” principles (which often take out car capacity to favor walking, biking and transit),⁵⁷ and “limited, managed parking,” which the Council intends to reduce the demand for driving.⁵⁸ Biking and walking—while worthy forms of exercise and sometimes commuting—are not practical year-round alternatives for most people in our frigid climate, which saw more than 50 below-zero days in 2013-14.



The Council is attempting to tie its housing and transportation plans together in an unprecedented way to strong-arm cities into meeting its goals. It intends to use its power over transportation—and probably parks and sewer-related funds and other benefits—as a bludgeon to compel cities to carry out a social agenda beyond its statutory authority.



On what grounds, then, does the Council now claim that updates to local plans must meet arbitrary new criteria to be approved, and that it is entitled to withhold transportation funds if they do not?

The Council justifies its focus on fixed-rail transit by claiming it stimulates economic development, but such “transit-oriented development” (TOD)—which frequently fails to materialize as planned—often requires large public subsidies.

Former World Bank principal planner Alain Bertaud has described why in *Cities as Labor Markets*, where he points out the flaws of the “urban village model” at the heart of the TOD concept.⁵⁹ (This model is what the *Star Tribune* has called the Met Council’s vision of a “return to the tighter live/work/shop neighborhoods that dominated the streetcar era of the early 20th century.”)

According to Bertaud, “The urban village model exists only in the mind of urban planners.” It “does not exist in the real world, because it contradicts the economic justification of large cities: the efficiency of large labor markets.” A city’s welfare, says Bertaud, depends on its labor market. “As long as a labor market does not fragment into adjacent, smaller ones as it grows, the larger the market, the more innovative and productive the city will be.”

In contrast to the Met Council’s claim that rail transit and urban villages stimulate economic development, Bertaud notes that the “urban village model implies a systematic fragmentation of labor markets within a large metropolis, which leads to less economic efficiency and thus to less economic growth.”⁶⁰

The TPP uses scarce transportation dollars as a tool to promote its social agenda, and overwhelmingly favors the urban core at the expense of suburban communities—especially in the outer-ring. The Council plans to use municipalities’ “housing performance scores,” which measure their contribution to dispersing poverty, to determine their eligibility for federal transportation grants under its Regional Solicitation guidelines.

As a result, in the future, funds for congestion relief and road safety are likely to go almost exclusively to Minneapolis, St. Paul, and a handful of inner-ring municipalities. Suburbs and exurbs will find it very difficult to obtain funds to meet their pressing needs in this respect. Many suburban communities will also be at a disadvantage in obtaining transit funds, because the Council plans to condition grants for transit-oriented development on satisfactory provision of low-income housing.

Local Governments Object to Thrive Plan

Suburban counties raise formal objections to TPP

In a strongly worded resolution, the county boards of the region’s five ring counties have raised numerous objections to the TPP. On September 29, 2014, the county boards of Anoka, Carver, Dakota, Scott, and Washington Counties met to call public attention to the Met Council’s overreach in the TPP. The meeting was an historic event, where

commissioners from the five ring counties—all elected officials—implored Met Council members—all appointed officials—to stop and listen to them.

In an extraordinary, unanimous statement, the commissioners charged that the Council had not partnered with the counties and called on the Council to halt the TPP and go back to the drawing board.⁶¹ The plan, they declared, “represents a *bleak future for the regional highway system in most counties*” (emphasis added).⁶²

The TPP’s “goals and outcomes,” said the statement, “do not align” with metro area citizens’ actual travel behavior or with the Council’s own growth projections, which forecast major population growth in the suburbs in coming years. The TPP’s failure to reflect these realities will have dire consequences for the entire metro area, the statement added:

Without such alignment, there will be a radical shift in how transportation systems are built and operated, which will result in severe congestion and safety issues in certain areas of the region. Local governments will be forced to use their resources on high-priority projects outside their jurisdiction which will impact their tax base and affect the quality of life in their communities which, in turn, will reduce the economic vitality of the region (emphasis added).⁶³

The county commissioners also protested the Council’s high-handed dictates to cities and counties on matters ranging from “transit focused investment” to “use of Complete Streets principles”—mandates for which the Council has no “clear authority,” they said.⁶⁴

The county commissioners plan to follow up on their analysis of them TPP with a detailed critique of the *Thrive* Housing Policy Plan.

Regional Park Plan Drawing Local Government Objections

The new *Thrive* plan for regional parks is also drawing the ire of suburban governing bodies. Like the housing and transportation plans, the Met Council’s parks plan⁶⁵—scheduled for adoption in early 2015—is encountering concerted push-back from bodies that administer regional parks.

Not surprisingly, the new plan calls for increasing the Council’s power over how park funds are spent, among other things.⁶⁶ Citing the region’s growing minority population, the Council claims it will use its enhanced control to “steer funds to strengthen equitable access to park amenities,” in the words of the *Star Tribune*.⁶⁷

Suburban park administration bodies counter that they already have programs and practices in place to ensure that parks are available to a wide range of users. Local authorities—not the Met Council—are in the best position to determine residents’ needs, they say.



In the future, many metro-area cities may be prevented from adopting common zoning practices that, for example, place limits on the size, type, height, and density of buildings, as the Council may claim these create “barriers” to low-income housing.



The Council ignores the fact that housing patterns often reflect people's choice to live near family, friends, and cultural support systems.

Suburban officials' objections to the *Thrive* parks plan echo their criticisms of the Council's intrusive housing and transportation plans. "It's a nonelected body trying to wrestle control," Daniel Freeman, vice chair of the Three Rivers Park District Board, told the *Star Tribune*. "It looks like a power grab."

Other elected officials used more colorful language, according to the paper:

Three Rivers Commissioner Penny Steele said the Met Council's eagerness to expand its traditional scope reminds her of "The Little Shop of Horrors," the musical story of a tiny plant that morphs into a giant and voracious Venus flytrap. "Who's gonna prune that plant?" she said.⁶⁸

City Councils are also Blasting the *Thrive* Plan

Burnsville City Council members have charged that *Thrive's* details "reveal a set of overly prescriptive transportation and housing policies that sap local control, deprive the suburbs of highway dollars, and ignore market forces," according to the *Sun This Week* newspaper.⁶⁹

One Burnsville Council member denounced the Met Council's actions as "government planning, overreach, dictation, whatever you want to call it, at its finest!" Another branded the Met Council's agenda as "out of control."

In a subsequent *Sun This Week* article, a Lakeville City Council member charged that the Met Council has "too much power" and is engaged in "dictation and control." "They're not advising at all," she added. "It's very scary."⁷⁰

Lakeville Planning Commission member Karl Drotning emphasized that the Council's new scoring criteria for transportation spending are heavily slanted toward Hennepin and Ramsey counties. According to *Sun This Week*, Drotning emphasized that the Council is "pretty much ignoring the developing communities:"

"They're more or less adding another mandate or criteria and making the scoring tougher for the outer counties," he said, "so we start out basically with one hand tied behind us. What was the *Animal Farm* thing? All animals are created equal, but some are more equal than others."

The Council's expanding overreach into economic competitiveness and climate change

Thrive identifies planning for "economic competitiveness" as "an important new emphasis for our region." Details are not yet clear. However, the Council apparently intends to preside over creation of a "regional vision for economic competitiveness." It will then "localize"⁷¹ a "strategy" to implement that vision through cities' and counties' updated comprehensive plans.⁷²

The Council insists that participation in its new initiative—which will rely in part on “increased information and technical assistance”—will be voluntary.⁷³ However, local governments have expressed “skepticism” and concern about “mandates,” according to a staff presentation at a meeting of the Council’s Community Development committee on November 3, 2014.⁷⁴

Top-down controls and mandates seem likely as the unelected Council—with limited business expertise—attempts to instruct local officials and business people how they must use their resources to further its vision for “regional economic competitiveness.”⁷⁵

For example, the Council plans to compile and prioritize a “regional inventory” of sites for potential development and redevelopment. It will then analyze the market readiness of these sites and will work with its local and regional partners to develop investment and redevelopment strategies customized to the needs of different types of hot and cold markets, including racially-concentrated areas of poverty and advancing the priority of regional balance.⁷⁶

The Council’s “economic planning” power grab will enhance its ability to pick winners and losers among the region’s 186 municipalities. This move threatens to significantly increase the Council’s capacity to reward jurisdictions it favors—including inner ring communities, where it wishes to increase jobs and population growth—and to penalize outer ring communities and local officials who resist its “regional vision.”

The Council has no legal authority in the area of climate change. Its intention to use climate change as a “lens” to evaluate all local and regional plans virtually guarantees increased, open-ended government intrusion into local and even state-level affairs. For example, in the future, a municipality that needs road funds may have to conform to onerous “clean energy” or “carbon footprint” requirements.

The Consequences of Failing to Check the Power of the Met Council

For decades, the Twin Cities region has been one of the nation’s most thriving metro areas. Our prosperity is the result, not of government planning, but of the hard work and innovative vision of the area’s people. Given our region’s remarkable success, on what grounds does the Council now claim that, going forward, we must implement the massive, top-down changes that *Thrive* calls for to remain successful?

The Met Council claims that *Thrive*’s intrusive prescriptions for land use and transportation are necessary to ensure our region remains economically competitive. But people move to a metro area, not for transit, but for jobs.

The Council’s plans threaten our region’s standard of living and economic competitiveness. *Thrive* will make long-term commitments for scarce transportation dollars and spending on other activities that will be difficult, if not impossible, to undo. It’s not just



The Met Council assumes that for very troubled households, just dropping people into the suburbs will end the causes of entrenched poverty that are unrelated to zip codes. This hope is unfounded, as “Moving to Opportunity,” a federal Department of Housing and Urban Development program begun in 1994, has demonstrated.



The Council's message to the public is: "We don't like your choice in neighbors. We want you to have different neighbors. We want to tell you who your neighbors should be."

the Twin Cities that is at risk. The entire state's economy, and even neighboring states, which benefit from the robust and diverse economy of the greater metro area, will be adversely affected.

Top-down planning by unaccountable bureaucrats that distorts market forces is likely to constrict overall prosperity and stymie development. The nation's fastest growing areas—virtually all in the South and West—are characterized by less government regulation and business-friendly environments. These factors are strongly correlated with greater economic growth.

Thrive's prescriptive micromanagement will prevent our region's people and local governments from responding quickly and effectively to change. Thirty years ago, the Internet hadn't even been invented. Today, telecommuting is increasing rapidly, and driverless cars may be around the corner, yet the Met Council is investing billions in fixed-rail, a 19th century technology.

Most importantly, the Met Council's escalating overreach, if left unchecked, will undermine our freedom and ability to live as we choose. Its imposition of "rule by planners" is inconsistent with local self-government: our birthright as Americans.

WHAT IS TO BE DONE?

To summarize, the problem is not *Thrive* per se. The problem is regionalism as a governance structure. *Thrive* is an extreme example of the problems inherent in regionalism and an advanced symptom of the Met Council's lack of accountability. Tackling the Met Council problem is an urgent matter. There are certain actions that Governor Dayton should take immediately and other actions that the governor and legislature should take in 2015 and beyond.

Center of the American Experiment noted in a 2003 *Minnesota Policy Blueprint* "Task Force on Metropolitan Governance"⁷⁷ that campaigns have been waged against the Met Council from its inception, yet "it has survived every attempt on its life, often emerging at the end of the battle with an expanded mandate and ever-increasing budget." That observation should cause anyone with a mind to redesign the Met Council—or to spin off its useful functions and jettison the rest—to pause in trepidation and then push on as the threat to self-governance, fiscal soundness, and prosperity is too serious to ignore.

In 2011, the Office of the Legislative Auditor issued *Evaluation Report: Governance of Transit in the Twin Cities Region*.⁷⁸ Legislative Auditor James Nobles pointed to the Council's lack of credibility among elected officials and other regional stakeholders. He called for reform of the governance structure as a first step in addressing his office's finding that the transit decision-making process for the region was fraught with distrust and lacked an agreed-upon set of priorities.⁷⁹ While he focused on transit, he made broad recommendations that would bring elected officials into the Council.

A consensus may be building around a new governance structure that keeps the Met Council but replaces the current appointees with a mix of elected officials and appointees from the region.⁸⁰

The drawback with most of the ideas under consideration is that many keep the broad statutory powers currently given to the Council but do not check those powers with effective oversight and recourse by the legislature or hit the right balance between regional efficiency and local control.

Put simply, no matter how clever the design, there can be no appointed body—even one with elected officials—that retains the Council’s current mission and powers. No *appointed* body should be able to exercise the kind of power wielded by the Met Council.⁸¹ No *appointed* body should be able to adopt and then implement a plan on the scale of *Thrive MSP 2040*. To date, the legislature and a long string of governors have failed to exercise the kind of oversight citizens should expect of a powerful, enigmatic governing body like the Met Council. For decades, citizens have demanded reform without satisfaction.

Instead of fixing the problem, the legislature has exacerbated the problem by adding to the Council’s power and, when frustrated, worked around the Council by adding, for example, other transit entities.⁸² This leaves Minnesota without a credible, widely accepted vision for the region.⁸³

If past is prologue, this dereliction of duty can be expected to continue, and yet the answer must come from the legislature. Perhaps the grand arrogance of *Thrive MSP 2040* will finally bring legislative and regional factions together to solve or at least improve the Met Council problem.

To act regionally or not to act regionally?

Before concluding that the Met Council merely needs to be tweaked by adding local elected officials, let’s briefly examine whether the state requires a regional regime. Much has changed since the 1960s, and much has been accomplished.

Set aside for the moment the desirability of regional services for sewage treatment and transit;⁸⁴ the initial goal was to require local units of government to have comprehensive plans to handle the development generated by the “baby boom” and our rapidly expanding Twin Cities region.

The goal of comprehensive planning by cities was largely accomplished by the 1980s—the mission was a success. But instead of sunseting the Council, the planners’ next question was, “Who is going to ensure that local units follow their plans and ensure that the infrastructure is compatible?” The desire for “efficiency” and a misplaced confidence in an appointed body over local officials, has exacerbated the Met Council problem.



Thrive’s plan to move low-income people to far-flung suburbs with little or no transit and a high cost of living is likely to harm, not benefit, them.



If Thrive pushes too much land in developing suburbs into high-density zoning, it will create an artificial shortage of single family-zoned land, creating higher prices for all new homes.

The addition of sewer and transit operations to the Council in the mid-1990s cemented the Council as one of the largest “state agencies” with a projected budget of \$927 million for 2015 and large amounts of state and federal dollars running through it. Yet the legislature exercises no authority over the Council’s budget and little authority over its policies.

We are so accustomed to the Met Council that we forget that 80 counties in the state manage their development and secure funding without a regional plan or body. You might argue that the region around the Twin Cities is unique and vital as the economic engine of the Upper Midwest, requiring more controls and long-term planning. Yet other major metropolitan areas across the United States have managed growth without a regional council that the current chair Susan Haigh and others tout as a model for the nation.⁸⁵

If you conclude that the region does not need a regional planning body and that our state government, counties, and municipalities are fully capable of planning for and coordinating local and regional needs, the solution is to eliminate the Met Council and delegate important regional services like sewage treatment and transit to separate entities. This solution, however, has failed to pass the legislature many times and is rejected almost universally as politically impossible. After five decades, there are many interests invested in keeping some kind of regional body.

If you conclude that the region still benefits from regional planning and certain regional services, or that as a political matter we are simply stuck with some version of the Met Council, then to get credible policies, you still have to design a governance structure to properly match what you want that body to do.⁸⁶ This conclusion, moreover, does not preclude separating planning, implementation, and operations of regional services. In fact, a strong argument can be made that there is an insurmountable conflict of interest, for example, between the Council operating Metro Transit and approving how federal transportation dollars are spent. *Thrive MSP 2040*, for example, aggressively shifts highway dollars to light rail in the core cities, and starves the suburbs and outlying areas of funds for roads and bus transit, and the funds are controlled by the Council.

The mistake we have made over and over with the Met Council is thinking that we can vest significant authority in a body that is not elected by, and therefore accountable to, the people who must live with its decisions. The mistake proponents of direct elections make is thinking that elections will overcome the problems posed by the broad mission and powers of the Council, which are often in direct conflict with local and county officials. Why do we need a regional body when we already have local, county, and state officials—and more ballot decisions than even involved, conscientious citizens can reasonably make? While attractive at first glance, direct elections pose just as many problems as the status quo.

Conclusion

Though it may not be politically feasible, as a matter of sound public policy, the Met Council should be eliminated and its various functions, if needed, delegated to local, state, and even private entities. Valuable regional services, such as transit and waste water treatment, could still be run on a regional basis but managed by state and local agencies (or a private company, if that model delivers the best value). The original planning mission was accomplished long ago. The region is developed and mature enough to handle the coordination of future growth without a regional regime imposed on the state, counties, and municipalities. If the state decides to develop master plans for the region, the legislature should narrow the mission of any agency strictly to planning so that cities can determine their own character, as long as they accept the financial price of their decisions (e.g., expensive transit or lower density).

The Met Council is making long-term and massive financial and legal commitments that exceed its statutory authority; these commitments will affect the rights of citizens and the economic health of the region for decades. Given the Council's lack of credibility and accountability, the power of the Met Council should be interrupted and checked to prevent further damage to the economic health of our state.

SPECIFIC RECOMMENDATIONS:

Recommendation 1: Rein in the Council.

Governor Dayton should immediately rein in Chair Susan Haigh and his appointed Met Council by issuing an executive order that directs the Council to limit its planning to areas of statutory authority and to cease its attempt to extend its authority to housing by leveraging its control of transit and sewers. The Council should be directed to cease all programs related to non-statutory areas (e.g., achievement gap, income inequality, global warming, and/or climate change).

Recommendation 2: Appoint elected officials to the Council.

As a temporary solution, the governor in January 2015 should appoint a new Council made up of elected officials selected by the seven counties and municipalities and appoint a new chair (or allow the new body to select a chair) who can advise the governor and legislature on how to move forward with transit in particular. Merely adding elected officials, however, will not remedy the Council's many defects.

Recommendation 3: Reject *Thrive MSP 2040*.

The governor and legislature in January 2015 should reject *Thrive MSP 2040* in its entirety and call for a moratorium on all light rail projects so the legislature can get a handle on



The Council's new Transportation Policy Plan (TPP) ignores our highway system's pressing needs and seeks to remake the metro area around fixed-rail transit and buses.



The Council's new Transportation Policy Plan declares that "expanding the roadway system is not a sustainable way to address congestion, climate change, equity, and livability".

the capital and operating costs and start anew without the burden of a plan enacted by unaccountable appointees.

Recommendation 4: Identify operating revenues before committing capital funds.

Per the Office of Legislative Auditor, the legislature and Council should not commit capital funds to transitway development projects without ensuring that operating revenues for the first five to ten years have been identified.

Recommendation 5: Give the legislature authority over the Council's budgets.

While the legislature debates the Met Council's governance problem, the Legislative Commission on Metropolitan Government (LCMC) should be given authority over the Council's operating budget and capital budgets to introduce real legislative oversight.⁸⁷

Recommendation 6: Provide measures to appropriately check the power of any redesigned regional body.

Any redesign that retains a regional body must match up the mission and powers with appropriate measures to hold that body in check and accountable. For example, if the body has levy and eminent domain powers, it must be directly elected and held to a narrow mission. If it merely plans for regional systems, it can be run, for example, by a mix of elected and appointed officials, but its budgets should be overseen by the legislature. To avoid conflicts of interest, it should not be empowered to plan for, implement, and operate any system.

Recommendation 7: Subject the Council to staggered terms and greater local control.

We recognize that any redesign that retains some kind of regional body could take many forms to balance the interests of cities and counties with the interests of the governor and the state.⁸⁸ Any redesign should include staggered terms to promote stability while favoring local control by the cities and counties.⁸⁹ This would greatly increase the Council's credibility.

Recommendation 8: Cities should avoid the Livable Communities Program.

Cities should reject the Livable Communities Program, withdraw from the program or avoid it altogether, and consider suing for injunctive relief against the Council's Housing Policy Plan under *Thrive MSP 2040*.

Recommendation 9: Repeal the Livable Communities Act.

The legislature should repeal the 1995 Livable Communities Act and transfer housing programs to the state HFA and local housing programs. Revolving loan funds for rein-

vestment could replace the Metropolitan Council's Livable Communities program.

Recommendation 10: End redundant tasks carried out by other government agencies.

The Metropolitan Council should cease performing tasks carried out by other government agencies. Housing programs and environmental review are duplicative and should be left to other entities.



The plan misallocates public resources by funding Council planners' priorities rather than the needs and preferences of the region's citizens.



Biking and walking—while worthy forms of exercise and sometimes commuting—are not practical year-round alternatives for most people in our frigid climate, which saw more than 50 below-zero days in 2013-14.

ENDNOTES

¹ Officials representing Anoka, Carver, Dakota, Scott, and Washington Counties met September 29, 2014, to endorse a resolution denouncing the Metropolitan Council’s *2040 Transportation Policy Plan Draft* (July 2014). Carver County sent a letter summarizing these objections, which includes an attachment of their full objections. Gayle Degler, Carver County Board Chair to Susan Haigh, Metropolitan Council Chair, “RE: Draft 2040 Transportation Policy Plan (TPP) Input,” September 16, 2014, available at http://www.co.carver.mn.us/docs/Draft_2040_Transportation_Policy_Plan_TPP_Input.pdf.

² Daniel J. Elazar, Virginia Gray, and Wyman Spano, *Minnesota Politics and Government* (1999): p. 197.

³ Metropolitan Land Planning Act of 1976, ch. 127, 1976 Minn. Laws.

⁴ The Council is not an agency but a political subdivision of the state.

⁵ The Transportation Advisory Board (TAB), which includes elected officials, and serves as an advisory committee to the Met Council, was created by the State Legislature in 1974 when federal law changed to require that any Metropolitan Planning Organization (MPO) serving as a conduit for federal funds include elected officials. For more information, see Metropolitan Council, *Transportation Planning and Programming Guide: For the Twin Cities Metropolitan Area* (November 2013): p. 7, at <http://www.metrocouncil.org/METC/files/eb/eb7620b7-8315-4535-9534-ff5e1820de6b.pdf>.

⁶ Transit-oriented development is “a moderate to higher density district/corridor located within easy walking distance of a major transit stop that typically contains a mix of uses such as housing, jobs, restaurants, shops, services and entertainment.” Metropolitan Council, *Metropolitan Council TOD [Transit-oriented Development] Strategic Action Plan* (June 2013): p. 5, available at <http://www.metrocouncil.org/METC/files/05/050f7635-d434-4deb-b1fa-24210b64a0e9.pdf>.

⁷ Metropolitan Council, *Thrive MSP 2040* (May 2014): p. 16, available at <http://www.metrocouncil.org/Planning/Projects/Thrive-2040/Thrive-MSP-2040-Plan.aspx>.

⁸ Metropolitan Council, *2040 Housing Policy Plan Draft Released for Public Comment* (July 2014): p. 42, available at <http://www.metrocouncil.org/METC/files/34/34310c88-766b-406d-815b-bfbd1371fcc5.pdf>.

⁹ See Metropolitan Council, *Economic Competitiveness and Prosperity: Proposed Policy Direction* (September 26, 2013), available at <http://www.metrocouncil.org/METC/files/41/41bd3f21-9707-4375-998f-8739f82b9cb6.pdf>; and Metropolitan Council, *Climate Change Mitigation, Adaptation and Resilience: Proposed Policy Direction* (August 2013), available at <http://www.metrocouncil.org/METC/files/90/90165275-15ab-4bcd-9702-f5fdb40719c3.pdf>.

¹⁰ For example, the Council plans to “begin a sustained conversation that embeds the objectives of equity into the region’s practices and investments extending across multiple jurisdictions and sectors.” Metropolitan Council, *2040 Housing Policy Plan Draft Released for Public Comment* (July 2014): p. 72. The Council intends to “convene housing policy stakeholders with leaders from school districts and the Minnesota Department of Education to improve the alignment between housing planning and education.” *Id.*, p. 42.

¹¹ For example, the draft *2040 Housing Policy Plan* says the Council plans to “conduct,

in coordination with the Equity in Place coalition, a series of public engagement sessions in specific communities where more prominent disparities exist in our region.” *Id.*, p. 73.

¹² Metropolitan Council, *Area Population Trend: 1950-2010 with Projection to 2040* (2014), available at [http://metrocouncil.org/Data-and-Maps/Data/Census,-Forecasts-Estimates/Thrive-MSP-2040-Forecasts-\(1\).aspx](http://metrocouncil.org/Data-and-Maps/Data/Census,-Forecasts-Estimates/Thrive-MSP-2040-Forecasts-(1).aspx).

¹³ See Wendell Cox, “From Jurisdictional to Functional Analysis of Urban Cores and Suburbs,” *NewGeography.com*, June 6, 2014, at <http://www.newgeography.com/content/004349-from-jurisdictional-functional-analysis-urban-cores-suburbs>. It is not valid for the Council to base its projections of housing demand until 2040 on short-term changes that occurred during the Great Recession of 2008 and the period of sluggish growth that followed it.

¹⁴ Presentation on Sept. 29, 2014, by Carver County engineer Lyndon Robjent at a joint meeting of commissioners from Anoka, Carver, Dakota, Scott, and Washington Counties to critique Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), available at <http://www.metrocouncil.org/Transportation/Planning/Transportation-Policy-Plan/2040-Transportation-Policy-Plan/2040-TPP-Public-Comment-Draft.aspx>.

¹⁵ Editorial, “Major Changes Ahead in Twin Cities Housing,” *Star Tribune*, June 26, 2014, available at <http://www.startribune.com/opinion/editorials/264822771.html>. For a critique of the work of Arthur Nelson of the University of Arizona, who performed the Metropolitan Council-commissioned study in question, see Wendell Cox, “A Housing Preference Sea Change? Not in California,” *New Geography* (blog), November 13, 2012, at <http://www.newgeography.com/content/003224-a-housing-preference-sea-change-not-california>. See also Randal O’Toole, “Housing Report Not Credible: The Met Council’s Thrive Blueprint Calling for More Density by the Year 2040 Was Built on a Shaky Foundation,” *Star Tribune*, July 4, 2014 available at <http://www.americanexperiment.org/publications/commentaries/housing-report-not-credible>.

¹⁶ Joel Kotkin, “The People Planning Your City Don’t Care What You Want,” *Washington Post*, August 18, 2014, available at <http://www.joelkotkin.com/content/00945-people-designing-your-cities-dont-care-what-you-want>.

¹⁷ Patrick Simmons, “Are Aging Baby Boomers Abandoning the Single-Family Nest?” *Fannie Mae Housing Insights*, Vol. 4, No. 3 (June 2014), available at <http://www.fanniemae.com/resources/file/research/datanotes/pdf/housing-insights-061214.pdf>.

¹⁸ Teresa A. Keenan, *Home and Community Preferences of the 45+ Population* (AARP, November 2010): p. 2, available at <http://assets.aarp.org/rgcenter/general/home-community-services-10.pdf>.

¹⁹ These conclusions are drawn from an analysis of population at the zip code tabulation area (ZCTA) among people 35 to 54 years of age in 2000 and the same cohort in 2010 (then 45 to 64 years of age). Wendell Cox, “Millennials: Moving Further Out and Away,” *NewGeography.com*, August 14, 2014, at <http://www.newgeography.com/content/004474-boomers-moving-further-out-and-away>. See Morley Winograd and Michael D. Hais, “Millennial Dreams of Home-Ownership Delayed, Not Abandoned,” *NewGeography.com*, June 18, 2012, at <http://www.newgeography.com/content/002919-millennials%E2%80%99-home-ownership-dreams-delayed-not-abandoned>, explaining:





Eighty-four percent of 18-34 year olds who are currently renting say that they intend to buy a home even if they can't currently afford to do so. ...

Glenn E. Crenlin from the Runstad Center for Real Estate Studies at the University of Washington believes that “what we’re looking at in terms of the Millennial Generation is likely only a delay in homeownership of three to five years, not a long-term trend away from homeownership itself.” He cites census data from the American Community Survey that shows a significant increase in homeownership among Millennials as compared to Baby Boomers when they were at the same age that Millennials are now. “While 900,000 households in the Millennial Generation [now] own their own home, only 500,000 Baby Boomer households owned their own homes at the same point in their lives.”

See also Morley Winograd and Michael D. Hais, “The Millennial Metropolis,” *NewGeography.com*, April 19, 2010, at <http://www.newgeography.com/content/001511-the-millennial-metropolis>, stating:

According to the most recent generational survey research, done for Washington-based think tank, NDN, by Frank N. Magid Associates, 43 percent of Millennials describe suburbs as their ‘ideal place to live,’ compared to just 31 percent of older generations. In the same survey, a majority of older generations (56%) expressed a preference for either small town or rural living....

A majority (54%) of Millennials live in suburban America and most of those who do express a preference for raising their own families in similar settings. Even though big cities are often thought of as the place where young people prefer to live and work, only 17 percent of Millennials say they want to live in one, less than a third of those expressing a preference for suburban living.

²⁰ Figures calculated from Metropolitan Council, *Thrive MSP 2040 Forecasts* (May 2014), available at [http://metrocouncil.org/Data-and-Maps/Data/Census,-Forecasts-Estimates/Thrive-MSP-2040-Forecasts-\(1\).aspx](http://metrocouncil.org/Data-and-Maps/Data/Census,-Forecasts-Estimates/Thrive-MSP-2040-Forecasts-(1).aspx). The Minneapolis-St. Paul metropolitan area is larger than the seven-county metropolitan area, though the urban core for both areas is identical.

²¹ Metropolitan Council, *2040 Housing Policy Plan Draft* (July 2014), available at <http://www.metrocouncil.org/METC/files/34/34310c88-766b-406d-815b-bbfd1371fcc5.pdf>.

²² Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), available at <http://www.metrocouncil.org/Transportation/Planning/Transportation-Policy-Plan/2040-Transportation-Policy-Plan/2040-TTP-Public-Comment-Draft.aspx>.

²³ Susan Haigh, Maykow Hang, and Chris Ferguson, “Economic Equity Is Indeed a Group Effort,” *Star Tribune*, December 1, 2014, available at <http://www.startribune.com/opinion/commentaries/233878301.html>.

²⁴ The following are examples of the Council’s plan to expand its power over housing: “This *Housing Policy Plan* provides an integrated policy framework that unifies the Council’s existing roles in housing and *opportunities for an expanded Council role* supporting housing across the region (emphasis added),” in Metropolitan Council, *2040 Housing Policy Plan Draft* (July 2014): p. 48. “Supporting local governments in their efforts to diversify their housing stock is a new opportunity for the Council,” in Metropolitan Council,

2040 Housing Policy Plan Draft (July 2014): p. 46. “Changes to the established Council roles in housing—including the Allocation of Affordable Housing Need, the Goals for Affordable and Life-cycle Housing, the Housing Performance Scores, and expanded roles in technical assistance—are examples of the Council’s next steps to refine and implement this plan,” in Metropolitan Council, *2040 Housing Policy Plan Draft* (July 2014): p. 73.

²⁵ See Metropolitan Council, *2040 Housing Policy Plan Draft* (July 2014): p. 48, for the Council’s explanation of the “housing triumvirate: allocation, goals and housing performance scores.”

²⁶ Libby Starling, “PowerPoint Presentation to Metropolitan Council Members,” September 2014, p. 6.

²⁷ Metropolitan Council, *2040 Housing Policy Plan Draft* (July 2014), p. 76.

²⁸ *Id.*, p. 33.

²⁹ A “Housing Performance Score” has been used for some time, but the Council plans to revise it—along with its methods of determining affordable housing “need” and “goals.” See, e.g., *id.*, pp. 42, 53, 76-7, and 86.

³⁰ See, e.g., David Theisen “PowerPoint Presentation to the Metropolitan Council Committee of the Whole” (August 2014). The exception is that cities must comply if they want to participate in the Livable Communities program.

³¹ See, e.g., Metropolitan Council, *2040 Housing Policy Plan Draft* (July 2014), p. 29 (“Local role: Prepare a local comprehensive plan that addresses the housing planning requirements of the [MLPA], including guiding sufficient land to support a community’s share of the regional affordable housing need, and housing element and implementation plan sections that identify the programs, fiscal devices and official controls to be employed to address a community’s share of the regional need for affordable housing.”).

³² Metropolitan Council, *2040 Housing Policy Plan Draft*, pp. 54-56.

³³ The Council’s system “statements describe how the [Council’s] updated forecasts, system and policy plans apply to each individual community” and inform “the process of updating” communities’ comprehensive plans. News Release, Metropolitan Council, “Council Outlines Next Steps in Planning Process for Communities,” September 8, 2014, available at <http://metro council.org/News-Events/Planning/Newsletters/Council-outlines-next-steps-in-planning-process-fo.aspx>. See also Metropolitan Council, *Comprehensive Plan Review through 2018* (undated), available at <http://www.metro council.org/Communities/Publications-And-Resources/Comp-Plan-Amendment-Review-Through-2018.aspx>.

³⁴ Under Minn. Stat. § 473.857, a city that disagrees with the Met Council about the content of its system statement has 60 days to “request that a hearing be conducted by the [Council’s] advisory committee or by the state Office of Administrative Hearings for the purpose of considering amendments to the system statement. If no request for a hearing is received by the council within 60 days, the statement shall be final.”

³⁵ Housing and Urban Development Department, Proposed Rule, “Affirmatively Furthering Fair Housing,” *Federal Register* 78, no. 5173-P-01 (July 19, 2013): pp. 43709-43743, available at, <https://www.federalregister.gov/articles/2013/07/19/2013-16751/affirmatively-furthering-fair-housing>.

³⁶ Libby Starling, “PowerPoint presentation to the Metropolitan Council with re-





marks by Erika Finkler, Acting Director, Fair Housing and Equal Opportunity Division, U.S. Department of Housing and Urban Development, Minneapolis” (September 2014).

³⁷ See Paul Sperry, “HUD Proposal Slammed as Fair Housing Overreach,” *Investor’s Business Daily*, December 30, 2013, available at <http://news.investors.com/123013-684627-hud-proposal-called-fair-housing-overreach.htm>. Terry Eastland reports on an attorney’s summary of the proposed rule:

In an interview, Paul Compton, chair of the Affordable Housing and Community Development group at the law firm Bradley Arant Boult Cummings, summarized the change in policy this way: “It’s a real shift in emphasis from ensuring that the private sector and participants in federal programs don’t unlawfully discriminate to defining the existence of racially and ethnically ‘segregated’ neighborhoods to be in themselves a violation of fair housing.” Likewise, “if a neighborhood is not integrated in some vaguely defined ratio, then that in itself is a fair housing issue.”

Terry Eastland, “HUD’s Power Grab,” *Weekly Standard*, October 14, 2013, available at http://www.weeklystandard.com/articles/hud-s-power-grab_759151.html?page=3.

³⁸ Regarding land use and zoning, the rule affects “enacting or implementing land use rules, ordinances, policies or procedures that restrict or deny housing opportunities or otherwise make housing unavailable or deny dwellings because of [protected classes].” This includes zoning ordinances that limit multi-family housing. Michael Allen, *Disparate Impact Liability under the Fair Housing Act* [PowerPoint slides], Fair Housing Council of Oregon, January 29, 2014), available at <http://www.fhco.org/pdfs/AFFHallen2.pdf> (quoting proposed HUD Regulation).

³⁹ Robert Astorino, “Washington’s ‘Fair Housing Assault’ on Local Zoning,” *Wall Street Journal*, September 5, 2013, available at <http://online.wsj.com/news/articles/SB10001424127887323623304579056721426092030>.

⁴⁰ The proposed Affirmatively Furthering Fair Housing rule’s “use of race likely violates the Fourteenth Amendment,” according to a letter to HUD Secretary Shaun Donovan signed by three commissioners of the United States Commission on Civil Rights on Sept. 17, 2013. Abigail Thernstrom, Todd Gaziano and Peter Kirsanow, letter to Shaun Donovan, “Re: Docket No. FR-5173-P-01,” September 17, 2013, available at <http://www.newamericancivilrightsproject.org/wp-content/uploads/2014/04/HUD-Comment-Affirmatively-Furthering-Fair-Housing.pdf>. The commissioners compared the rule’s use of race to the race-based school assignment plans at issue in *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701 (2007), where the Supreme Court ruled that racially-based school assignments violate the Constitution. According to the commissioners, “The proposed rule’s justifications for discriminating on the basis of race are reminiscent of the school districts’ justifications: ‘reduc[ing] racial and ethnic origin concentrations,’ ‘promot[ing] integration,’ ‘reducing [the] concentration of tenants...by race,’ and ‘reducing disparities in access to key community assets based on race.’ These ends are no more compelling than those offered by the school districts. Like the school districts, HUD is not attempting to desegregate housing areas that were legally segregated until very recently. HUD is not concerned about legal segregation, but about racial imbalance in residential areas. As Justice Thomas wrote, ‘Racial imbalance is not segrega-

tion.... [It] can result from any number of innocent private decisions, including voluntary housing choices [citation omitted].”

On November 3, 2014, Judge Richard Leon of the U.S. District Court for the District of Columbia threw out a 2013 HUD regulation imposing “disparate impact” racial policy on housing. The judge ruled that the 1968 Fair Housing Act allows only for direct discrimination claims, and not those based on “disparate impact.” Leon wrote that the Obama administration’s view that the act presumes disparate impact claims are allowed “appears to be nothing more than wishful thinking on steroids.” Lawrence Hurley, “Court Rejects Obama Housing Bias Rule as ‘Wishful Thinking,’” *Reuters*, November 3, 2014, available at <http://www.reuters.com/article/2014/11/03/us-usa-court-discrimination-idUSKBN0IN24C20141103>. In October 2014, the U.S. Supreme Court indicated that it would take up a related case. By the end of June 2015, the Court will likely determine whether the Fair Housing Act permits disparate impact lawsuits. See also Editorial, “Disparate Impact Rejected,” *Wall Street Journal*, November 3, 2014, available at <http://online.wsj.com/articles/disperate-impact-rejected-1415059893>.

⁴¹ Libby Starling, “PowerPoint presentation to the Metropolitan Council with remarks by Erika Finkler, Acting Director, Fair Housing and Equal Opportunity Division, U.S. Department of Housing and Urban Development, Minneapolis” (September 2014), pp. 5, 26.

⁴² Howard Husock, “‘Mixed Income’ Housing Won’t Spur Upward Mobility,” *Wall Street Journal*, July 2, 2014, available at <http://www.manhattan-institute.org/html/miarticle.htm?id=10493#.VCyjf-Z0xzk>.

⁴³ See Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), p. 10: “All places—urban center, urban and suburban development—need a base of residential density need to support transit. The Council’s growth forecasts will require that communities plan for minimum density targets so transit is successful.”

⁴⁴ Metropolitan Council, *2040 Housing Policy Plan Draft* (July 2014), p. 26; and Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), pp. 23-27.

⁴⁵ See Metropolitan Council, *Thrive MSP 2040* (July 2014), p. 116.

⁴⁶ See *id.*, pp. 92-110.

⁴⁷ See Demographia, *Demographia: United States Central Business Districts, 3rd Edition* (March 2014), available at <http://www.demographia.com/db-cbd2000.pdf>.

⁴⁸ Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), p. 9.

⁴⁹ Adie Tomer, Elizabeth Kneebone, Robert Puentes, and Alan Berube, *Missed Opportunity: Transit and Jobs in Metropolitan America* (Brookings Institution, May 2011), available at http://www.brookings.edu/~media/research/files/reports/2011/5/12%20jobs%20and%20transit/0512_jobs_transit.pdf.

⁵⁰ Editorial, “Green Line Needs Green Lights in St. Paul,” *Star Tribune*, August 20, 2014, available at <http://www.startribune.com/opinion/editorials/272072551.html>.

⁵¹ This statement was made by Met Council spokeswoman Libby Starling in a presentation on August 6, 2014, at a forum sponsored by the Sensible Land Coalition. We cannot find a statement to this effect in the Transportation Policy Plan and have asked for clarification from the Met Council. The Council responded by referring us back to Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014).





⁵² Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), p. 1.

⁵³ *Id.*, p. 5.

⁵⁴ *Id.*, p. 2.

⁵⁵ These trips include cars, school buses, transit buses, bikes and pedestrians. (Sidewalks are included in road budgets).

⁵⁶ Wendell Cox, “The Transit-Density Disconnect,” *NewGeography.com*, June 21, 2013, at <http://www.newgeography.com/content/003781-the-transit-density-disconnect>.

⁵⁷ Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), p. 7.

⁵⁸ See *id.*, pp. 2, 7, 13. The plan advises “manag[ing] the demand for driving” by “exploring parking policies such as parking pricing, on-street parking management, shared parking facilities, and parking maximums in zoning codes,” according to Metropolitan Council, *2040 Transportation Policy Plan Draft* (July 2014), p. 7.

⁵⁹ See Alain Bertaud, “Cities as Labor Markets” New York University Marron Institute of Urban Management Working Paper #2 (February 2014), available at <http://marroninstitute.nyu.edu/content/working-papers/cities-as-labor-markets>. See also Wendell Cox, “Urban Planning 101,” *NewGeography.com*, March 6, 2014, at <http://www.newgeography.com/content/004203-urban-planning-101>. For an analysis of how businesses along a transit route can suffer, see Frederick Melo, “For Light Rail-Related Street Work, University Avenue Businesses Billed,” *Pioneer Press*, September 25, 2014, available at http://www.twincities.com/localnews/ci_26605290/university-ave-businesses-billed-rail-related-street-work.

⁶⁰ Alain Bertaud, *The Spatial Organization of Cities: Deliberate Outcome or Unforeseen Consequence?* (Institute for Urban and Regional Development, University of California at Berkeley, 2004), available at http://alain-bertaud.com/images/AB_The_spatial_organization_of_cities_Version_3.pdf.

⁶¹ “Metropolitan Suburban Counties’ 2040 Transportation Policy Plan Review” and related resolution, Counties of Anoka, Carver, Dakota, Scott and Washington, September 29, 2014.

⁶² The commissioners charged that the Metropolitan Council’s *2040 Transportation Policy Plan Draft* (July 2014), is “skewed to transit and non-motorized policy,” while “statements related to improving the highway system are virtually non-existent.”

⁶³ “Metropolitan Suburban Counties’ 2040 Transportation Policy Plan Review” and related resolution, Counties of Anoka, Carver, Dakota, Scott and Washington, September 29, 2014, p. 5.

⁶⁴ *Id.*, p. 4.

⁶⁵ Metropolitan Council, *2040 Regional Parks Policy Plan Draft Plan* (July 2014), available at <http://www.metrocouncil.org/METC/files/3c/3cae8e61-aac1-43ac-a481-244614d150b6.pdf>.

⁶⁶ For example, the plan inserts the Met Council into the process of prioritizing park projects and establishes a new competitive grant program to promote “equitable” use of the park system. See Cali Owings, “Met Council Parks Plan Under Scrutiny,” *Finance and Commerce*, October 22, 2014, available at <http://finance-commerce.com/2014/10/met-council-parks-plan-under-scrutiny/>.

⁶⁷ Susan Feyder, “Met Council’s Parks Plan Gets a Cool Reception in the Sub-

urbs,” *Star Tribune*, October 19, 2014, available at <http://www.startribune.com/local/west/279681052.html>. See also Metropolitan Council, “Council Engages People of Color to Discuss Regional Parks Usage,” March 25, 2014, <http://www.metrocouncil.org/News-Events/Parks/Newsletters/Council-engages-people-of-color-to-discuss-regiona.aspx>.

⁶⁸ Susan Feyder, “Met Council’s Parks Plan Gets a Cool Reception in the Suburbs,” *Star Tribune*, October 19, 2014.

⁶⁹ John Gessner, “Burnsville Blasts Met Council Transportation, Housing Plans,” *Sun This Week*, September 10, 2014, available at <http://sunthisweek.com/2014/09/10/burnsville-blasts-met-council-transportation-housing-plans/>.

⁷⁰ Laura Adelman, “Met Council Transportation Plan Criticized,” *Sun This Week*, September 18, 2014, available at <http://sunthisweek.com/2014/09/18/met-councils-transportation-plan-criticized/>.

⁷¹ Mark VanderSchaaf, “PowerPoint presentation to Metropolitan Council’s Community Development Committee” (November 2014), available at http://metrocouncil.granicus.com/MediaPlayer.php?view_id=2&clip_id=2050. For example, the Council intends to “assist” local governments to incorporate its “economic analysis” into their updated comprehensive plans and their “local economic development strategies.”

⁷² Mark VanderSchaaf and Janna King, “Economic Competitiveness Work Program,” Metropolitan Council Community Development Committee Information Item, August 4, 2014, available at <http://www.metrocouncil.org/METC/files/01/010fb7ac-d3f6-48db-af42-78787a8ba931.pdf>. See also “Economic competitiveness is new emphasis for Metropolitan Council,” Civic Caucus Focus on Competitiveness Interview with Mark VanderSchaaf, September 13, 2013, available at http://civiccaucus.org/Interviews/2013/VanderSchaaf-Mark_09-13-13.htm.

⁷³ Mark VanderSchaaf, “Presentation to Metropolitan Council’s Community Development Committee” (November 2014).

⁷⁴ *Id.*

⁷⁵ Metropolitan Council, *Economic Competitiveness and Prosperity: Proposed Policy Direction* (October 2013), available at <http://www.metrocouncil.org/METC/files/41/41bd3f21-9707-4375-998f-8739f82b9cb6.pdf>. For example, the Council’s “shared economic competitiveness strategy” will “outline the roles and responsibilities of each partner [cities, counties, GREATER MSP, etc.]”, along with “a process for identifying select development or redevelopment opportunities whose location, scale and complexity justify a regional focus.”

⁷⁶ *Id.*

⁷⁷ Center of the American Experiment, *Minnesota Policy Blueprint Task Force on Metropolitan Governance* (2003), available at <http://www.americanexperiment.org/publications/reports-books/task-force-on-metropolitan-governance>.

⁷⁸ Minnesota Office of the Legislative Auditor, *Evaluation Report: Governance of Transit in the Twin Cities Region*, (January 2011), available at <http://www.auditor.leg.state.mn.us/ped/pedrep/transit.pdf>.

⁷⁹ *Id.* See letter dated January 2011 at front of the report and pp. 41-49.

⁸⁰ This observation is based on many interviews with elected officials and the Metro Cities, Metro County and other reports (listed in the Addendum hereto) written in





response to the Office of the Legislative Auditor, *Evaluation Report: Governance of Transit in the Twin Cities Region* (January 2011).

⁸¹ Although appealing at first glance, it is not at all clear that a directly elected Council would solve the problem—and many believe it would create new ones. It may be that our system of direct elections is simply not suited for a regionally based government with broad powers when we already have local, school board, county and state officials.

⁸² More than 25 organizations are involved in transit, according to Office of the Legislative Auditor, *Evaluation Report: Governance of Transit in the Twin Cities Region* (January 2011), see letter dated January 2011 at front of the report and Table 1.3 (key organizations) and Table 1.5 (transit governance responsibilities).

⁸³ Office of the Legislative Auditor, *Evaluation Report: Governance of Transit in the Twin Cities Region* (January 2011), major findings and pp. 37-38.

⁸⁴ Most observers agree that a regional approach to waste water treatment makes sense, though transit is more complex. The suburban bus lines are outstanding services that few customers would want to trade for transit run by the current Metropolitan Council.

⁸⁵ Susan Haigh, “The Metropolitan Council,” *William Mitchell Law Review*, Vol. 40, No. 1 (2013): p. 161. Available at <http://web.wmitchell.edu/law-review/wp-content/uploads/Volume40/documents/5.Haigh.pdf>.

⁸⁶ Wendell Cox, “Regionalism: Spreading the Fiscal Irresponsibility,” *NewGeography.com*, August 24, 2012, at <http://www.newgeography.com/content/003044-regionalism-spreading-fiscal-irresponsibility>. For a survey of different approaches and discussion about the Twin Cities, see Gerald E. Frug, “Beyond Regional Government,” *Harvard Law Review*, Vol. 115, No. 1763 (2002), available at <http://www.wjh.harvard.edu/urban/docs/FrugBeyondRegGovt.pdf>.

⁸⁷ The Legislative Commission on Metropolitan Government was established to oversee the Metropolitan Council’s operating and capital budgets, work program, and capital improvement program. The commission must monitor, review, and make recommendations to the Metropolitan Council and to the legislature for the following calendar year on: the tax rate and dollar amount of the Metropolitan Council’s property tax levies and any proposed increases in the rate or dollar amount of tax; any request for an increase in the debt of the Metropolitan Council; the overall work and role of the Metropolitan Council; the Metropolitan Council’s proposed operating and capital budgets, work program, and capital improvement program; and the Metropolitan Council’s implementation of the operating and capital budgets, work program, and capital improvement program. Minn. Stat. § 3.8841.

⁸⁸ For example, counties could send seven county commissioners, cities could send seven elected officials, and the governor could appoint elected officials from the current districts or new districts (rural, suburban, urban) and perhaps the Council could even elect its own chair, rather than the governor appointing the chair.

⁸⁹ Furthermore, the Metropolitan Planning Organization (MPO) conduit problem must be resolved so that federal transportation funding can properly flow through a new regional body and/or new or existing state agencies (e.g., the Minnesota Department of Transportation—MnDOT).



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