



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

AMY KLOBUCHAR COUNTY ATTORNEY

January 16, 2004

The Honorable Vernon Williams
Secretary, Surface Transportation Board
1925 K Street NW
Washington D.C. 20423-0001

209914

RECEIVED
JAN 21 2004
MAIL
MANAGEMENT
STB

ENTERED
Office of Proceedings

JAN 21 2004

**Re: Hennepin County Regional Railroad Authority – Notice of Exempt
Abandonment of Rail Line located in McLeod, Carver, and Hennepin Counties,
Minnesota
S.T.B. Docket No. AB 864X**

Part of
Public Record

Dear Secretary Williams,

Please find enclosed for filing the original and 10 copies of the Hennepin County Regional Railroad Authority's Notice of Class Exemption from the Requirement of 49 U.S.C. Sections 10903 for the above referenced rail line abandonment. We have enclosed a check in the amount of \$2,800 pursuant to 49 C.F.R. Part 1002.2 as the filing fee, along with an IBM compatible floppy disc. I have enclosed a duplicate copy of this letter and a self-addressed stamped envelope to be stamped with the filing date and returned to the undersigned.

If you have any questions regarding the above-referenced matter, please feel free to contact me.

Sincerely,

FILED

JAN 21 2004

**SURFACE
TRANSPORTATION BOARD**

MARILYN J. MALONEY
Assistant Hennepin County Attorney
Telephone: (612) 348-7754
FAX: (612) 348-8299

MJM:kd
Enclosures
C: Marcia Wilda

FEE RECEIVED

JAN 21 2004

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

JAN 21 2004

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

209914

RECEIVED
JAN 21 2004
RAIL
MANAGEMENT
SIS

HENNEPIN COUNTY REGIONAL RAILROAD)
AUTHORITY (HCRRA) – ABANDONMENT)
EXEMPTION, LOCATED IN MCLEOD, CARVER,)
AND HENNEPIN COUNTIES, MINNESOTA)

DOCKET No. AB-864X

NOTICE OF EXEMPT ABANDONMENT OF A LINE OF RAILROAD LOCATED BETWEEN MILE POST
24.6 +/- NEAR WAYZATA AND MILE POST 68.5 +/- IN HUTCHINSON, MCLEOD, CARVER AND
HENNEPIN COUNTIES, MINNESOTA, WHICH TRAVERSES THROUGH UNITED STATES POSTAL
ZIP CODES 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381,
55384, 55387, AND 55391

NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. SECTION 10502 AND 49 C.F.R. PART 1152.50

CLASS EXEMPTION FROM THE REQUIREMENTS
OF 49 U.S.C. SECTION 10903

HENNEPIN COUNTY REGIONAL RAILROAD
AUTHORITY (HCRRA)

FILED

JAN 21 2004

SURFACE
TRANSPORTATION BOARD

MARILYN J. MALONEY (9996x)
Assistant Hennepin County Attorney
Attorney for HCRRA
2000A Government Center
Minneapolis, MN 55487
Telephone: (612) 348-7754
Fax No: (612) 348-8299

DATE OF FILING: JANUARY 16, 2004

FEE RECEIVED

JAN 21 2004

SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.**

HENNEPIN COUNTY REGIONAL RAILROAD)
AUTHORITY (HCRRRA) – ABANDONMENT)
EXEMPTION, LOCATED IN MCLEOD, CARVER,)
AND HENNEPIN COUNTIES, MINNESOTA)

DOCKET No. AB-864X

RECEIVED
JAN 21 2004
MAIL
MANAGEMENT
STB

NOTICE OF EXEMPT ABANDONMENT OF A LINE OF RAILROAD LOCATED BETWEEN MILE POST 24.6 +/- NEAR WAYZATA AND MILE POST 68.5 +/- IN HUTCHINSON, MCLEOD, CARVER AND HENNEPIN COUNTIES, MINNESOTA, WHICH TRAVERSES THROUGH UNITED STATES POSTAL ZIP CODES 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, AND 55391

NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. SECTION 10502 AND 49 C.F.R. PART 1152.50

CLASS EXEMPTION FROM THE REQUIREMENTS
OF 49 U.S.C. SECTION 10903

Hennepin County Regional Railroad Authority (HCRRRA) files this Notice of Exemption pursuant to 49 U.S.C. § 10502 and the Commission's regulations at 49 C.F.R. Part 1152.50. This Notice of Exemption is for HCRRRA's abandonment of a 43.9 +/- mile line railroad between Mile Post 24.6 +/- Near Wayzata and Mile Post 68.5 +/- in Hutchinson, McLeod, Carver and Hennepin Counties, Minnesota, which traverses through United States Postal Zip Codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391.

No local traffic has moved over the line for at least two years. The line has no overhead traffic. A map showing the line to be abandoned is attached at Exhibit No. 1.

In accordance with the requirements of 49 C.F.R. Part 1152.50, HCRRA submits the following:

1. WRITTEN NOTIFICATION OF FILING FOR ABANDONMENT EXEMPTION – 49 C.F.R. PART 1152.50(d)(1).

Said notification was served on the appropriate parties on December 29, 2003, at least ten (10) days prior to the filing date of this exemption. See Exhibit No. 2.

2. PROPOSED CONSUMMATION DATE – 49 C.F.R. PART 1152.50(d)(2).

HCRRA intends to consummate the proposed abandonment of its line of railroad on or after March 15, 2004.

3. CARRIER CERTIFICATION RE LOCAL AND OVERHEAD TRAFFIC AND STATUS OF NO COMPLAINTS – BY 49 C.F.R. PART 1152.50(b) and (d)(2).

The required Certification is annexed hereto as Exhibit No. 3.

4. INFORMATION REQUIRED BY 49 C.F.R. PARTS 1152.22(a)(1)-(4), (7) and (8) AND (e)(4) (INCORPORATED BY REFERENCE IN 49 C.F.R. PART 1152.50(d)(2)):

(a) PART 1152.22(a)(1) EXACT NAME OF APPLICANT.

Hennepin County Regional Railroad Authority.

(b) PART 1152.22(a)(2) WHETHER THE APPLICANT IS A COMMON CARRIER BY RAILROAD SUBJECT TO THE INTERSTATE COMMERCE ACT.

HCRRA is not a common carrier by railroad subject to the Interstate Commerce Act and the Interstate Commerce Commission Termination Act of 1995 (Title 49 U.S.C.).

(c) PART 1152.22(a)(3) RELIEF SOUGHT (ABANDONMENT OF LINE OR DISCONTINUANCE OF SERVICE).

HCRRA seeks authority to abandon a 43.9 +/- mile rail line between Wayzata and Hutchinson, Minnesota.

(d) PART 1152.22(a)(4) DETAILED MAP.

See Exhibit No. 1.

- (e) PART 1152.22(a)(7) NAME, TITLE AND ADDRESS OF REPRESENTATIVE OF APPLICANT TO WHOM CORRESPONDENCE SHOULD BE SENT.

MARILYN J. MALONEY
Assistant County Attorney
Attorney for Hennepin County Regional Railroad Authority
2000A Government Center
Minneapolis, MN 55487
Telephone: (612) 348-7754
Fax: (612) 348-8299

- (f) PART 1152.22(a)(8) LIST OF ALL UNITED STATES POSTAL ZIP CODES THAT THE LINE PROPOSED FOR ABANDONMENT TRAVERSES:

United States Postal Zip codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391.

- (g) PART 1152.22(e)(4) STATEMENT OF WHETHER THE PROPERTIES PROPOSED TO BE ABANDONED ARE SUITABLE FOR USE FOR OTHER PUBLIC PURPOSES, INCLUDING ROADS OR HIGHWAYS, OTHER FORMS OF MASS TRANSPORTATION, CONSERVATION, ENERGY PRODUCTION OR TRANSMISSION, OR RECREATION. IF THE APPLICANT IS AWARE OF ANY RESTRICTION ON TITLE TO THE PROPERTY, INCLUDING ANY REVERSIONARY INTEREST, WHICH WOULD AFFECT THE TRANSFER OF TITLE OR THE USE OF THE PROPERTY FOR OTHER THAN RAIL PURPOSES, THIS SHALL BE DISCLOSED.

The property proposed to be abandoned is suitable for use as transportation infrastructure, including future rail transit, and other compatible future transportation uses. The line traverses through McLeod, Carver and Hennepin Counties of the State of Minnesota.

The right to conduct freight rail operations on the line is pursuant to a freight rail operations easement in favor of HCRRA. The underlying property in McLeod County is owned by McLeod County Regional Railroad Authority, a political subdivision of the State of Minnesota. The underlying property in Carver County is owned by Carver County Regional Railroad Authority, a political subdivision of the State of Minnesota. The underlying property in Hennepin County is owned by HCRRA. HCRRA and the Carver and McLeod County Regional Railroad Authorities are political subdivisions of the State of Minnesota charged with acquiring railroad rights of way "for the preservation and

improvement of local rail service for agriculture, industry, or passenger traffic and provide for the preservation of abandoned rail right-of-way for future transportation uses" pursuant to Minn. Stat. Sec. 398A.02. The entire line and underlying property over which the line runs is subject to a mortgage held by the State of Minnesota Department of Transportation for the purposes of preserving the line for future rail use.

HCRRA requests that the Board determine that the line is suitable for other public purposes. Based upon that certain Cooperation Agreement between HCRRA, and the Carver and McLeod County Regional Railroad Authorities dated December 27, 2001, HCRRA will upon the effective date of abandonment of the line:

- 1) release the freight rail operations easement in its favor for that portion of the line located in Carver County to the Carver County Regional Railroad Authority (the owner of the underlying property of the line in Carver County) for the purposes of preserving the line for future rail transportation use and other compatible transportation uses;
- 2) release the freight rail operations easement in its favor located in McLeod County to McLeod County Regional Railroad Authority (the owner of the underlying property of the line in McLeod County) for the purposes of preserving the line for future rail transportation use and other compatible transportation uses, and
- 3) retain that portion of the line located in Hennepin County by Hennepin County Regional Railroad Authority (the owner of the underlying property of the line Hennepin County) for the purposes of preserving the line for future rail transportation use and other compatible transportation uses.

HCRRA requests that the Board determine that such release, retention and use is a public use conveyance within the meaning of 49 C.F.R. Part 1152.28 and that, accordingly, it is not necessary to impose a public use condition to abandonment of the line.

A portion of the line in Carver County consists of federally granted right of way. Based upon that certain Cooperation Agreement between HCRRA, and the Carver and McLeod County Regional Railroad Authorities dated December 27, 2001, HCRRA will upon the effective date of abandonment of the line release the freight operations easement in its favor located over that portion of the line in Carver County which is federally granted right of way to the Carver County Regional Railroad Authority for purposes of preserving the line for future rail transportation uses and other compatible transportation uses.

HCRRA requests that the Board determine that such release to Carver County Regional Railroad Authority is consistent with interim trail use and rail banking within the meaning of 49 C.F.R. Part 1152.29; that upon proper application by the Carver County Regional Railroad Authority, the involved properties will be subject to the provisions of 49 C.F.R. Part 1152.29 for interim trail use and rail banking, and that accordingly, except for that property located in Carver County that consists of federally granted right of way, it is not necessary to issue a Certificate of Interim Trail Use or Abandonment (CITU) or Notice (NITU).

5. PART 1152.50(d)(2) THE LEVEL OF LABOR PROTECTION.

HCRRA understands that in granting an exemption for the proposed abandonment, the Board does not relieve a carrier of its statutory obligation to protect the interests of employees. HCRRA is not a common carrier and has no railroad employees engaged in railroad operations. It is a unit of government of the State of Minnesota charged with acquiring railroad rights of way "for the preservation and improvement of local rail service for agriculture, industry, or passenger traffic and provide for the preservation of abandoned rail right-of-way for future transportation uses" pursuant to Minn. Stat. Sec. 398A.02. Rail operations on HCRRA lines are conducted by third parties. No third party rail operator was willing to take on rail operations over the rail line. Accordingly, while HCRRA anticipates that no adverse effect to its employees will occur as the result of this abandonment because none are engaged in railroad operations, it understands that the Board will likely impose the conditions set forth in Oregon Short Line Railroad Company – Abandonment – Goshen – 360 I.C.C. 91 (1979), for the benefit of any carrier employee who may be adversely affected by the proposed abandonment.

6. PART 1105.7(c) CERTIFICATE OF SERVICE OF ENVIRONMENTAL REPORT AND HISTORIC REPORT.

An Environmental Report and Historic Report has been prepared in accordance with 49 C.F.R. Parts 1105.7 and 1105.8 and was served on the Board and all relevant parties on December 23, 2003, pursuant to 49 C.F.R. Part 1105.7(b) and on January 6, 2004, Additional Environmental Comments and Response for comments received after December 23, 2003 was served on the Board and all relevant parties.

Applicant's certification pursuant to 49 C.F.R. Part 1105.7(c) is attached as Exhibit No. 4.

Attached hereto as "Environmental Attachment" are additional letters of environmental comment received by HCRRA subsequent to the above referenced environmental filings.

7. PART 1105.12 PUBLICATION OF NEWSPAPER NOTICE.

A Notice in accordance with Part 1105.12 has been published in a newspaper of general circulation in each McLeod, Carver and Hennepin Counties, Minnesota. A copy of said notices are attached hereto with the requisite Certification. See Exhibit No. 5.

8. VERIFICATION.

The required Verification is attached as Exhibit 6 and made a part of this Notice of Exemption.

Date of Filing: January 16, 2004

By: 

MARILYN J. MALONEY (9996x)
Assistant County Attorney
2000A Government Center
Minneapolis, MN 55487
Telephone: (612) 348-7754
Fax : (612) 348-8299

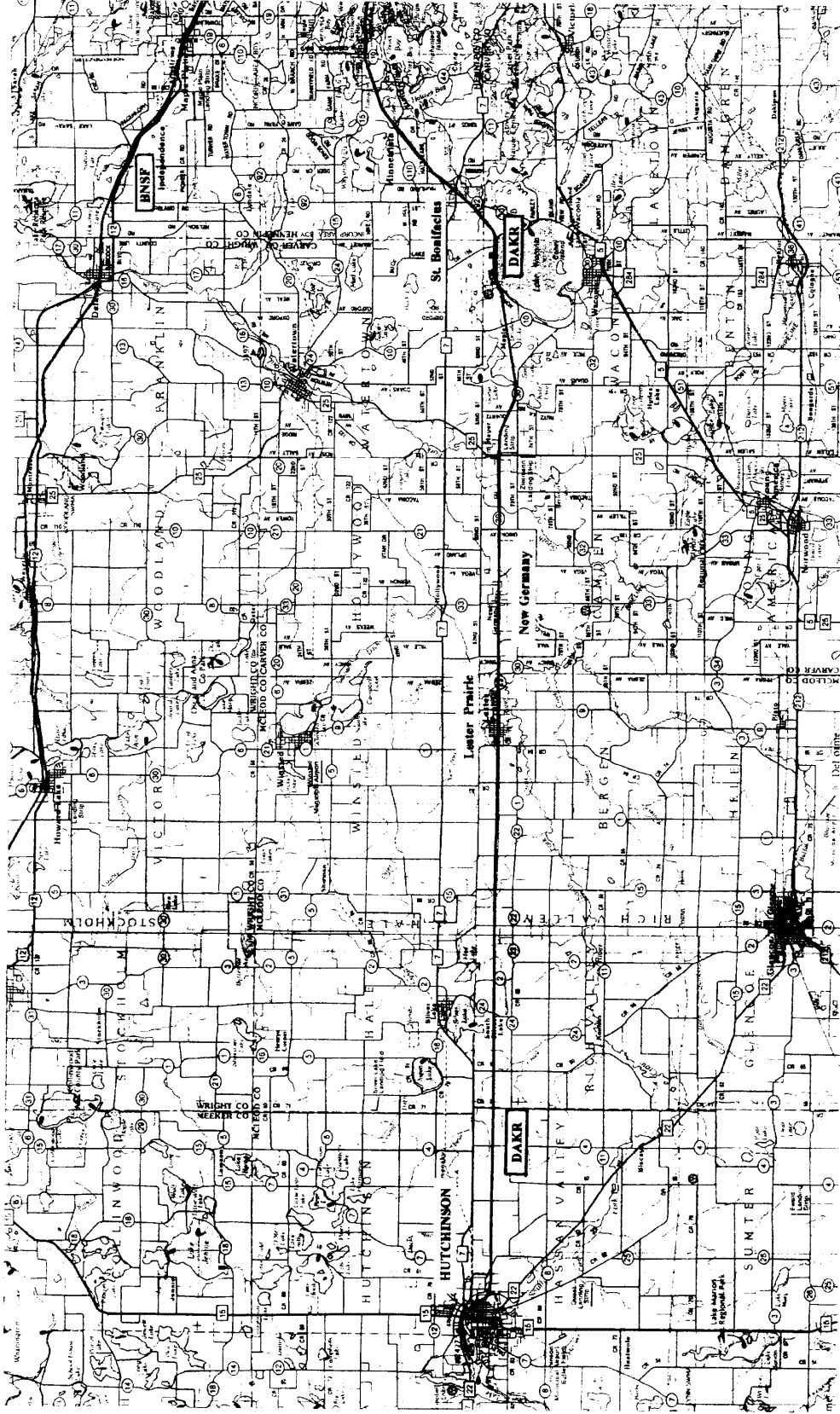
Counsel for the Hennepin County
Regional Railroad Authority

EXHIBIT NO. 1

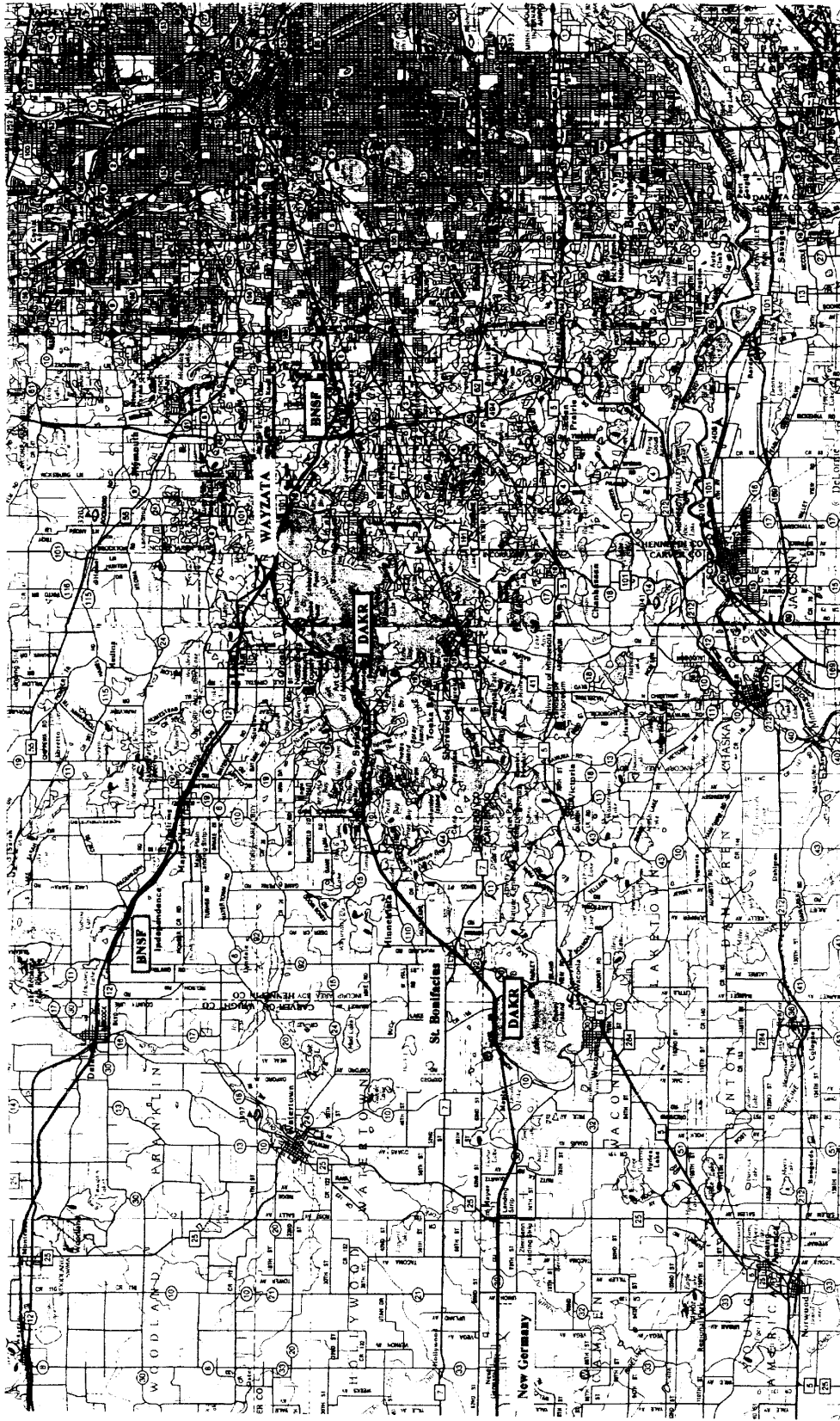
Detailed Exhibit Maps for Notice of Exemption

(49 C.F.R. Parts 1152.50 (d)(2) and 1152.22 (a)(5))

Docket No. AB-864X
Hennepin County Regional Rail Authority
Dakota Rail Line
Abandonment Map 1



40. AB-864X
Regional Rail Authority
Rail Line
ment Map 1



DOCKET NO. AB-864X
 HENNEPIN COUNTY REGIONAL RAIL AUTHORITY
 DAKOTA RAIL LINE
 ABANDONMENT MAP 2

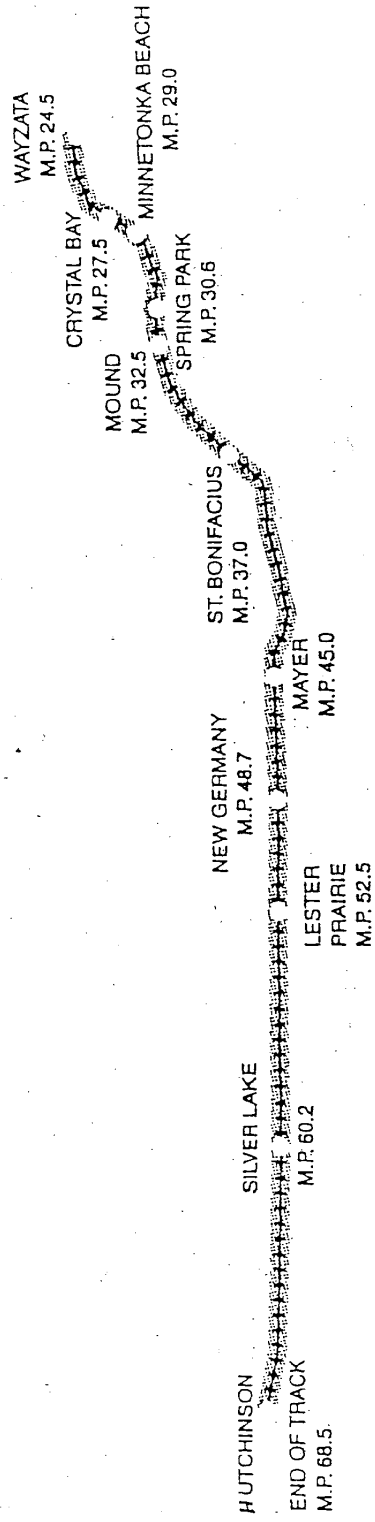


EXHIBIT NO. 2

Certification of Proper Service of Written
Notice of Intent to Abandon under the Exemption Process

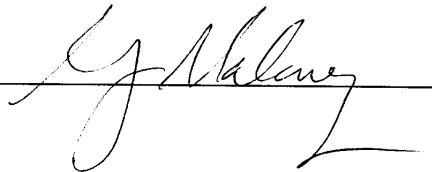
(49 C.F.R. Part 1152.50 (d)(1))

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENT
FOR NOTIFICATION OF INTENT TO FILE EXEMPTION ABANDONMENT

The undersigned hereby certifies that she served the Notice of Intent to File Notice of Exemption for the proposed abandonment in Docket No. AB-864X via first class U.S. Mail, on December 29, 2003 as required by 49 C.F.R. Section 1152.50(d)(1), to the parties listed on the attached Service List. (See Attached List).

Dated: _____

1-16-04

_____

SERVICE LIST

NOTICE OF INTENT TO FILE EXEMPT ABANDONMENT

Hennepin County Regional Railroad Authority (HCRRA) Rail Line Located in

McLeod, Carver, and Hennepin Counties, Minnesota

Docket No. 864X

Agency	Address	City	State	Zip
Minnesota Public Utilities Commission	121 South Place East, Suite 350	St. Paul	MN	55101-2147
Military Traffic Management Command Earl E. Washington, Jr. Deputy Chief Information Management	200 Stovall St.	Alexandria	VA	22332
Transportation Engineering Agency Attn: M.T.T.E.-S.A.	720 Thimble Shoals Boulevard, Suite 130	Newport News	VA	23606-2574
National Center for Recreation and Conservation U.S. Department of the Interior National Park Service	1849 C Street NW Org. Code 2220	Washington	D.C.	20240
U.S.D.A. Forest Service Attn: Dale Bosworth, Chief of Forest Service	P.O. Box 96090	Washington	D.C.	20090-6090

EXHIBIT NO. 3

Carrier Certification of Out-of-Service Status/Local
Traffic/Overhead Traffic/No Complaints

(49 C.F.R. 1152.50 (b))

CERTIFICATION THAT RAIL LINE MEETS CRITERIA
OF 49 C.F.R. SECTION 1152.50 (b)

I, Sandra L. Vargas, Executive Director for the Hennepin County Regional Railroad Authority, hereby certify that with respect to the rail line which is the subject of this Notice of Exemption in Docket No. AB 864X, the Hennepin County Regional Railroad Authority has had no movements over the subject line in at least two years. No local traffic has been handled to or from any customer for at least two years prior to the date hereof, and there is no overhead traffic on the line. Further, I certify that no formal complaint has been filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line and that no such complaint is either pending with the Commission or any U.S. District Court or has been decided in favor of a complainant within the two-year period immediately preceding the filing of this Notice.

The foregoing Certification is made on behalf of the Hennepin County Regional Railroad Authority by the undersigned after due and careful investigation of the matters herein certified. I verify under penalty of perjury under the laws of the United States of America, that I have been authorized by the Hennepin County Regional Railroad Authority to verify and file with the Surface Transportation Board the foregoing statement; that I know the contents thereof and the facts asserted therein; that I declare that the foregoing is true and correct.

Dated: _____


Sandra L. Vargas
Executive Director

EXHIBIT NO. 4

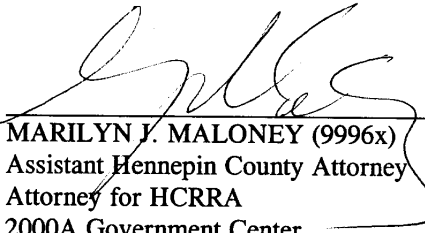
Certification of Proper Service of
Environmental and Historic Reports

(49 C.F.D. Part 1105.7 (c))

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENT
FOR ENVIRONMENTAL AND HISTORIC REPORTS

The undersigned hereby certifies that she served the Environmental and Historic Reports for the proposed abandonment in Docket No. AB 864X via first class U.S. Mail, on December 23, 2003, as required by C.F.R. Section 1105.7 (c), to the parties listed in the attached List of Parties Consulted, and on January 6, 2004 served to the parties listed in the attached List of Parties Consulted Additional Environmental Comments Received After December 23, 2003 and HCRRA's Response. (See attached List).

Dated: 1-16-2004


MARILYN J. MALONEY (9996x)
Assistant Hennepin County Attorney
Attorney for HCRRA
2000A Government Center
Minneapolis, MN 55487
Telephone: (612) 348-7754
Fax No: (612) 348-8299

SERVICE LIST FOR
ENVIRONMENTAL & HISTORIC REPORT
STB DOCKET NO. AB-864X

FEDERAL AGENCIES

Appropriate Regional Office(s) of the
U.S. Environmental Protection Agency

U.S. Environmental Protection Agency
Region 5
77 W. Jackson Blvd.
Mail Code: MP-10J
Chicago, IL 60604

U.S. Environmental Protection Agency State Official

Minnesota Department of Natural Resources
500 Lafayette Rd.
St. Paul, MN 55155-4040

U.S. FISH AND WILDLIFE SERVICE

U.S. Fish and Wildlife Service
Region 3
One Federal Drive
Federal Drive
Fort Snelling, MN 55111

Scott Glup, Project Leader
Litchfield Wetlands Management District
U.S. Fish and Wildlife Service
22274 - 615 Avenue
Litchfield, MN 55355

Dan P. Stinnett, Field Supervisor
U.S. Department of the Interior
Fish and Wildlife Service
Twin Cities Field Office
4101 East 80th Street
Bloomington, MN 55425-1665

U.S. ARMY CORPS OF ENGINEERS

U.S. Army Corp. of Engineers
St. Paul District
Attn: Joe Yanta
190 5th St. East
St. Paul, MN 55101-1638

NATIONAL PARK SERVICE

National Center for Recreation and Conservation
Office of the Director
1849 C Street, NW
Washington, DC 20240

U.S. SOIL CONSERVATION SERVICE

State Conservationist-USDA Soil Conservation Service
600 Farm Credit Building
375 Jackson St.
St. Paul, MN 55101-1854

NATIONAL GEODETIC SURVEY

DOC/NOAA
National Geodetic Survey N/NGS23
Attn: Frank Maida
1315 East West Highway Station 8736
Silver Spring, MD 20910-3282

STATE AGENCIES

STATE CLEARINGHOUSE

The State of Minnesota has no designated clearinghouse

STATE DEPARTMENT OF TRANSPORTATION

Minnesota Rail Service Improvement Program
Office of Freight & Commercial Vehicle Operations
Department of Transportation
Al Vogel
1110 Centre Point Curve
Mail Stop 420
Mendota Heights, MN 55120

STATE ENVIRONMENTAL PROTECTION AGENCY

Minnesota Department of Natural Resources
500 Lafayette Rd.
St. Paul, MN 55155-4040

Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Minnesota Office of Environmental Assistance
520 Lafayette Road
N Floor 2
St. Paul, MN 55155-4100

STATE HISTORIC PRESERVATION OFFICE

Mr. Dennis Gimmestad
Minnesota Historical Society
State Historic Preservation Office
Director, Review and Compliance Department
345 Kellogg Boulevard West
St. Paul, MN 55102-1906

**OTHER POLITICAL ENTITIES and/or INDIAN RESERVATIONS
THROUGH WHICH THE LINE RUNS**

CARVER COUNTY

Chair of Board
Carver County Board of Commissioners
600 East 4th St.
Chaska, MN 55318

Bob Hendricks
Carver County Attorney's Office
Carver County Government Center
Justice Center
600 East 4th Street
Chaska, MN 55318

HENNEPIN COUNTY

Chair of Board
Hennepin County Board of Commissioners
A2400 Government Center
300 South Sixth Street
Minneapolis, MN 55487

MCLEOD COUNTY

Chair of Board
McLeod County Board of Commissioners
830 11th St. East
Glencoe, MN 55336

Commissioner Sheldon Nies
McLeod County Regional Railroad Authority
1118 Jefferson Street South
Hutchinson, MN 55350

Ronald J. McGraw
Attorney at Law
P.O. 98
Hutchinson, MN 55350

CITY OF ST. BONIFACIUS

City of St. Bonifacius
Planning Commission
8535 Kennedy Memorial Drive
St. Bonifacius, MN 55375

CITY OF HUTCHINSON

City of Hutchinson
Planning Commission
111 Hassan Street SE
Hutchinson, MN 55350

CITY OF THE VILLAGE OF MINNETONKA BEACH

City of the Village of Minnetonka Beach
Planning Commission
Attn: Richard Krier
PO Box 146
Minnetonka Beach, MN 55361

Robert G. Mitchell, Jr. Esq.
Lindquist & Vennum P.L.L.P.
4200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2274

CITY OF MOUND

City of Mound
Planning Commission
5341 Maywood Road
Mound, MN 55634

CITY OF ORONO

City of Orono
Planning Commission
PO Box 66
Crystal Bay, MN 55323

CITY OF SPRING PARK

City of Spring Park
Planning Commission
4943 Warren Avenue
Spring Park, MN 55384

CITY OF WAYZATA

City of Wayzata
Planning Commission
600 Rice Street
Wayzata, MN 55391

METROPOLITAN COUNCIL

Metropolitan Council
Mears Park Centre
230 East Fifth Street
St. Paul, MN 55101-1626

**ADDITIONAL ADDRESSEES TO WHOM JANUARY 6, 2004 FILING WAS ALSO
SERVED:**

METROPOLITAN COUNCIL

Jim Barton
Metropolitan Council
Mears Park Centre
230 East Fifth Street
St. Paul, MN 55101

STATE ENVIRONMENTAL PROTECTION AGENCY

Beth Lockwood, Supervisor, Environmental Review Unit
Minnesota Pollution Control Agency
Regional Environmental Management Division
520 Lafayette Road
St. Paul, MN 55155-4194

U.S. SOIL CONSERVATION SERVICE

Paul Flynn
State Resource Conservationist
USDA – Natural Resources Conservation Service
375 Jackson Street, Suite 600
St. Paul, MN 55101-1854

ENVIRONMENTAL ATTACHMENT

Additional Letters of Environmental Comment Received By HCRRA

January 14, 2004

Ms. Victoria J. Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street NW
Washington D.C. 20423-0001

**RE: Hennepin County Regional Railroad Authority Notice of Exempt Abandonment in McLeod,
Carver and Hennepin Counties, Minnesota - Docket No. AB-864 (Sub-No. 1X)**
Metropolitan Council Review No. 19105-1
Metropolitan Council District 3 (Mary Hill Smith)

Dear Ms. Rutson:

This letter responds to Hennepin County Regional Railroad Authority's (HCRRA) request for the Metropolitan Council to review and comment on the Environmental and Historical Report for the Dakota Railroad Exempt Abandonment and respond to the December 16, 2003 letter from the City of the Village of Minnetonka Beach. The Council reviewed the report for conformance with or impacts on the metropolitan system plans, pursuant to Minnesota Law, Chapter 473, for transportation, wastewater services, and regional parks and open space and offers the following comments regarding the Environmental and Historical Report and the Minnetonka Beach local comprehensive plan.

ENVIRONMENTAL AND HISTORICAL REPORT

Transportation (Jim Barton, 651-602-1735)

The Metropolitan Council works with state agencies and local governments on the planning, design and construction of the regional transportation system for the Minneapolis-St. Paul metropolitan area.

The *Transportation Policy Plan* includes the preservation of linear rights-of-way such as an existing railroad. One preservation strategy outlined in the policy plan is for local governments to identify and preserve rights-of-way for transportation uses. Transportation uses could include bike- and walkways, transit facilities and highways. The transportation element of the local comprehensive plan is to identify future rights-of-way needs and describe procedures to preserve them.

The *Transportation Policy Plan* also supports an interagency approach to preserve abandoned railroad right's of way. The *Transportation Policy Plan* recognizes that abandoned linear rights of way can accommodate a variety of public uses for transportation, recreation and habitat preservation purposes and that multiple uses can coexist and may change over time to serve changing transportation and public needs.

The Metropolitan Council has reviewed the materials submitted by the HCRRA relative to their filing to the Surface Transportation Board for the abandonment of the Dakota Rail line, and finds that the documents conform with the metropolitan system plan for transportation by preserving the linear right of way.

Recreation Open Space (Arne Stefferud, 651-602-1360)

The Metropolitan Council is responsible for preparing a long range system policy plan for regional recreation open space, with the consultation of the Metropolitan Parks and Open Space Commission, and coordinating with park implementing agencies in planning, funding, acquiring, developing, maintaining and operating the regional recreation and open space system.

The Metropolitan Council's *Regional Recreation Open Space Policy Plan* includes the Dakota Rail Line right of way as a regional trail corridor in Hennepin and Carver Counties. Abandonment of the railroad but continued public ownership of the right of way for future rail transportation purposes is compatible with interim regional trail use of the right of way. Regional trails have been developed on HCRRA right of way (e.g. Southwest LRT Trails) under agreements between the HCRRA and Three Rivers Park District. The Council understands that a similar agreement would be used for developing a regional trail on the Dakota Rail right of way.

The HCRRA proposes to remove ties and bridges on the Dakota Rail right of way as part of the rail abandonment. The Council recommends that bridges be retained for use in the development of the regional trail.

Wastewater Services (Jeanne Mattross, 651-602-1108)

The Metropolitan Council constructs, owns, operates and maintains the regional wastewater treatment system for the Minneapolis-St. Paul metropolitan area, including all interceptors and treatment works determined to be necessary or convenient for the collection and disposal of sewage in the metropolitan area.

The Metropolitan Council currently owns and operates approximately one mile of a regional sanitary sewer facility identified as 6-MO-650 within Dakota Rail right-of-way pursuant to Permit 50722 from the Great Northern Railway Company, predecessor of Burlington Northern Company. The one-mile starts at Belmont Lane in Mound and goes west to the Mound City limits. Burlington Northern assigned Permit 50722 to Dakota Rail.

The Metropolitan Council has no objection to the abandonment of the Dakota Rail right-of-way so long as its Permit for 6-MO-650 remains in effect. It is Metropolitan Council's understanding from Hennepin County Regional Rail Authority that the Permit for 6-MO-650 will remain in effect after the abandonment.

In addition, the Metropolitan Council intends to reconstruct 6-MO-650 beginning in 2005 – and is currently negotiating a mutually acceptable cooperation agreement between the Metropolitan Council and HCRRA to accomplish the reconstruction of the sanitary sewer interceptor and facilities which are located within Dakota Rail right-of-way.

In addition to 6-MO-650, the Metropolitan Council has crossing permits for other sanitary sewer facilities that cross the Dakota Rail line. Interceptor 7113 crosses the Dakota Rail line by Orono Orchard Road pursuant to Permit No. 227899 and in Hennepin County, Section 10, Township 117, Range 23 by Permit 227900.

Interceptor 70-20 crosses the Dakota Rail line in Hennepin County Section 32, Township 117, Range 24 pursuant to Permits 203,525 and 203,526.

The Metropolitan Council has no objection to the abandonment of Dakota Rail right-of-way so long as its crossing permits remain in effect.

MINNETONKA BEACH LOCAL COMPREHENSIVE PLAN

Minnetonka Beach Comprehensive Plan Update Review (Robin Cauffman, 651-602-1457)

A December 16, 2003 cover letter from the City of Minnetonka Beach to the Surface Transportation Board states that the City Council found "that the proposed abandonment is not in conformance with the City's Comprehensive Plan/Land Use Plan." The letter further states: "The Comprehensive Plan adopted by the Planning Commission, City Council and approved by the Metropolitan Council on December 10, 2003 provides that the rail line continue to be used for rail purposes." Planning Commission, City of the Village of Minnetonka Beach Resolution No. 120301 (December 15, 2003) contains three "findings of fact," the first two of which state:

1. That there is a land use plan in place and that the Metropolitan Council, as required by State Statute [sic], has approved the City's Comprehensive Plan including the land use plan,
2. That the approved Comprehensive Land Use Plan as well as the previous land use plan approved by the Metropolitan Council provides that the rail be retained in the community as a railroad and not be abandoned.

The cover letter and the findings contained in Planning Commission Resolution No. 120301 do not accurately reflect the Metropolitan Council's recent action regarding the City's Comprehensive Plan Update.

Pursuant to its statutory authorities under Minnesota Statutes Chapter 473, the Metropolitan Council reviews local comprehensive plan to determine if they conform with metropolitan system plans for regional airports, transportation, wastewater service, and regional recreation open space systems. The Metropolitan Council also reviews local plans to determine if the plans are consistent with Metropolitan Council policies, and compatible with adjacent community plans. If a local comprehensive plan does not conform with a metropolitan system plan, and if the Metropolitan Council finds the local plan more likely than not to have a substantial impact on or contain a substantial departure from a metropolitan system plan, the Metropolitan Council may require a city to amend its local comprehensive plan to ensure conformity with metropolitan system plans. Consequently, a city is not allowed to put a plan into effect until it modifies the plan to ensure conformity.

The Metropolitan Council submitted to the City of Minnetonka Beach a 1997 system statement that specifically identified the Dakota Rail right-of-way as a future regional trail, and the Metropolitan Council's *Regional Recreation Open Space Policy Plan* identifies the Dakota Rail line as a future regional trail. The City submitted a plan update that failed to include references to future planning for the regional trail and included policies to "discourage the use of the right of way as a regional trail." At its January 8, 2003 meeting, the Metropolitan Council adopted a resolution under which it determined the Minnetonka Beach comprehensive plan may contain a substantial departure from and substantial impact on the metropolitan system plan for regional recreation open space because the City's plan included policies to "discourage the use of the right of way as a regional trail." A copy of the Council's January 8, 2003 resolution is attached (Attachment A). The City was asked to modify its plan and resubmit the plan for Metropolitan Council review.

After January 2003, the City and the Metropolitan Council discussed transportation corridor and regional trail issues and agreed that modifying the City's plan to show the Dakota Rail Line as a railroad would be consistent with the County's plan and in conformance with the Council's metropolitan system plan for future regional trail purposes. The Council and City recognized that HCRRA was in the process of studying the feasibility of restoring rail operations, and agreed that a final decision regarding the regional trail was not necessary until HCRRA had completed its study.

January 14, 2004
Ms. Rutson
Page 4

JAN 15 2004

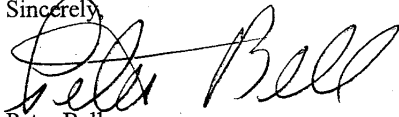
In August 2003, the City submitted a Revised Plan, which identifies the Dakota Rail Line as an existing land use within the city. In December 2003, the Council reviewed the City's Revised Plan, finding that the Revised Plan does not conform with the *Regional Recreation and Open Space System Policy Plan* because the Revised Plan does not include the proposed regional trail on the Dakota Rail right of way. However, the Council allowed the City to put its Revised Plan into effect based on findings that the Revised Plan does not present a substantial impact on or a substantial departure from the metropolitan system plans because the Revised Plan preserves the transportation corridor and does not preclude use of the corridor as a future regional trail.

The Council's December 2003 review of the Revised Plan stated that if the railroad right of way is no longer used for rail purposes, the City will need to revise its Plan to conform with metropolitan system plans according to Minnesota Statutes Sections 473.175; 473.852; and 473.856. The Council's review and action does not "provide that the rail be retained in the community as a railroad and not be abandoned" as suggested in the Planning Commission's Resolution No. 120301. A copy of the Metropolitan Council's December 1, 2003 action regarding the City's Revised Plan and the transmittal memorandum to the Council are attached (Attachment B).

Finally, as part of its December 1, 2003 action, the Council also found that the City's Revised Plan is incompatible with the Plans of cities along the railroad linear right of way from Wayzata to Waconia that are planning for the proposed regional trail on the Dakota Railroad.

If you have any questions, please contact Phyllis Hanson, Manager, Planning and Technical Assistance at 651-602-1566 or Robin Cauffman, Principal Reviewer/Sector Representative, at 651-602-1457.

Sincerely,



Peter Bell
Chair

cc: Marilyn Maloney, Assistant Hennepin County Attorney
Roxy Traxler, Minnetonka Beach City Administrator
Doug Bryant, Three Rivers Park District Superintendent
Marty Walsh, Carver County Parks Director
Mary Hill Smith, Metropolitan Council District 3
Julius Smith, Metropolitan Council District 4
Phyllis Hanson, Manager Planning and Technical Assistance
Robin Cauffman, AICP, Principal Reviewer
Tom Caswell, Sector Representative Carver/Scott County
Arne Stefferud, Planning Analyst-Parks
Jim Barton, Senior Planner - Transportation
Cheryl Olsen, Referrals Coordinator

METROPOLITAN COUNCIL
Mears Park Centre, 230 East Fifth Street, St. Paul, Minnesota 55101

RESOLUTION NO. 2003-3

**RESOLUTION FINDING THE MINNETONKA BEACH COMPREHENSIVE PLAN UPDATE
SUBSTANTIALLY DEPARTS FROM METROPOLITAN SYSTEM PLANS AND REQUIRING
MODIFICATIONS TO ASSURE CONFORMANCE WITH METROPOLITAN SYSTEM PLANS**

WHEREAS, Minnesota Statutes section 473.851 reflects the Legislature's recognition that local governmental units within the metropolitan area are interdependent, that the growth and patterns of urbanization within the metropolitan area create the need for additional state, metropolitan and local public services and facilities and increase the danger of air and water pollution and water shortages, and that development in one local governmental unit may affect the provision of regional capital improvements for sewers, transportation, airports, water supply, and regional recreation open space; and

WHEREAS, Minnesota Statutes section 473.851 also reflects the Legislature's concern that problems of urbanization and development transcend local governmental boundaries and that there consequently is a need for the adoption of coordinated plans, programs and controls by all local governmental units in order to protect the health, safety and welfare of the residents of the metropolitan area and to ensure coordinated, orderly and economical development; and

WHEREAS, the Metropolitan Council is required by Minnesota Statutes section 473.145 to develop a comprehensive development guide that recognizes and encompasses physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire metropolitan area including, but not limited to, such matters as land use, parks and open space land need and highways; and

WHEREAS, the Metropolitan Council has prepared and adopted a comprehensive development guide for the metropolitan area, including comprehensive policy plans and capital programs for regional transportation, airports, sewers and regional parks, as well as housing policies, that prescribe guides for the orderly and economical development of the metropolitan area; and

WHEREAS, Minnesota Statutes section 473.175 requires the Metropolitan Council to review comprehensive plans of local governmental units to determine their compatibility with each other and conformity with metropolitan system plans and to review and comment on the apparent consistency of the comprehensive plans with adopted plans of the Metropolitan Council; and

WHEREAS, pursuant to Minnesota Statutes section 473.856, the Metropolitan Council prepares system statements in conjunction with amendments to or modifications of its metropolitan system plans and submits the system statements to local governmental units to help local governmental units ensure their local comprehensive plans continue to conform to metropolitan system plans; and

WHEREAS, in 1997 the Metropolitan Council submitted to the City of Minnetonka Beach system statements that specifically identified the Dakota Rail right of way as a future regional trail; and

WHEREAS, under Minnesota Statutes section 473.857, the City had sixty days within which to request a hearing to resolve any disagreements over the content of the 1997 systems statement but did not request a hearing or formally advise the Metropolitan Council that the City disagreed with the content of the system statement; and

WHEREAS, Minnesota Statutes section 473.864, subdivision 2 states that by December 31, 1998, and at least once every ten years thereafter, each local governmental unit shall review and, if necessary, amend its entire comprehensive plan and its fiscal devices and official controls, and submit the entire updated comprehensive plan and any amendments necessitated by its review to the Metropolitan Council for review; and

WHEREAS, in August 2001 the City of Minnetonka Beach initially submitted its proposed local comprehensive plan update ("Plan") and Metropolitan Council staff found the Plan incomplete for review; and

WHEREAS, on July 18, 2002 the City of Minnetonka Beach submitted additional information and on July 31, 2002, Metropolitan Council staff found the Plan complete for review; and

WHEREAS, the respective staffs of the Metropolitan Council and the City of Minnetonka Beach and elected City officials have met on an ongoing basis to discuss the Minnetonka Beach Plan and the respective concerns of the City and the Metropolitan Council in an effort to resolve the issues identified in the Metropolitan Council Staff report and the City's responses to the Staff reports; and

WHEREAS, as part of the ongoing discussions the City proposed to modify the Plan to show the Dakota Railroad right of way as an operating rail line; and

WHEREAS, Metropolitan Council Staff and Council Member Hill Smith supported the proposal if the City of Minnetonka Beach included policies in the Plan stating that the City would work with adjacent communities on planning for the regional trail at such time that the Dakota Rail ceases to function as an active railroad; and

WHEREAS, subsequent Plan documentation and formal correspondence from the City of Minnetonka Beach restated the City's position against the inclusion of a regional trail within its boundaries and failed to include references to future planning for the regional trail; and

WHEREAS, on January 6, 2003 the Metropolitan Council held a special meeting to hear a presentation by Metropolitan Council Staff on the Staff reports regarding the City's Plan, to give the City of Minnetonka Beach an opportunity to discuss and react to the Metropolitan Council Staff reports, and to hear comments from interested parties and members of the public about the City's Plan and the Metropolitan Council Staff reports; and

WHEREAS, under Minnesota Statutes section 473.175 the Metropolitan Council may require a local governmental unit to modify any comprehensive plan or part thereof which *may* have a substantial impact on or contain a substantial departure from the airports and transportation portions of the metropolitan development guide, and the policy plans, and capital budgets for metropolitan wastewater service, transportation, and regional recreation open space; and

WHEREAS, the Metropolitan Council's decision-making is guided in part by the general principals that metropolitan systems are regional in scope and function and serve all or substantial portions of the seven-county metropolitan area, and that fragmentary municipal land use and

development may adversely affect both the ability of the metropolitan systems to perform their regional functions and the ability of individual metropolitan-area municipalities to plan in ways that foster comprehensive and reasonably compatible municipal development; and

WHEREAS, the Metropolitan Council's *1997 Regional Recreation Open Space Policy Plan* shows the Dakota Rail right of way as a future regional trail; and

WHEREAS, the Hennepin Rail Authority purchased the Dakota Rail right of way for operation as a railroad for movement of freight; and

WHEREAS, Hennepin County's transportation Plan shows the Dakota Rail right of way as an operating railroad and includes policies that right of way may have an interim use as a regional trail; and

WHEREAS, the City's of Wayzata, Orono, Spring Park, Mound, Minnetrista and Waconia are planning for the regional trail in their comprehensive plans; and

WHEREAS, the City of Minnetonka Beach's Plan includes policies to "create a natural area in the right of way of the former railroad" and to "discourage the use of the right of way as a regional trail;" and

WHEREAS, the City of Minnetonka Beach's policy "discouraging the use of the right of way as a regional trail" in the City's plan creates a barrier to developing a linear and contiguous regional trail, as planned for in the *Regional Recreation Open Space Policy Plan* and in comprehensive plans of other cities along the regional trail; and

WHEREAS, the City of Minnetonka Beach's Plan presents a substantial departure from the *Regional Recreation Open Space Plan* because the City is not planning for the regional trail and may have a substantial impact on the operation and function of the regional trail system connecting regional and state park facilities because the City is creating a barrier to developing a linear and contiguous regional trail as shown in the *1997 Regional Recreation Open Space Policy Plan*; and

WHEREAS, the Legislature has conferred on the Metropolitan Council the discretionary authority to determine on a case-by-case basis when a "substantial impact" or "substantial departure" may exist and the Metropolitan Council may examine a number of factors including, but not limited to, the cumulative effects that may result if municipalities fail to plan consistent with metropolitan system plans and Metropolitan Council systems statements.

NOW THEREFORE,

based on its review and consideration of the Metropolitan Council Staff reports, the responses and materials submitted by the City of Minnetonka Beach, and the other materials and information provided in connection with the Plan and the Livable Communities Committee's January 6, 2003 public hearing, the Metropolitan Council makes the following findings:

Regional Recreation and Open Spaces

1. The Plan submitted to the Metropolitan Council and currently before the Metropolitan Council for review does not show the proposed regional trail.

2. The City's Plan as submitted does not conform with, is a substantial departure from and presents a substantial impact on the Metropolitan Council's *Regional Recreation Open Space Policy Plan* because the City's Plan does not show the regional trail included in the 1997 system statement. Failure to plan for the regional trail ultimately may restrict or make more difficult the Metropolitan Council's, regional implementing agencies' and other local governments' plans to plan and implement a regional trail on the Dakota Rail right of way connecting the Cities of Wayzata, Orono, Spring Park, Mound, Minnetrista, St. Bonifacius and Waconia and Waconia Township.
3. The Metropolitan Council's regional system plan for Recreation Open Space directed the City to plan for the regional trail. The City's Plan does not do so.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The December 30, 2002 Livable Communities Committee Report, with its findings and conclusions, is adopted.

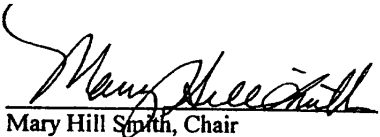
Required Modifications to Ensure Conformity with Metropolitan System Plans:

2. The Metropolitan Council has determined the Minnetonka Beach Plan if adopted and implemented by the City in the form submitted to the Metropolitan Council may contain a substantial departure from and substantial impact to the metropolitan system plan for Recreation Open Space.
3. Pursuant to Minnesota Statutes section 473.175, subdivision 2, the City shall modify its Plan to assure conformance with the metropolitan system plans and shall resubmit a revised Plan to the Metropolitan Council for review in accordance with the Metropolitan Land Planning Act.
4. Pursuant to Minnesota Statutes section 473.175, the City shall take no action to place its Plan into effect until the City has modified its Plan to assure conformance with the metropolitan system plans.

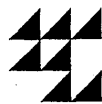
Application of the Council's Alignment Policy

5. The Metropolitan Council will apply its alignment policy to the City thus rendering the City ineligible for grants and loans and other types of financial assistance over which the Metropolitan Council has discretionary control until the Metropolitan Council finds that the City's Plan conforms to the Metropolitan Council's regional system plans.

Adopted this 8th day of January 2003.


Mary Hill Smith, Chair


Sandra L. Lindstrom, Recording Secretary



Metropolitan Council

Metropolitan Council Meeting

Wednesday, December 10, 2003

Council Chambers

4:00 P.M.

Table of Contents

Part I - Narrative.....	1
Call to Order and Approval of Agenda	1
Minutes	1
Part II - Exhibits	1
Business.....	1
Committee Consent List.....	1
2003-297: Approval of Closed Meeting Schedule 2004 to Discuss Labor Negotiations	1
2003-313: Authorization of 2003 Regional Park Capital Improvement (CIP) Grants for Natural Resource Restoration to Match DNR Metro Greenway Grants and Metropolitan Council Bonds	1
2003-314: Grant Request for Rask Parcel in Lake Rebecca Park Reserve, Three Rivers Park District	2
2003-316: Proposed Amendments to the Metropolitan Parks and Open Space Commission Bylaws	2
2003-321: City of Oak Grove Comprehensive Plan Amendment, West Lake George Redevelopment, Review 17096-9	3
2003-326: Project-based Assistance Recommendations	3
2003-327: Authorization to Proceed with Request For Proposal's for East Metro, West Metro and 604/614 Transit Service Contracts	3
2003-331: Acceptance of Opt Out Management Plans	3
2003-332: City of Oak Grove Comprehensive Plan Amendment, 40-acre Land Use Change, Review 17096- 10	3
2003-333: City of Carver Comprehensive Plan Amendment, Heritage Development, Review 16959-7	4
2003-335: East Bush Lake Road Trail Project, Hyland Bush-Anderson Lakes Park Reserve, Amendment to Grant SG-99-42	4
2003-337: Changes to MSRS (Minnesota State Retirement System) Program Unclassified Retirement Plan; Resolution No. 2003-45	4
2003-344: Resolution to Authorize a Grant Agreement Between the State and the Metropolitan Council for a Subgrant of \$2.7 Million to St. Paul for Como Regional Park, Resolution 2003-46	5
2003-351: Approval of Closed Meeting Schedule for Litigation Review Committee	5
Report of the Community Development Committee.....	5
2003-78: City of Minnetonka Beach Comprehensive Plan Update; Resolution No. 2003-47	5
2003-281: City of Minnetonka Beach Comprehensive Plan Update – Revised, Review 18600-2	6
Report of the Management Committee	6
2003-287: Approval of Copier Lease	6
2003-353: Property Insurance Renewal	6
2003-357: Authorization to Award Contract for Solid Waste Removal at the Metro Wastewater Treatment Plant	6
Report of the Environment Committee	7
Report of the Transportation Committee.....	7

2003-361: Capital Budget Amendment	7
2003-328: URS Project Management Consultant Contract Amendment	7
2003-347: Amendment #2 to Joint Powers Agreement Between the Metropolitan Council and City of Minneapolis for Bus Procurement and Operation	8
2003-355: Hiawatha LRT Cooperative Operations Funding Agreement with Hennepin County	10
2003-356: Hiawatha LRT Operations & Maintenance Agreement with City of Minneapolis	10
2003-358: Authorization to Award Contract for Track Maintenance	10
2003-329: Hennepin County Hiawatha Light Rail Transit Bond Interest Earnings	11
Other Business	11
2003-341: Appointment of Land Use Advisory Committee Members and Approval of Bylaws	11
Presentation of Recommended Changes to the Public Hearing Draft of the 2004 Unified Operating Budget and 2004-2009 Capital Improvement Budget and 2004 Capital Budget	12
Discussion of Whether or not to Close the Meeting to Discuss Labor Issues	12
Reports	13
Chair	13
Council Members	13
Regional Administrator	13
General Counsel	14
Adjournment	14
Part III - Certification	14

Metropolitan Council Meeting

Wednesday, December 10, 2003

Council Chambers

4:00 P.M.

Part I - Narrative

Attendance: Peter Bell, Chair; Roger Scherer, Tony Pistilli, Jules Smith, Russell Susag, Peggy Leppik, Annette Meeks, Lynette Wittsack, Natalie Haas Steffen, Georgeanne Hilker, Chris Georgacas, Rick Aguilar, Song Lo Fawcett, Tom Egan, Brian McDaniel

Members absent: Mary Hill Smith, Marcel Eibensteiner,

Call to Order and Approval of Agenda

A quorum being present, Chair Bell called the regular meeting of the Metropolitan Council to order at 4:10 p.m. It was moved by J. Smith, seconded by Pistilli, to approve the agenda as amended to remove Business Item 2003-329 from the consent list for consideration under the Transportation Committee report. Motion carried.

Minutes

It was moved by Leppik, seconded by Susag, to approve the minutes of the Special Metropolitan Council Meeting of December 1, 2003. Motion carried.

Public Invitation

No one asked to address the Council regarding matters not on today's agenda.

Part II - Exhibits

Business

Committee Consent List

2003-297: Approval of Closed Meeting Schedule 2004 to Discuss Labor Negotiations

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council: (1) find it in the public interest to discuss labor negotiation issues in closed meetings of its Management Committee; and (2) approve holding, at the times and places indicated on the attached closed meeting schedule, Management Committee meetings that will be closed to the public pursuant to the Minnesota Open Meeting Law.”

Motion carried.

2003-313: Authorization of 2003 Regional Park Capital Improvement (CIP) Grants for Natural Resource Restoration to Match DNR Metro Greenway Grants and Metropolitan Council Bonds

Metropolitan Council Meeting of December 10, 2003

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council:

1. amend the Council’s 2003 Unified Capital Program to include five ecological restoration grants financed with \$76,666 in Council bonds (2002-3 Regional Parks CIP-Part 4) and \$4,666 from interest earnings on Regional Park bonds to match Minnesota Department of Natural Resources Metro Greenway Program grants and make the estimated expenditures of funds for these grants in 2003;
2. authorize subgrant agreements between the Council and the Regional Park Implementing Agencies financed with the Council bonds and interest earnings; and
3. authorize the Regional Administrator to sign subgrant agreements between the Council and Regional Park Implementing Agencies for these grants.”

Motion carried.

2003-314: Grant Request for Rask Parcel in Lake Rebecca Park Reserve, Three Rivers Park District

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council:

1. authorize a grant of up to \$156,800 from Part 4 of the 2002-03 Metropolitan Regional Parks CIP to Three Rivers Park District to finance 40% of the estimated \$392,000 needed to fully finance the acquisition of the 5-acre Rask parcel in Lake Rebecca Park Reserve as illustrated on **Reference 5B-1**, Lake Rebecca Park Reserve—Rask property map; and
2. consider reimbursing Three Rivers Park District up to \$235,200 for the balance of the acquisition costs of the Rask parcel in a future regional parks capital improvement program.”

Motion carried.

2003-316: Proposed Amendments to the Metropolitan Parks and Open Space Commission Bylaws

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council approve the following amendments to the Metropolitan Parks and Open Space Commission Bylaws:

1. Change the regular meeting date from the 2nd and 4th Mondays of the month to the first Tuesday of the month. And, if needed, special meetings would be called for the third Tuesday of the month at the call of the Chair; and
2. Eliminate the \$50 per diem to be consistent with changes to Minn. Statute 473.303,

Metropolitan Council Meeting of December 10, 2003

Subd. 6.

Motion carried.

2003-321: City of Oak Grove Comprehensive Plan Amendment, West Lake George
Redevelopment, Review 17096-9

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council allow the city to put the Comprehensive Plan Amendment into effect.”

Motion carried.

2003-326: Project-based Assistance Recommendations

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council approve the proposal for eight units of Section 8 Project Based Assistance for Project for Pride in Living Boone Avenue Apartments in New Hope, and authorize staff to execute an *Agreement to Enter into a Housing Assistance Payment Contract* and a *Housing Assistance Payment Contract* with the owner of the project.”

Motion carried.

2003-327: Authorization to Proceed with Request For Proposal's for East Metro, West Metro
and 604/614 Transit Service Contracts

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council authorize Metropolitan Transportation Services to initiate Requests For Proposals (RFP's) to identify new contracted transit service providers, for the East Metro, West Metro and 604-614 service contract packages due to end in March, 2005.”

Motion carried.

2003-331: Acceptance of Opt Out Management Plans

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council accept the proposed 2004 Management Plans of the Replacement Transit Systems (Opt-Outs), as required by statute.”

Motion carried.

2003-332: City of Oak Grove Comprehensive Plan Amendment, 40-acre Land Use Change,
Review 17096-10

It was moved by Egan, seconded by Leppik:

Metropolitan Council Meeting of December 10, 2003

“That the Metropolitan Council allow the city to put the Comprehensive Plan Amendment into effect.”

Motion carried.

2003-333: City of Carver Comprehensive Plan Amendment, Heritage Development, Review 16959-7

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council:

1. allow the City to put the Comprehensive Plan Amendment into effect; and
2. encourage the city to work with staff to investigate ways the city can expand its protection, minimize the potential for erosion and utilize native vegetation to re-vegetate the site following construction.”

Motion carried.

2003-335: East Bush Lake Road Trail Project, Hyland Bush-Anderson Lakes Park Reserve, Amendment to Grant SG-99-42

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council approve:

1. a change in the scope of work to SG-99-42 to make trail design changes that include a grade-separated trail underpass;
2. a two-year extension of SG-99-42 from December 31, 2003 to December 31, 2005;
3. eligibility in a future Regional Park CIP for Bloomington for the unfunded portion of the trail project including the trail underpass of which the city’s share is estimated to be \$200,000; and
4. eligibility in a future Regional Park CIP for Three Rivers Park District for their portion of the trail underpass of which its share is estimated to be \$200,000.”

Motion carried.

2003-337: Changes to MSRS (Minnesota State Retirement System) Program Unclassified Retirement Plan; Resolution No. 2003-45

It was moved by Egan, seconded by Leppik:

“That the Metropolitan Council approve changes to the position and incumbent list for the Minnesota State Retirement System unclassified plan; Resolution No. 2003-45.”

Motion carried.

Metropolitan Council Meeting of December 10, 2003

2003-344: Resolution to Authorize a Grant Agreement Between the State and the Metropolitan Council for a Subgrant of \$2.7 Million to St. Paul for Como Regional Park, Resolution 2003-46

It was moved by Egan, seconded by Leppik:

"That the Metropolitan Council:

1. amend the Council's 2003 Unified Capital Program to include this project financed with \$2.7 million in state bonds to complete the renovation of the Como Park Conservatory along with the estimated expenditures of funds for these projects in 2003;
2. authorize a subgrant agreement between the Council and the City of St. Paul financed with the 2003 State bonds; and
3. approve Resolution 2003-46 authorizing the Regional Administrator to sign an agreement between the State of Minnesota and the Council regarding this 2003 State bond appropriation."

Motion carried.

2003-351: Approval of Closed Meeting Schedule for Litigation Review Committee

It was moved by Egan, seconded by Leppik:

"That the Metropolitan Council:

1. finds it is necessary to meet with its attorneys in confidential settings to preserve the attorney-client privilege;
2. for the specific reasons stated above, finds it is in the public interest to discuss in closed meetings pending and imminent litigation and settlement issues related to personal injury, workers' compensation, employment and other types of claims asserted against the Council; and
3. approve holding, at the dates, times and places indicated on the attached Closed Meeting Schedule, Litigation Review Special Committee meetings that will be closed to the public to discuss attorney-client privileged matters related to pending and imminent litigation and settlement issues."

Motion carried.

Report of the Community Development Committee

Chair Bell welcomed Mayor James Gasch from the City of Minnetonka Beach who was present at this meeting.

2003-78: City of Minnetonka Beach Comprehensive Plan Update; Resolution No. 2003-47

It was moved by Georgacas, seconded by Fawcett:

Metropolitan Council Meeting of December 10, 2003

"That the Metropolitan Council adopt Resolution 2003-47."

Mayor Gasch addressed the Council and thanked members and staff for their willingness to work with the city to resolve the issues that needed to be addressed during the process of developing and reviewing this Comprehensive Plan Update. He stated his belief that they have set the stage for a more positive direction for discussions on future Comprehensive Plans and the result is something they are very comfortable with.

Motion carried.

2003-281: City of Minnetonka Beach Comprehensive Plan Update – Revised. Review 18600-2

It was moved by Georgacas, seconded by Steffen:

"That the Metropolitan Council:

1. adopt the staff findings and conclusions;
2. notify the city that it may put its Revised 2020 Comprehensive Plan (dated July 2003) into effect; and
3. require the city to modify its ordinances to incorporate erosion controls by July 2004."

Motion carried.

Report of the Management Committee

2003-287: Approval of Copier Lease

It was moved by Scherer, seconded by Pistilli:

"That the Metropolitan Council authorize its Regional Administrator to enter into a 36-month lease for copier equipment with IKON Office Solutions, Inc."

Motion carried.

2003-353: Property Insurance Renewal

It was moved by Scherer, seconded by Egan:

"That the Metropolitan Council authorizes renewal of the Property Insurance with our current carrier, FM Global, effective 1/1/04-12/31/04, for an amount not to exceed \$900,000."

Motion carried.

2003-357: Authorization to Award Contract for Solid Waste Removal at the Metro Wastewater Treatment Plant

It was moved by Scherer, seconded by Pistilli:

Metropolitan Council Meeting of December 10, 2003

"That the Metropolitan Council: authorize its Regional Administrator to negotiate and execute a Contract with BFI, Inc. to provide waste disposal services for MCES Regional Facilities for a three and one-half year period."

Motion carried,

Report of the Environment Committee

There was no report from the Environment Committee.

Report of the Transportation Committee

2003-361: Capital Budget Amendment

It was moved by Steffen, seconded by Aguilar:

"That the Metropolitan Council:

1. amend the Metro Transit portion of the Council's Adopted 2003 Authorized Capital Budget by \$4,604,788 increasing the 2003 authority to \$310,068,221 and increase the Authorized Capital Program by \$4,604,788 to \$1,083,503,831; and
2. authorize the creation of three (3) new capital projects, increase authority on two (2) ongoing capital projects, decrease authority on two (2) ongoing capital projects, and amend the funding sources on one project."

Motion carried on the following roll call vote:

<u>Ayes</u>		<u>Nays</u>		<u>Recused</u>	<u>Absent</u>
Scherer	Pistilli	None		Georgacas	M. Smith
J. Smith	Susag				Eibensteiner
Leppik	Meeks				
Wittsack	Steffen				
Hilker	Aguilar				
Fawcett	Egan				
McDaniel					Bell did not vote

2003-328: URS Project Management Consultant Contract Amendment

It was moved by Steffen, seconded by Susag:

"That the Metropolitan Council authorize its Regional Administrator to negotiate and execute a contract amendment with URS Corporation, the Hiawatha LRT Project Management Consultant (PMC), to adjust the amended contract total from \$16.9 million to an amount not to exceed \$19.0 million."

Motion carried.

2003-347: Amendment #2 to Joint Powers Agreement Between the Metropolitan Council and City of Minneapolis for Bus Procurement and Operation

Steffen reported that this business item and business items 2003-348 and 2003-349 were approved in one motion by the Transportation Committee. In order to understand the inter-relationship of these items, she asked that Arlene McCarthy provide a short presentation.

Arlene McCarthy explained that the downtown circulator is one project that has several related projects included in it. The circulator was of great importance to the City of Minneapolis when the decision was made to align Hiawatha on Fifth Street. The concern here was that, with the east-west alignment of light rail, a north-south connector along the Nicollet Mall and the Convention Center was necessary. In 1999, the city appointed a task force made up of business community leaders, residents and local elected officials. That task force has been working over the last four years and in November they presented to the City of Minneapolis' Transportation and Public Works Committee their conclusions and recommendations.

The task force recommended that there be a circulator that operates on the Nicollet Mall in the daytime and at 7 p.m. on weekdays and weekends. It would convert to a one-way loop on Nicollet Mall and Hennepin Avenue. They recommended that the frequency and service hours of the circulator essentially match LRT. The primary purpose of the circulator in their recommendation and opinion was that, when a train would come in with large volumes of people, there would be the capacity on the street for people to transfer to finish their trip through downtown. The north terminus is essentially at Third Street and Washington and the south terminus is down near the Convention Center. The task force also recommended that low-emission buses be used for this service.

McCarthy also explained that there are three related projects that have separate agreements that all tie into the circulator project. The first is the Third Avenue Distributor (TAD) Garages. They are the three parking ramps just immediately west of the Target Center. They are at Fourth Street, Fifth Street and Seventh Street. They were constructed in the 1990s by MnDOT and the City of Minneapolis as part of the I-394 Corridor Project. There are transit facilities at the Fifth and Seventh Street garages and very high levels of regular route service through those garages. Earlier this year the city, MnDOT and Metro Transit partnered in an effort to increase the carpooling on the 394 HOV lane and change the carpooling rules for the garage. One of the motivations to help entice people to carpool was recognizing that the destination of their trip is actually the downtown core and not the parking ramps on the western edge of downtown. Therefore, it was agreed that carpoolers would be allowed to ride the regular route service that already operates through those garages as a benefit of carpooling. They can only ride on the existing routes that travel directly through the garages and only into the downtown core. The city approached MnDOT about reimbursing Metro Transit for the value of that existing service that was becoming available to carpoolers. Different scenarios were priced out and tabulations resulted in about \$1.5 million worth of service every year. From the excess parking revenues generated by the TAD garages, Metro Transit would be reimbursed for the value of the service that's available to the TAD garage carpoolers.

McCarthy further explained that another related project is the North Terminal in downtown. It is on the block bounded by Nicollet on the east, Hennepin on the west, Third Street and Washington. That block is north of the new public library that is being constructed. It was purchased in the early 1990s by the city with federal grant money. The purpose was for transit use. Working with the city, a joint development would be undertaken where the lower level would be a bus layover facility. On the street level, there would be some passenger waiting facilities, retail establishments and residential above that. The total transit facility is valued at about \$7-8 million and some of the federal funds from the 1990s will be used to build that facility. Construction is expected to start next year and be finished in 2006.

The third related project to the circulator is the buses. In 1999, the city and Metropolitan Council had an agreement where Metro Transit would purchase five hybrid electric buses, again using the federal grant money from the 1990s. The idea was to demonstrate some new technology on regular routes. The Council went through a procurement process and the contract was let to Orion for buses. However, they essentially did not deliver on their contract and, therefore, it was terminated. The Council authorized staff to issue a new Request for Proposals. In the meantime, plans by the task force working on the circulator project were developing and they started to realize that the low-emission new technology buses would be a good fit for the circulator. Eight buses were needed to operate the circulator system and the city requested that the Council amend its agreement so these buses could be purchased and allocated to use on the circulator.

McCarthy explained that the five-year funding plan, put together by the City of Minneapolis, to operate the circulator has five sources. \$1.5 million per year will come from the TAD garage reimbursement. Metro Transit has agreed to pass that through and credit it towards the circulator. Another \$100,000 would be from the Greater Minneapolis Convention and Visitors Association (GMCVA) contribution. That increases a little in the latter years. Target Corporation is allocating \$50,000 per year for the first two years. There will be advertising revenue realized from the buses that would not occur if they were not in operation. That amount is estimated to be \$125,000 and that will be allocated to the funding plan. The last component is either land sale or leasing of the North Terminal block with the joint development project. The city has done some appraisal work and have been conservative in their estimate. They have also taken the anticipated land value from that project and applied it over the last four years. That would provide \$539,000 per year.

The cost of the circulator in the first year is estimated to be just under \$1.6 million for 9 months of operation starting in April. That will increase over the next few years reflecting a full year of service and a small price increase. Metro Transit is contributing in-kind services, including some ultra-low sulfur diesel fuel for the five diesel buses and some shelter maintenance for extra shelters needed for this service. Although this five-year funding plan is less than ideal, it reflects the city's desire to have this project move forward.

Representative Phil Krinkie addressed the Council and first commended members and staff for their work on the process of bidding out the operation of the Hiawatha light rail transit line. He noted that he was kept informed throughout the process of how it was proceeding and expressed his hope that everyone feels the result was a win-win. As for the circulator proposal under discussion, he felt that it would violate state law. He pointed out that Chapter 473.408, Subd. 4, prohibits the Metropolitan Council from contributing more than 50% of the operating deficit for any bus circulator system. He urged the Council to examine why this proposal may conflict with existing provisions in state law. He also commented that it seems to conflict with common sense. He noted that there is a significant operating subsidy to the Hiawatha line in the operation of the train and the facilities. Also, there will be free parking provided at the parking facilities in Bloomington and at facilities owned by the Metropolitan Airports Commission for people riding the train. He expressed his view that to provide a further subsidy in the form of a circulator bus costing an estimated \$2 million per year when fully implemented is not necessary. He suggested that riders pay some fare, no matter how small, instead of no fare in order to defray or pay some portion of the costs. He again suggested that the Council take a look at what state law is and how this proposal may or may not conflict with it. He also suggested that the Council consider having the people who use the circulator pay some type of fare. He noted that not everyone who rides the circulator will be a regular route transit rider nor will they be a light rail rider. There will be people using the circulator who are moving from one end of downtown to the other.

Nils Grossman, the Council's General Counsel, responded to the issue of what the state law is regarding the Council's contribution to this project and explained that there is a provision that addresses subsidies

Metropolitan Council Meeting of December 10, 2003

of operating deficits. It provides that the Council and other operators shall not contribute more than 50% of the operating deficit of a route.

Chair Bell suggested that this matter be investigated further and referred back to the Transportation Committee. He requested that the committee first deal with the question of legality of the subsidy and then to give consideration to whether or not there should be a fare.

It was suggested that business items 2003-347 and 2003-348 be approved contingent upon reconsideration of business item 2003-349. Chair Bell responded that he would prefer to refer all three of these matters back to the Transportation Committee so they can look at the question of the subsidy and get closure on that issue before discussing the circulator project further.

It was also suggested that these three business items be tabled until the Transportation Committee has examined the subsidy issue and brings back its findings and conclusions. At that time, these items can be taken from the table and considered.

It was moved by Steffen, seconded by Meeks:

“To table business items 2003-347, 2003-348 and 2003-349.”

Motion carried.

Chair Bell then requested that the Transportation Committee examine the issue of the legality of the current proposed subsidy as well as the issue of a fare charge and bring back their findings, conclusions and recommendations to the Council. At that time, the tabled items can be taken from the table and considered for action.

2003-355: Hiawatha LRT Cooperative Operations Funding Agreement with Hennepin County

It was moved by Steffen, seconded by Susag:

“That the Metropolitan Council authorize its Regional Administrator to negotiate and execute the Hiawatha LRT Master Cooperative Operations Funding Agreement with the Hennepin County Regional Railroad Authority (HCRRA) for the period July 1, 2003 through December 31, 2005.”

Motion carried.

2003-356: Hiawatha LRT Operations & Maintenance Agreement with City of Minneapolis

It was moved by Steffen, seconded by Susag:

“That the Metropolitan Council authorize its Regional Administrator to execute the Hiawatha Corridor Light Rail Transit (LRT) Project Operations and Maintenance Agreement with the City of Minneapolis in accordance with the Hiawatha Corridor Light Rail Transit Master Project Cooperation Agreement entered into on February 16, 2000.”

Motion carried.

2003-358: Authorization to Award Contract for Track Maintenance

Metropolitan Council Meeting of December 10, 2003

It was moved by Steffen, seconded by Susag:

“That the Metropolitan Council authorize its Regional Administrator to execute a contract with RailWorks Track Systems, Inc. for track maintenance services in accordance with the specifications and the bid prices for a three-year term, with options for the Council to extend the term for a fourth and a fifth year.”

Motion carried.

2003-329: Hennepin County Hiawatha Light Rail Transit Bond Interest Earnings

It was moved by Steffen, seconded by Susag:

“That the Metropolitan Council authorize its Regional Administrator to negotiate and execute with the Hennepin County Regional Rail Authority (HCRRA) four Project Funding Agreements utilizing \$275,000 HCRRA LRT bond interest earnings for the following projects:

1. Hennepin County Government Plaza waterproofing interface with the LRT station platform;
2. Downtown Circulator/LRT Connection at Nicollet Mall (**contingent upon recommendation of the Transportation Committee regarding the items tabled earlier in the meeting**);
3. On-board Automatic Passenger Counters on Light Rail Vehicles; and
4. Interim Park and Ride near Lake Street/Midtown Station.”

Motion carried.

Other Business

2003-341: Appointment of Land Use Advisory Committee Members and Approval of Bylaws

It was moved by Meeks, seconded by Steffen:

“That the Metropolitan Council approve the proposed amendments to the bylaws (Attachment A) of the Housing and Land Use Advisory Committee (HLUAC) and appoint the individuals listed on Attachment B to a renamed Land Use Advisory Committee (LUAC) with terms ending in January 2007.”

Egan noted that he will be chairing this newly renamed committee and commented that, if the bylaws are approved as presented, there will be a very fundamental change in the responsibilities of the committee. He explained that Article III of the amended bylaws state that meetings will be held at least every month; however, it has been almost a year since the committee's last meeting. In terms of a quorum, Article III states that a majority of the members constitutes a quorum; however, there has never been anything close to a quorum present at previous meetings. The members of the committee have been volunteers coming from all over the region and it was a very sizeable committee. He also noted that the bylaws state that the committee will assist the Council in performing the Council's regional land use planning functions. He commented that this seems to be a much broader agenda and scope than what he understood it to be

Metropolitan Council Meeting of December 10, 2003

before. He expressed his view that the bylaw amendments seem to give this committee significant advisory authority and noted that it will be meeting much more frequently than the committee has in the past. He stated that the amendments have not received any critical analysis prior to being brought forward for adoption. The Chair suggested dividing the motion to separate the approval of the committee membership from the approval of the bylaws. He further suggested that Council Member Egan meet with staff for a thorough review of the bylaws and bring any recommended changes back to the Council for final approval. Meeks and Steffen agreed to change the motion accordingly.

A vote was then taken on the amended motion as follows:

“The Metropolitan Council approves the appointment of the individuals listed on Attachment B to a renamed Land Use Advisory Committee (LUAC) with terms ending in January 2007.”

Motion carried.

The Council meeting was recessed at 5:00 p.m. in order to conduct the public hearings on the 2004 Unified Operating Budget and the 2004-2009 Capital Improvement Program and 2004 Capital Budget. Following the Public Hearings, the Council reconvened at 5:20 p.m.

Presentation of Recommended Changes to the Public Hearing Draft of the 2004 Unified Operating Budget and 2004-2009 Capital Improvement Budget and 2004 Capital Budget

Beth Widstrom-Anderson outlined the recommended changes to the public hearing draft that have been suggested to date.

Discussion of Whether or not to Close the Meeting to Discuss Labor Issues

It was moved by Susag, seconded by Egan:

“That this meeting be closed pursuant to Minnesota Statutes Section 13D.03, subdivision 1(b) so the Council can consider strategy for labor negotiations.”

Chair Bell explained that the governing body of the Council may by a majority vote in a public meeting decide to hold a closed meeting to consider strategy for labor negotiations, including negotiation strategies or developments or discussion and review of labor negotiation proposals. This closed meeting would permit the Council to review labor negotiation proposals, consider strategy for labor negotiations, and provide input on negotiation strategies. The following considerations were cited for holding a closed meeting which are consistent with the requirements of the Minnesota Open Meeting Law:

1. Discussion of the labor negotiation issues in a public meeting at this time might inhibit frank discussion among Council members about the labor negotiation strategies the Council might establish or follow.
2. Discussion of the labor negotiation issues in a public meeting at this time might compromise the Council's negotiators' ability to obtain an acceptable settlement within the parameters established by the Council.
3. Discussion of the labor negotiation issues in a public meeting might compromise the Council's negotiators' ability to reach a timely and cost-effective settlement that is in the public interest.

Metropolitan Council Meeting of December 10, 2003

Chair Bell also stated that discussion at a meeting closed for purposes of considering labor negotiation strategies and issues must be confined to discussions of labor negotiation strategies or developments or discussion and review of labor negotiation proposals. A vote was taken on the motion and carried. Everyone was asked to leave the room except Council members, authorized management staff and others whose presence is necessary for a discussion or consideration of the labor negotiation issues. Chair Bell noted that the meeting would be tape-recorded and the tape will be preserved for two years after the contract is signed so that it can be made available to the public after all labor contracts are signed by the governing body for the current budget period. The meeting was then closed at 5:35 p.m.

Those present during the closed portion of the meeting included Council Members: Bell, Scherer, Pistilli, J. Smith, Susag, Leppik, Wittsack, Steffen, Hilker, Georgacas and Egan. Staff present included: Nils Grossman, Tom Weaver, Bill Moore, Mike Setzer, Dick Brainerd, Beth Widstrom-Anderson and Sandra Lindstrom.

Following discussions in the closed portion of meeting, it was moved, seconded and carried to reopen the meeting at 6:20 p.m.

It was then moved by Scherer, seconded by J. Smith:

“That the Metropolitan Council accepts the recommendations regarding labor negotiations that were discussed in the closed portion of the December 10, 2003, Council meeting.”

Motion carried.

Reports

Chair

Chair Bell reported that his focus for the past couple of weeks has been on the 2030 Regional Development Framework educational forums and public hearings; the Truth in Taxation Public Hearing; labor negotiations; and the Council's proposed bonding bill.

Council Members

There were no reports from Council members.

Regional Administrator

Tom Weaver reminded Council members that the Legislative Oversight Commission is meeting on Monday, December 15, at 3:30 p.m. They want to hear about the feedback received on the 2030 Regional Development Framework and a budget presentation. He thanked all Council members who attended the various public meetings and hearings.

Weaver also reported that Chair Bell had sponsored a Chair's Forum for metro area mayors to present the 2030 Framework, which was very successful. It began a very fruitful dialogue that will be continued at future meetings that will be held four times a year. The next meeting will focus on the transportation plan developed by the coalition of chambers of commerce. Council members were encouraged to attend.

Metropolitan Council Meeting of December 10, 2003

Weaver further reported that a meeting was held with county board chairs and administrators from the metropolitan area as well as from the adjacent counties. They went through the 2030 Framework and discussed a range of ways to interact them. These meetings will also continue.

General Counsel

Nils Grossman reported that the Lake Elmo decision is due from the Court of Appeals on Monday, December 22.

Adjournment

Business completed, the meeting adjourned at 6:30 p.m.

Part III - Certification

I hereby certify that the foregoing narrative and exhibits constitute a true and accurate record of the Metropolitan Council Meeting of December 10, 2003.

Approved this 14th day of January, 2004.

Respectfully submitted,


Sandra L. Lindstrom
Recording Secretary

C Community Development Committee

Metropolitan Council meeting of December 10, 2003

Committee Report

Item: 2003-281

ADVISORY INFORMATION

Date Prepared: December 2, 2003

Subject: City of Minnetonka Beach Revised Comprehensive Plan Update
Referral No. 18600-2

Summary of Committee Discussion:

Robin Cauffman, Council senior planner, presented the City of Minnetonka Beach's Revised Comprehensive Plan Update. There were no questions or discussion related to the City's Plan.

Recommendation:

The Community Development Committee voted unanimously to recommend that the Metropolitan Council:

1. Adopt the staff findings and conclusions.
2. Notify the City that it may put its Revised 2020 Comprehensive Plan (dated July 2003) into effect.
3. Require the City to modify its ordinances to incorporate erosion controls by July 2004.

C	Community Development Committee	Item: 2003-281
	Meeting date: December 1, 2003	
ADVISORY INFORMATION		
Date	November 24, 2003	
Subject	City of Minnetonka Beach Revised Comprehensive Plan Update Referral No. 18600-2	
Districts, Members	District 3, Mary Hill Smith 952-475-1388	
Prepared/Presented	Robin Caufman, AICP, Principal Reviewer (651-602-1457) Phyllis Hanson, Manager Planning & Technical Assistance (651-602-1566)	
Division/Department	Community Development / Planning and Technical Assistance	

REQUEST SUMMARY
The City of Minnetonka Beach has submitted its Comprehensive Plan Update for review to meet the 1998 plan update requirements according to Minnesota Statutes §473.864, Subd. 2.

PROPOSED ACTION
Staff recommends that the Metropolitan Council:
1. Adopt the staff findings and conclusions. 2. Notify the City that it may put its 2020 Comprehensive Plan into effect. 3. Require the City to modify its ordinances to incorporate erosion controls by July 2004.

ISSUES
The Plan calls for continued rail operation on the existing Dakota Railroad. The Plan is not in conformance with the 1997 Regional Recreation Open Space System Plan because the Plan does not include the proposed regional trail on the Dakota Rail right of way. However, the Plan does not present a substantial impact or substantial departure to the regional system, therefore a plan modification is not required (p. 4). The Plan states that the City will modify its local ordinances in 2003-2004, including updating the erosion control ordinances. (p. 6).

FINDINGS AND CONCLUSIONS	
Conformance with Regional Systems	Aviation, Transportation and Wastewater Services The Plan is in conformance with the Regional System Plans for Aviation (p. 4), Transportation (p. 4) and Wastewater Services (p. 5). Recreation Open Space The Plan is not in conformance with the 1997 Regional Recreation Open Space System Plan because the Plan does not plan for the proposed regional trail on the existing Dakota Railroad right of way. However, the Plan does not present a substantial impact or substantial departure to the regional system, because the Plan does not preclude future use as a regional trail, therefore a plan modification is not required. If the railroad right of way is no longer used for rail purposes, the City will need to review and revise its Plan to ensure the Plan conforms with metropolitan system plans according to Minnesota Statutes Sections 473.175; 473.852; and 473.856. (p. 4).

Consistency with Council Policy	<i>Regional Blueprint: Regional Growth Strategy, Forecasts, Housing</i>
	The Plan is consistent with the Council's 1996 Regional Blueprint, Regional Growth Strategy (RGS)(p. 5), forecasts (p. 6) and housing policy (p. 6).
	<i>Water Resources Management</i>
	The Plan is consistent with the Council's water resources policies. The Plan indicates that the City will update the erosion control ordinances in 2003-2004 (p. 6).
	<i>Protected Resources</i>
	The Plan addresses historic preservation and solar access protection. The Council's study does not identify any deposits of gravel or sand within the City.
Compatibility with Adjacent Community Plans	The Plan is incompatible with the Plans of cities along the railroad linear right of way from Wayzata to Waconia that are planning for the proposed regional trail on the Dakota Railroad. The Council received comments from the Cities of Orono and Spring Park related to the revised Plan and the regional trail issue. The Plan is consistent with Hennepin County's transportation plan, which shows the Dakota Railroad as a transportation corridor. Hennepin County is studying the feasibility of operating the railroad (p. 7).

COMMUNITY PROFILE	
Regional Indicators	• Fully developed Lake Minnetonka community in western Hennepin County. • 1,013 acres, of which 686 acres are Lake Minnetonka. • Lake Minnetonka surrounds the city on 3 sides. • Lake Minnetonka Area Cooperating Cities participant for the provision of affordable and life-cycle housing. • Urban community in the 1996 <i>Regional Growth Strategy</i>.
Growth, Present Size, Projections	• Ranked 123rd among the region's communities. • 2000 census indicates 224 households and 210 jobs. • City forecasts 238 households by 2020.
Previous Actions	• Council reviewed the City's last Comprehensive Plan Update in August 1980. • City did not receive a planning assistance grant. • Metropolitan Council December 4, 2002 letter requested that the City delay approval of the City's Plan until Council has completed the review (attached). • City Council affirmed its plan at its December 9, 2002 meeting and delayed final approval until the Metropolitan Council's review is completed. • Council reviewed the City's 2020 Comprehensive Plan Update in January 2003, found the Plan not in conformance with and a substantial departure from and significant impact on the 1997 Regional Recreation Open Space System Plan and passed a resolution requiring the City to modify its Plan. • City revised its 2020 Comprehensive Plan Update to incorporate modifications related to classification of County Road 15 and policies and land use related to the Dakota Railroad.

Scope of Study

Staff reviewed the Plan for conformance with Regional System Plans for Aviation, Recreation Open Space, Transportation and Wastewater Services; for consistency with the 1996 Regional Blueprint, forecasts, housing policies and Water Resources Management Plan; and for compatibility with the plans of adjacent governmental units and school districts. Materials received for review include:

- The City of the Village of Minnetonka Beach Comprehensive Plan, Amended July 2003

Attachments

Review Record
Figure 1 – Location Map
Figure 2 – Regional Growth Strategy Policy Areas
Figure 3 – Regional Systems
Figure 4 – Existing Land Use
Figure 5 – Land Use Plan

REVIEW RECORD
REVIEW OF THE CITY OF MINNETONKA BEACH COMPREHENSIVE PLAN UPDATE

STATUTORY AUTHORITY

The Metropolitan Land Planning Act requires local units of government to submit comprehensive plans and plan amendments to the Council for review and comment (MN. Stat. §473.864, Subd. 2). The Council reviews plans to determine:

- ☐ Conformance with metropolitan system plans, and
- ☐ Consistency with other adopted plans of the Council,
- ☐ Compatibility with the plans of other local jurisdictions in the Metropolitan Area.

The Council may require a local governmental unit to modify any comprehensive plan, or part thereof, which may have a substantial impact on or contain a substantial departure from metropolitan system plans (MN Stat. §473.175, Subd. 1).

CONFORMANCE WITH REGIONAL SYSTEMS

The Plan is in conformance with the Regional System Plans for Aviation, Transportation, and Wastewater Services and not in conformance with the Regional System Plan for Recreation Open Space (Figure 3).

Aviation (Chauncey Case, Aviation 651 602-1724)

The Plan is in conformance with the *Aviation Policy Plan*. The Plan includes an aviation element that adequately addresses the protection of the region's general airspace.

Recreation Open Space (Arne Stefferud, Parks 651-602-1360)

The Plan is not in conformance with the *Regional Recreation Open Space Policy Plan* because the Plan does not include the proposed regional trail on the Dakota Railroad, nor plan for this use. However, the revised Plan does not present a substantial impact or substantial departure to the regional system because identification of the Dakota railroad does not preclude future use as a regional trail. The Plan acknowledges the use of the rail right of way for rail purposes, consistent with Hennepin County's Plan, and preserves the linear transportation corridor. The revised plan states that "It is the policy of the City of Minnetonka Beach to retain the existing railroad as a land use in the community."

If the railroad right of way were no longer used for rail purposes, the City would need to amend the Plan to ensure the Plan conforms with metropolitan system plans according to Minnesota Statutes Sections 473.175; 473.852; and 473.856. This would ensure that the Plan is compatible with the Council's *Regional Recreation Open Space Policy Plan* and the Plans of other communities on this linear right of way.

Transportation (Ann Braden, Planning & Technical Assistance 651 602-1705)

The Plan is in conformance with the regional *Transportation Policy Plan*. The Plan designates County Road 15 (CR 15) as an "A" Minor Expander road, in conformance with the *Transportation Policy Plan*. The Plan also states the City's intentions to promote the designation of CR 15 as a Scenic Parkway, similar to the City of Orono's designation of CR 15. Gaining the Scenic Parkway designation for CR 15 would require the support of the county. The CR15 carries three Metro Transit bus routes (675, 676, 677).

The *Transportation Policy Plan* includes the preservation of linear rights-of-way such as an existing railroad. One preservation strategy outlined in the policy plan is for local governments to identify and preserve rights-of-way for transportation uses. Transportation uses could include bike- and walkways, transit facilities and highways. The transportation element of the local comprehensive plan is to identify future rights-of-way needs and describe procedures to preserve them. Currently, the Dakota Railroad is classified as an active railroad. The Hennepin County Regional Rail Authority is evaluating the feasibility of resuming rail service. The Plan identifies the existing Dakota Railroad as an existing railroad corridor.

Wastewater Services (Don Bluhm, Environmental Services 651-602-1116)

The Plan is in conformance with the regional system plan for wastewater services.

CONSISTENCY WITH COUNCIL POLICY

The Plan is consistent with the Regional Growth Strategy (RGS), Council forecasts and Council policy (Figure 2).

Regional Growth Strategy and Land Use (Robin Cauffman, AICP, Planning & Technical Assistance 651-602-1457)

The RGS identifies the City as Urban, anticipating that communities will plan to support redevelopment of obsolete land uses, renovation and reuse of existing structures, and infill on vacant sites. New residential development in Urban communities is expected to be at a minimum of 3 units per acre. However, as a fully developed community, Minnetonka Beach only has 7 acres of vacant residential land. Existing residential development in the Minnetonka Beach is currently at an overall density of 1.16 units per acre.

The following table shows the City's existing land use (Figure 6). Single family residential land use occupies 68% of the City's land area, the result of its historical development pattern as a lakeshore community that was once a resort community with narrow street right of ways.

Existing and 2020 Land Use

	Existing Acres	%	2020 Acres	%
Single-Family Residential	196	19%	202	19%
Multiple-family Residential	0	0%	0	0%
Commercial/ Industrial	0	0%	0	0%
Public/Semi-Public	63	6%	63	6%
Open Water	686	68%	686	68%
Parks and Recreation	20	2%	20	2%
Subtotal – Developed	964	96%	971	96%
<i>Vacant Land</i>				
Vacant Single-Family Residential	7	0%	0	0%
Vacant Multiple-family Residential	0	0%	0	0%
Subtotal – Vacant	7	0%	0	0%
<i>Restricted Land</i>				
Environmental Protection wetlands	10	1%	10	1%
Public/semi public use*	20	2%	20	2%
Historic Preservation	11	1%	11	1%
Subtotal – Restricted Land	42	4%	42	4%
Total Land	1,013		1,013	

* Right of ways, utility easements etc

Forecasts

The City's forecasts are consistent with the Council's 2020 forecasts. The City forecasts 238 households by 2020 and encourages development through renovation and provision of life-cycle housing through accessory apartments or "granny flats".

Comparison of City and Council Forecasts

Population	2000 Census	2010	2020
Minnetonka Beach	614	655	675
Council	614	540	530
Households			
Minnetonka Beach	230	236	238
Council	224	210	220
Employment			
Minnetonka Beach	210	210	210
Council	210	210	210

Housing (Guy Peterson, Livable Communities Department, 651-602-1418)

The housing element fulfills the housing planning requirements of the Metropolitan Land Planning Act from a regional perspective. As a small, fully-developed community with over one-half of its housing stock on Lake Minnetonka and only seven vacant acres, or four lots, housing and new affordable housing opportunities is not reasonable nor a major concern for this plan.

The Plan acknowledges that the City has been a Livable Communities Act (LCA) participant since 1998. The City's negotiated goal is to work with other Lake Minnetonka Area Cooperating Communities (LMACC) to create a subregional housing authority to deliver affordable housing resources, provide affordable and lifecycle housing and promote housing rehabilitation. The City's housing policy is to include a variety of sizes and values to accommodate different stages of the life-cycle. As one of its strategies, the City will encourage innovative ideas to integrate such opportunities into the community, such as the construction of "granny flats". Minnetonka Beach also encourages renovation and rehabilitation aimed at preserving the many historically significant residences and buildings.

Water Resources Management (Jim Larsen, Planning & Technical Assistance 651-602-1159)

Surface Water Management

The City submitted a copy of the Local Surface Water Management Plan, which was reviewed by Council staff in August 2002. Staff provided comments to the Minnehaha Creek Watershed District and the City on the City's Local Surface Water Management Plan including the recommendation that the City adopt appropriate regulatory controls to address storm water ponding and erosion control and other best management practices. The City should modify current ordinances to incorporate adequate erosion control ordinances by July 2004 (nine months following Council action). The Plan indicates that the City will update the erosion control ordinances in 2003-2004.

Water Supply

The City submitted an update to the 1995 Water Supply Plan. The City's data contains periodic water use information for past years, which exhibit increasing use-per-person and use-per-household trends from 1980 through the present. The City projects it will continue its increasing

water use per-person trend throughout the planning period. The City should continue to evaluate residential per-person demand on an annual basis and make it a priority to begin lowering this factor through an active conservation program. Records also show that the volume of water sold by the City is greater than the volume appropriated by the City for the past several years. The City is encouraged to take active measures to eliminate this discrepancy and more accurately track its unaccounted-for water volume.

Wastewater - Individual Sewage Treatment Systems (ISTS)

The City of Minnetonka Beach is fully sewered, eliminating the need for an ISTS management program.

Plan Implementation

The City provided a detailed outline of proposed revisions to the City's official controls that will be used to implement the Plan. The information the City provided includes a Life-Cycle Housing Implementation Program/Action Plan, Official Controls Review outline and Capital Improvements Program 2002-2007. The City meets the requirements of MN Stat. 473.859, Subd. 4 for a five-year CIP.

COMPATIBILITY WITH ADJACENT JURISDICTIONS AND SCHOOL DISTRICTS

The City forwarded the Plan to adjacent jurisdictions for review. The Council received written comments with the initial review of the Plan from adjacent communities expressing concern about the regional trail issues, including Orono, Mound, and Spring Park. The Plan is incompatible with the Plans of cities along the railroad linear right of way from Wayzata to Waconia that are planning for a future regional trail on the Dakota Railroad. With the revised Plan review, the Council received comments from the Cities of Orono and Spring Park related to the use of the Dakota Railroad and regional trail. The Plan is consistent with Hennepin County's transportation plan, which show the Dakota Railroad as a transportation corridor. The County is studying the feasibility of operating the railroad.

Figure 1. Location Map

City of Minnetonka Beach, Hennepin County

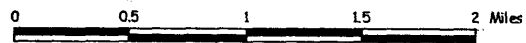
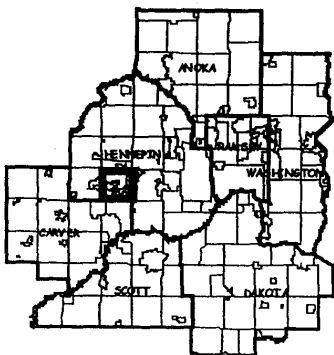
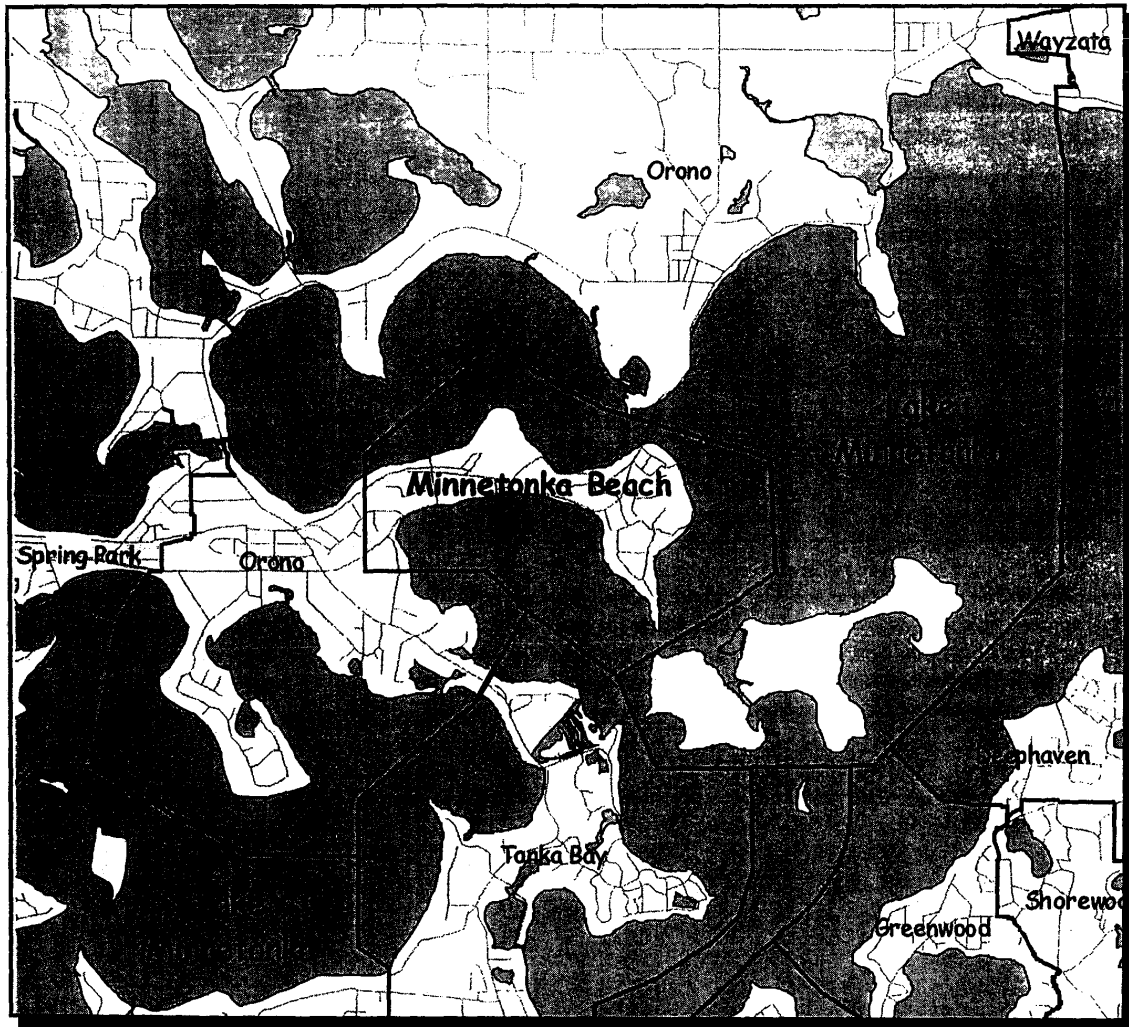
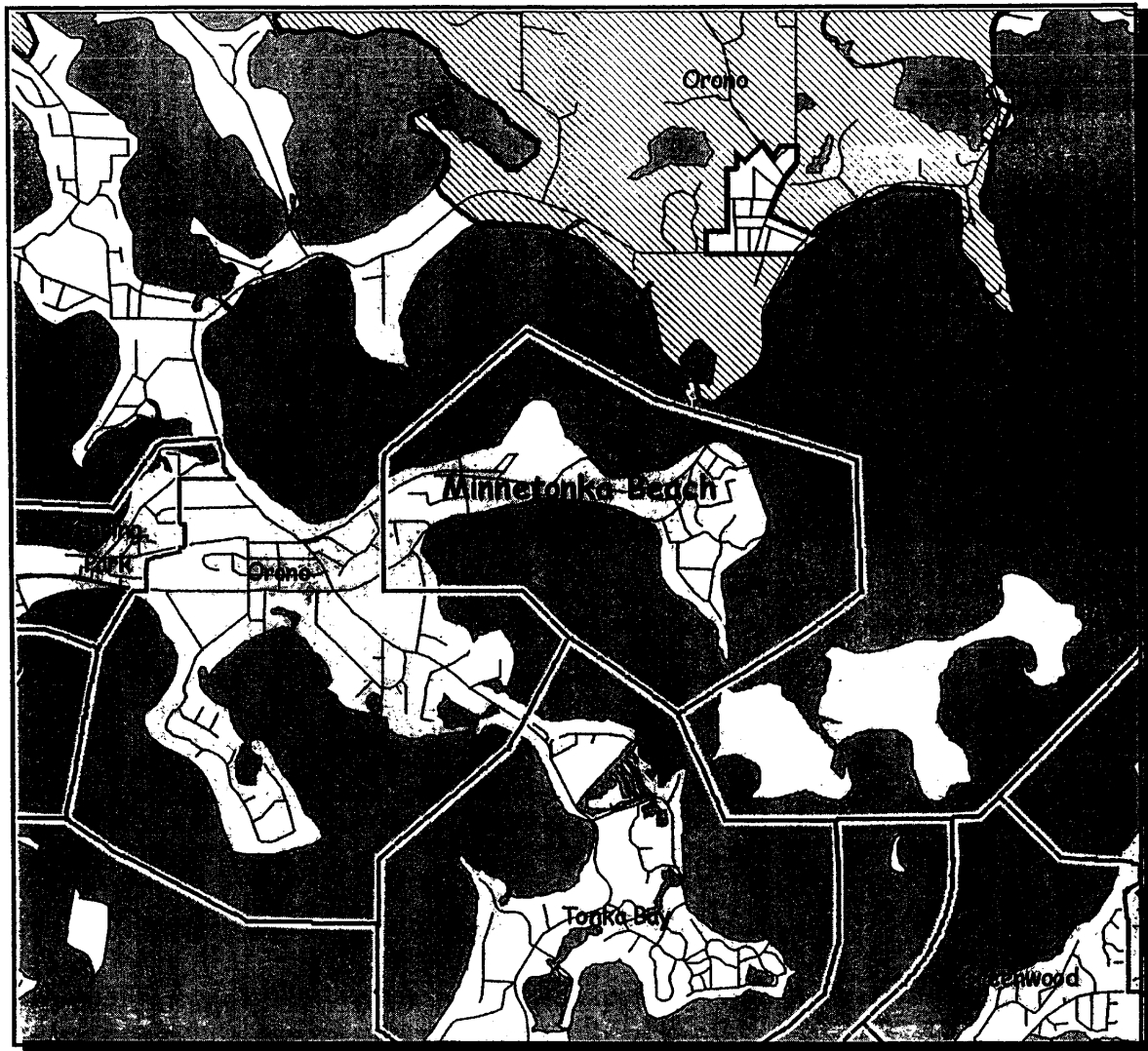


Figure 2. Regional Growth Strategy Policy Areas
City of Minnetonka Beach, Hennepin County



2000 MUSA (1998)

Growth Strategy Policy Areas

- Urban Core
- Urban Area
- Illustrative 2020 MUSA*
- Urban Reserve

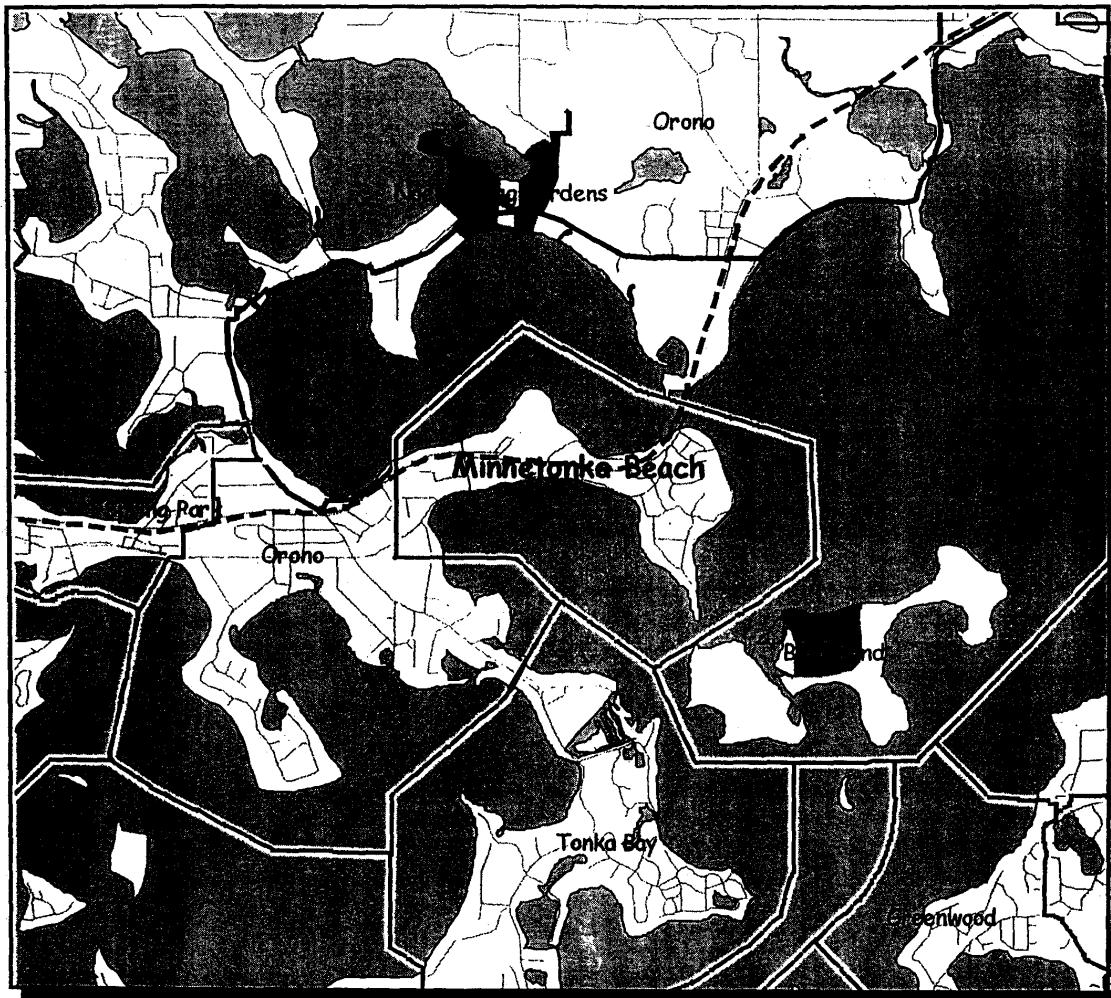
- Rural Growth Centers
- Permanent Agricultural Area
- Permanent Rural Area

Street Centerlines (TLG, 2002)

* The official 2020 MUSA will be determined by local governments and the Metropolitan Council as part of the 1997-98 comprehensive planning process.

Figure 3. Regional Systems

City of Minnetonka Beach, Hennepin County



0 0.5 1 1.5 2 Miles

Regional Systems

Recreation/Open Space

- Federal
- Park Reserve
- Regional Park
- Special Recreation Feature
- State

Transportation

- Highways

Wastewater Treatment

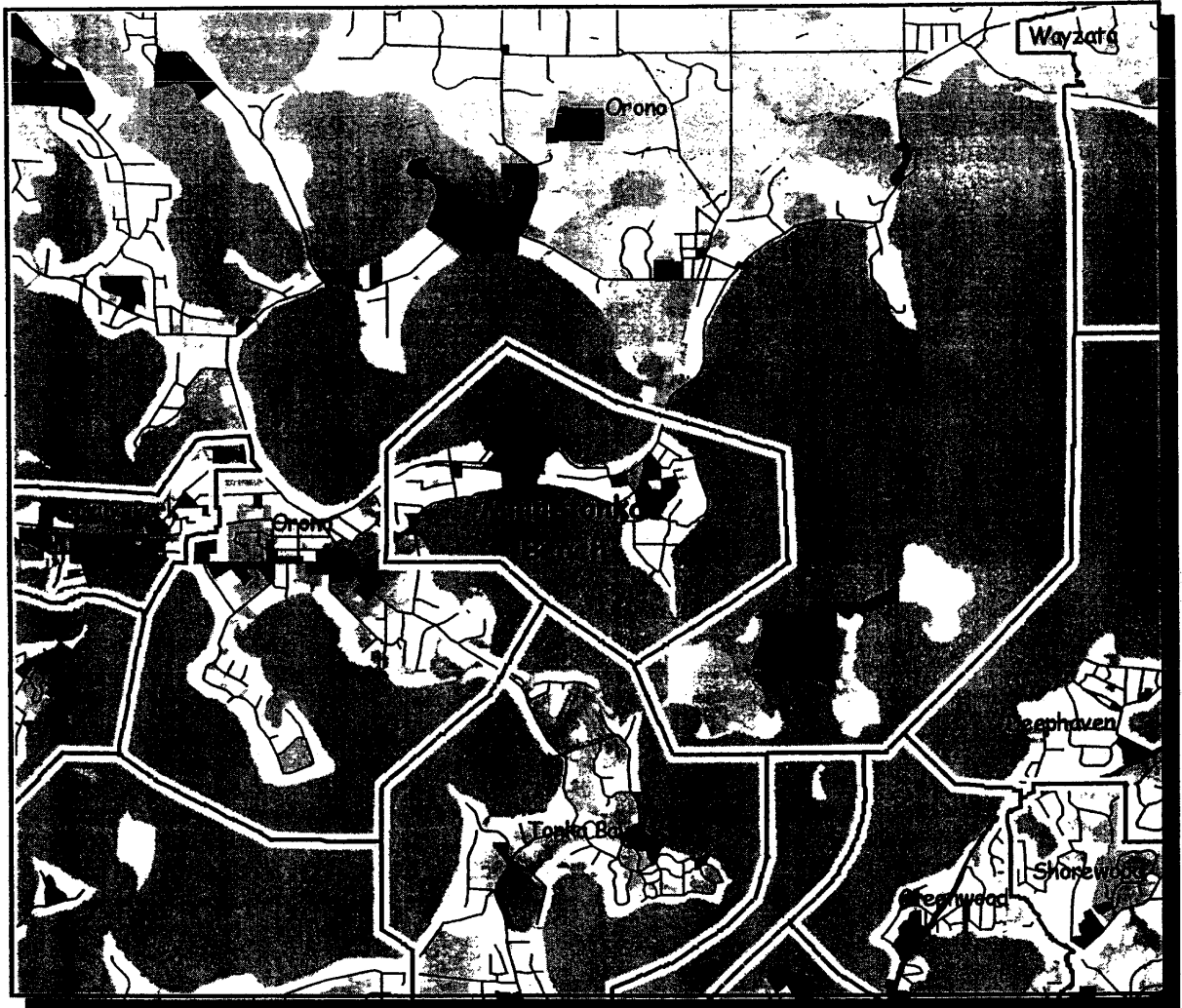
- Public (Non-MCES) Treatment Plants
- MCES Treatment Plants
- MCES Interceptors

Aviation

- Airports
- Proposed Regional Trail

Figure 4. Existing Land Use (2000, Preliminary)

City of Minnetonka Beach, Hennepin County



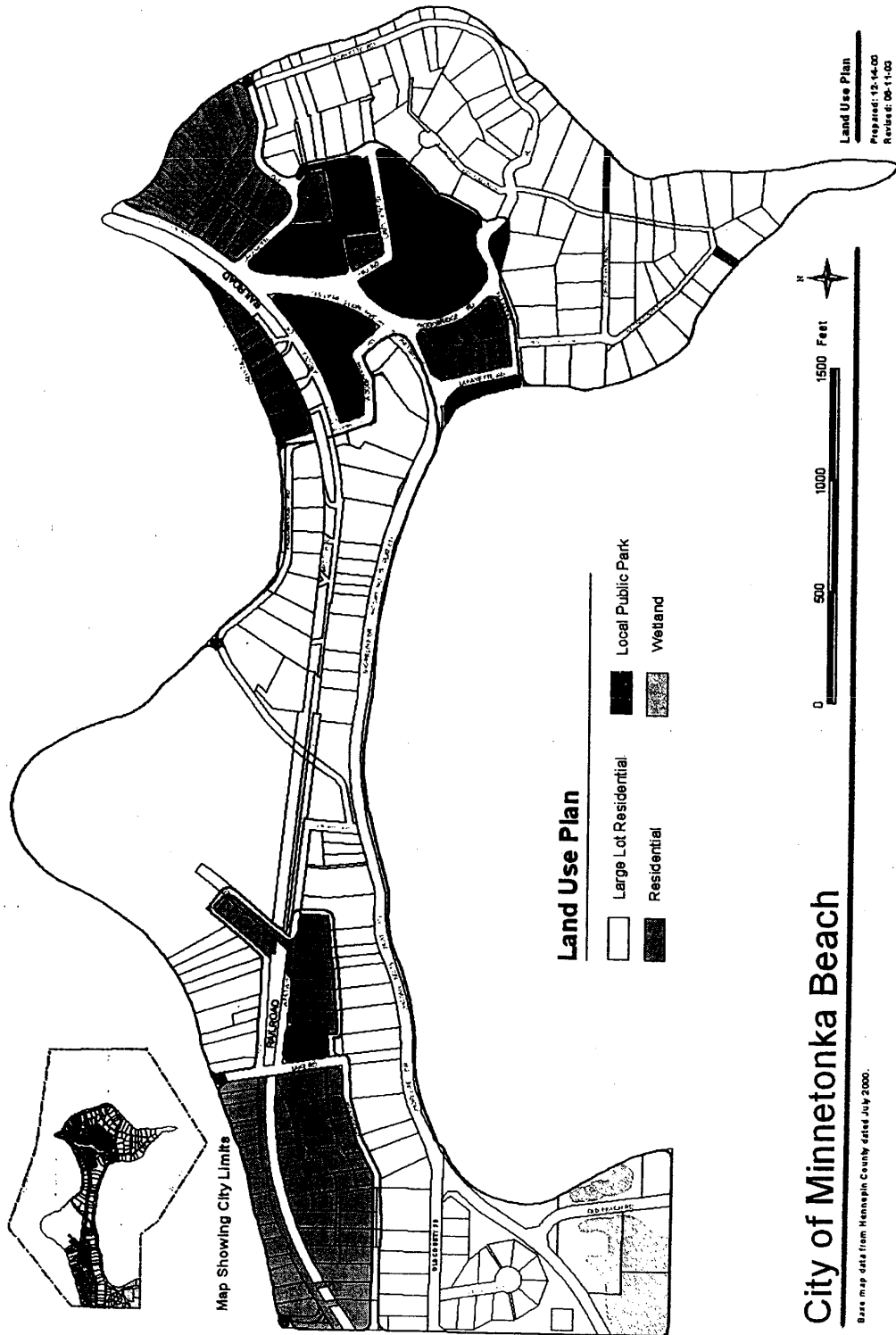
Preliminary 2000 Land Use

	Agriculture		Multifamily
	Retail/Other Commercial		Manufactured Housing Park
	Office		Mixed Use Residential
	Institutional		Mixed Use Industrial
	Parks and Recreation		Mixed Use Commercial
	Undeveloped Land		Industrial/Utility
	Open Water		Extractive
	Farmsteads		Golf Courses
	Seasonal/Vacation		Major Vehicular Rights of Way
	Single Family Detached		Railway
	Single Family Attached		Airport



0 0.5 1 1.5 2 Miles

Figure 5 – Land Use Plan





Hutchinson City Center

111 Hassan Street SE
Hutchinson, MN 55350-2522
320-587-5151/Fax 320-234-4240

Office of the Hennepin County Attorney
Marilyn J. Maloney
C-2000 Government Center
300 South Sixth Street
Minneapolis MN 55487

Re: Docket No. AB-864X, Hennepin County Regional Rail Authority-Notice of Exempt
Abandonment in McLeod, Carver and Hennepin Counties, Minnesota

Dear Ms. Maloney:

This letter is in response to the above correspondence for rail line abandonment within the City of Hutchinson. Enclosed please find responses from both the City of Hutchinson Planning Commission and the City of Hutchinson City Council minutes of December 23, 2003. The minutes include action on the request. (highlighted)

Thank you for your interest in the City of Hutchinson's response on this matter. If you have further questions please call John Rodeberg, Director of Engineering, at 320-234-4208 or Julie Wischnack, Director of Planning, Zoning and Building, at 320-234-4258.

Sincerely,

Bonnie Baumetz
Planning Coordinator

Enc.

Cc: John Rodeberg, Director of Engineering
Julie Wischnack, Director of Planning, Zoning and Building
Gary Plotz, City Administrator
Marlin Torgerson, Mayor



Hutchinson City Center

111 Hassan Street SE
Hutchinson, MN 55350-2522
320-587-5151/Fax 320-234-4240

MEMORANDUM

DATE: December 18, 2003
TO: Hutchinson City Council
FROM: Hutchinson Planning Commission
SUBJECT: Consideration of Notice of Railroad Abandonment

HISTORY:

On December 1, 2003, the City of Hutchinson received a letter from the Hennepin County Attorney regarding our review of the proposed abandonment requested by the Hennepin County Regional Railroad Authority.

RECOMMENDATION:

The Planning Commission recommends approval of the request noting the abandonment is consistent with our plans to have the corridor preserved as a future transportation corridor.

Respectfully submitted,

Dean Kirchoff, Chairman
Hutchinson Planning Commission

**MINUTES
REGULAR MEETING – HUTCHINSON CITY COUNCIL
TUESDAY, DECEMBER 23, 2003**

1. **CALL TO ORDER – 5:30 P.M.**

Mayor Marlin Torgerson called the meeting to order. Members present were Jim Haugen, Kay Peterson, Bill Arndt, and Duane Hoversten. Others present were Gary Plotz, City Administrator and Marc Sebor, City Attorney.

2. **INVOCATION** – Rev. Sam Grozdanov, Shalom Baptist

3. **PLEDGE OF ALLEGIANCE**

4. **MINUTES**

(a) REGULAR MEETING OF DECEMBER 10, 2003

Minutes were approve as presented

5. **CONSENT AGENDA**

(a) REPORTS OF OFFICERS, BOARDS AND COMMISSIONS

1. PURCHASE OF LOGS BID OPENING MINUTES FROM DECEMBER 12, 2003
2. FINANCIAL REPORT FOR NOVEMBER 2003 (GENERAL FUND, WATER, AND SEWER DEPARTMENTS)
3. INVESTMENT REPORT FOR NOVEMBER
4. HUTCHINSON HOUSING & REDEVELOPMENT AUTHORITY REGULAR BOARD MEETING MINUTES FROM NOVEMBER 18, 2003

(b) RESOLUTIONS AND ORDINANCES

1. ORDINANCE NO. 03-358 – AN ORDINANCE REPEALING ORDINANCE NO. 03-353 – ESTABLISHING SPECIAL SERVICE DISTRICT NO. 1 (*SECOND READING AND ADOPTION*)
2. RESOLUTION NO. 12315 – CONSIDERATION FOR APPROVAL RESOLUTION ADOPTING 2004 HOUSING COMMUNITY DEVELOPMENT PLAN
3. RESOLUTION NO. 12314 – CONSIDERATION FOR APPROVAL OF DNR CONSERVATION PARTNERSHIP GRANT FOR MILLER WOODS OAK SAVANNAH
4. RESOLUTION NO. 12312 – CONSIDERATION FOR APPROVAL OF CONDITIONAL USE PERMIT REQUESTED BY MILES AND LINDA MCMONAGLE, PROPERTY OWNERS, TO ALLOW RESTORATION OF THE MARQUEE, CANOPY, AND TOWER LOCATED ABOVE THE ROOF LINE ON THE STATE THEATRE, 35 WASHINGTON AVENUE EAST

5. RESOLUTION NO. 12316 – CONSIDERATION FOR APPROVAL OF RESOLUTION APPROVING AN EXTENSION OF CONDITIONAL USE PERMIT GRANTED TO MENARDS TO CONSTRUCT A FENCE 14 FEET IN HEIGHT AND ALLOW FOR OUTDOOR STORAGE AND DISPLAY AREA LOCATED AT 1525 MONTREAL STREET SE

(c) 2004 LICENSE RENEWALS

1. TOBACCO LICENSES
2. MASSAGE LICENSE

- (d) CONSIDERATION FOR APPROVAL OF SHORT-TERM GAMBLING LICENSE FOR HUTCHINSON BASEBALL ASSOCIATION AT VFW POST 906
- (e) CONSIDERATION FOR APPROVAL OF SHORT-TERM GAMBLING LICENSE FOR MINNESOTA WATERFOWL CENTRAL CHAPTER AT VFW POST 906
- (f) CONSIDERATION FOR APPROVAL OF NOTICE FROM HENNEPIN COUNTY REGIONAL RAIL AUTHORITY REGARDING EXEMPT ABANDONMENT IN MCLEOD, CARVER, AND HENNEPIN COUNTIES
- (g) CONSIDERATION FOR APPROVAL OF HCVB BUDGET 2004
- (h) CONSIDERATION FOR APPROVAL OF OUT-OF-STATE TRAVEL TO SEATTLE, WASHINGTON TO VISIT THE LRI COMPOST FACILITY BY CREEKSIDE SOILS SITE COORDINATOR, DOUG JOHNSON AND STEVE MADSON
- (i) CONSIDERATION FOR APPROVAL OF OUT-OF-STATE TRAVEL BY ANDY KOSEK TO LAS VEGAS, NEVADA TO ATTEND THE ANNUAL US COMPOSTING COUNCIL CONFERENCE
- (j) CONSIDERATION FOR APPROVAL OF WALMART NON-INTOXICATING LICENSE SUSPENSION STIPULATED AGREEMENT
- (k) CONSIDERATION FOR APPROVAL FOR APPOINTMENT OF NEW HRA BOARD MEMBER PAT SPETHMAN (REPLACING JOHN HOULE)

5(b)4 was pulled for further discussion. Ms. Wischnack informed the Council that there was some discussion at the planning commission regarding the flashing light issue with the signage (there is a condition in the conditional use permit). Ms. Wischnack further explained that downtown design review committee needs to be approached regarding this and they need to review plans before the Council acts on the Marquee. Mr. Sebor explained that there was some concern whether the design of the lights with the canopy and tower would be allowed under the current building code. There is a provision dealing with flashing signs that allows them to be reviewed by the downtown design committee. Ms. Wischnack is going to meet with the design committee and bring the new proposal to the next City Council meeting for consideration at that point.

CITY COUNCIL MINUTES – DECEMBER 23, 2003

Motion by Kay Peterson, second by Jim Haugen to defer action on (b)4 until the next regular Council Meeting in January. Motion carried unanimously.

5(f) was pulled by Council Member Arndt for further discussion. Council Member Arndt was concerned that the abandonment, the bridges, culverts, and pipes might also be pulled out. If this happens, it could cost the City of Hutchinson time and money in replacing them in the future. Council Member Arndt would like to see the rails pulled but not the bridges. He requested that this be looked into so as to ensure this will not happen. Mr. Rodeberg said that the engineering department is working with Ron McGraw and McLeod County Railroad Authority to ensure that this does not happen and to have a little more of an involvement on how the rail is abandoned. He recommended that this be included in the motion. Rail America is involved in the abandonment and part of their requirement is they remove rails and a number of other things. The expectation though is they may or may not do that however. Mr. Rodeberg is not sure what is required under the law regarding the bridges, if there is safety or other issues. In the case of Luce Line, the DNR was taking over but in this case Hennepin County control.

Motion by Bill Arndt, second by Jim Haugen, to approve railroad abandonment contingent on ensuring the preservation of trails, bridges, culverts, and pipes and that the abandonment is consistent with our plans so as the corridor is preserved as a future transportation corridor. Motion carried unanimously.

5(g) was pulled by Council Member Hoversten for further discussion. Council Member Hoversten gave a brief history of how the HCVB was created. The HCVB was created by a City Ordinance and the Ordinance has the Hutchinson motels collecting tax just like tax is collected in retail stores. In the Ordinance the City selected the Chamber of Commerce to oversee the HCVB with the HCVB being an arm of the Chamber of Commerce. With that in mind, it falls on the City Council to ultimately oversee the budget because it is a tax collection. The current budget does not show that the HCVB plans to move out of the City Chamber. The budget also does not show that out of 13 to 14 comparable cities, the average CVB spends 25 – 35% of their budget on staff. The HCVB spent over 50% this last year on staff. Because they are moving to a different location they are going to have to hire one or two more part time staff to answer phones, running the expenses up higher. Council Member Haugen is requesting that the budget be approved for 90 days and in that 90 days a strategic planning committee be put together to put a strategic plan together on what it is the HCVB is going to do and what their mission is and also to come up with a revised budget that fits what their strategic plan is going to be. The members should include people from the Chamber, the Council, and the HCVB. Within the 90 days the HCVB will come back to the council with a revised budget and strategic plan. The mayor will name two people at the January 2, 2004 organizational meeting. Mariann Felk, HCVB advisory board representative from the fairgrounds, stated that they can and will comply with the stipulations that the City Council has requested and also invited the City Council members to attend any meeting(s).

Motion by Kay Peterson, second by Duane Hoversten for a 90 day provisional budget with the expectation that a committee will be put together to put together a strategic plan with a budget that matches that plan and will be brought before the City Council for review before the 90 days are completed. Motion carried unanimously.

5(k) was pulled by Mayor Torgerson for further discussion. Mayor Torgerson explained that there



MINNESOTA HISTORICAL SOCIETY

January 8, 2004

Ms. Marilyn Maloney
Assistant Hennepin County Attorney
Office of the Hennepin County Attorney
A-2000 Government Center
300 South 6th Street
Minneapolis, MN 55487

Re: Docket No. AB-864 (Sub-No. 1X) Hennepin Regional Rail Authority
Abandonment of 43.9 miles of railroad between milepost 24.6 near Wayzata, to
the end of the line at milepost 68.5, in Hutchinson, in McLeod, Carver and
Hennepin Counties
SHPO Number: 2004-0692

Dear Ms. Maloney:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

We have the following comments:

1. The submittal includes photographs of the Hutchinson Depot, but indicates that the building has been damaged by fire. The extent of the damage is not clear. Please furnish further information. This building may meet National Register criteria.
2. It is not clear whether the rail line itself meets National Register criteria.

We look forward to working with you to complete this review. Contact us at 651-296-5462 with questions or concerns.

Sincerely,


 Dennis A. Gimmestad
Government Programs & Compliance Officer



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

JAN 7 2004

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Dear Ms. Rutson:

The area in question on the map with the Environmental and Historic Reports for the proposed rail line abandonment of Hennepin County Regional Railroad Authority (HCRA) for 43.9 miles of rail line between railroad milepost 24.6, near Wayzata, to the end of the line at milepost 68.5, in Hutchinson, in McLeod, Carver and Hennepin Counties, Minnesota, STB Docket No. AB-864 (Sub-No. 1X), has been reviewed within the areas of National Geodetic Survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, 5 geodetic station markers have been identified that may be affected by the proposed abandonment; a listing of these markers is enclosed. Additional information about these station markers can be obtained via the Internet or NGS CD-ROM. A fact sheet for these two data retrieval methods is enclosed. If there are any planned activities which will disturb or destroy these markers, NGS requires not less than 90 days notification in advance of such activities in order to plan for their relocation.

If further information is needed for this geodetic marker, contact Mr. Frank C. Maida. His address is NOAA, N/NGS2, Room 8736, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3198, fax: 301-713-4324, e-mail: Frank.Maida@noaa.gov.

Sincerely,

Richard A. Snay
Chief, Spatial Reference System Division

Enclosures

cc: N/NGS1 - G. Mitchell
N/NGS1x1 - D. Hoyle
Marilyn J. Maloney, Assistant Hennepin County Attorney



Printed on Recycled Paper



HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
BETWEEN WAYZATA AND HUTCHINSON
IN McLEOD, CARVER AND HENNEPIN COUNTIES, MINNESOTA
STB DOCKET NO. AB-864 (SUB-NO. 1X)

5 GEODETIC CONTROL MARKS IN THE PROPOSED ABANDONMENT AREA

PIDS	DESIGNATION	LATITUDE	LONGITUDE
PP1973	T 117	N445812	W0933100
PP1935	960 RESET	N445342	W0934451
PP3114	CAMDEN	N445302	W0935936
PQ0017	Z 124	N445304	W0940300
PQ1495	4308 R	N445340	W0942251



National Geodetic Survey - News Flash!



GEODETTIC DATA AVAILABLE FREE ON THE INTERNET

Are you interested in getting the most current position, height, and descriptive information for all the geodetic control points in the National Spatial Reference System? Are you interested in getting this information immediately, free of cost, and whenever you want it? With an Internet connection, this information is yours to download.

The National Geodetic Survey's (NGS) data sheet contains position, height, and descriptive information for approximately 750,000 control points throughout the United States. The data sheet provides:

- ▶ The geodetic coordinates and the orthometric height for each point
- ▶ The horizontal and vertical datums on which the information is based
- ▶ State plane coordinates and Universal Transverse Mercator coordinates
- ▶ Modeled geoid height, ellipsoidal height, modeled gravity, and Laplace correction
- ▶ A description of the station's location and how to reach it

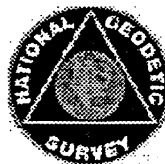
To obtain his information, set your Web browser to
http://www.ngs.noaa.gov/products_services.html

For more information contact:

NOAA, National Geodetic Survey, N/NGS12
1315 East-West Highway, Station 09202
Silver Spring, MD 20910

Telephone: (301) 713-3242; Fax: (301) 713-4172
Monday through Friday, 7:00 a.m. - 4:30 p.m., Eastern Time

<http://www.ngs.noaa.gov>



NGS: Tying America Together



CITY of ORONO

Municipal Offices

Street Address:

2750 Kelley Parkway
Orono, MN 55356

Mailing Address:

P.O. Box 66
Crystal Bay, MN 55323-0066

December 31, 2003

Marilyn J. Maloney
Assistant Hennepin County Attorney
Hennepin County Attorney's Office
A2000 Hennepin County Government Center
300 South Sixth Street
Minneapolis, MN 55487

Dear Ms. Maloney:

I have enclosed a resolution adopted by the Orono City Council in support of the abandonment of the freight rail use on the Dakota Rail Corridor. The abandonment of the freight rail use is consistent with the City's existing land use plans, and the City's Comprehensive Plan.

Sincerely,

Ronald J. Moorse
City Administrator



CITY of ORONO

RESOLUTION OF THE CITY COUNCIL
NO. 5098

**A RESOLUTION IN SUPPORT
OF THE ABANDONMENT OF THE FREIGHT RAIL USE ON THE DAKOTA RAIL
CORRIDOR, AND THE PRESERVATION AND USE OF THE DAKOTA RAIL RIGHT-
OF-WAY AS A CONTINUOUS PUBLIC TRANSPORTATION CORRIDOR**

WHEREAS, the Dakota Railroad corridor has been purchased by the Hennepin County Regional Railroad Authority (HCRRA); and

WHEREAS, the HCRRA has completed a study of the financial feasibility of restoring freight rail service on the corridor; and

WHEREAS, the study has shown it is not financially feasible to restore freight rail service on the corridor, and

WHEREAS, the abandonment of the freight rail use, and the preservation of the corridor as a continuous public transportation corridor, is consistent with the City's existing land use plans and the City's Comprehensive Plan; and

WHEREAS, the preservation of the Dakota Rail right-of-way as a continuous public transportation corridor is essential to enabling the corridor to effectively serve the current and future transportation needs of the area; and

WHEREAS, the Dakota Rail right-of-way is a beautiful, unique, and valuable transportation corridor that serves the area from Wayzata to Hutchinson; and

WHEREAS, the Dakota Rail Corridor provides a continuous transportation connection between the cities on the north and west shores of Lake Minnetonka.

NOW, THEREFORE, BE IT RESOLVED by the Orono City Council as follows:

1. The City of Orono strongly supports the abandonment of the freight rail use on the Dakota Rail Corridor.
2. The City of Orono strongly supports the preservation of the Dakota Rail Corridor as a continuous public transportation corridor.



CITY of ORONO

RESOLUTION OF THE CITY COUNCIL

NO. 5096

Adopted by the City Council of the City of Orono, Minnesota at a regular meeting held on December 8, 2003.

ATTEST:

Linda S. Vee, City Clerk

Barbara A. Peterson, Mayor

EXHIBIT NO. 5

Certificate of Publication of Newspaper Notice

(49 C.F.R. Part 1105.12)

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that Notice of the Proposed abandonment in Docket No. AB-864X (copy of Affidavit of Publication and Notice appended) was advertised in a newspaper of general circulation in all Counties through which the line which is the subject of this Notice runs, as required by 49 C.F.R. Section 1105.12.

Dated: _____

1-16-04



MARILYN J. MALONEY (9996x)
Assistant Hennepin County Attorney
Attorney for HCRRA
2000A Government Center
Minneapolis, MN 55487
Telephone: (612) 348-7754
Fax No: (612) 348-8299

AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)

COUNTY OF HENNEPIN)

(SS.
)

Madonna M. Courey

, being duly sworn on oath say she/he
and during all times herein stated has been the publisher or the publisher's designated agent
in charge of the newspaper known as

Official Publication — NOTICE —

Hennepin County Regional Railroad Authority gives notice that on or about January 14, 2004, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F — Exempt Abandonments permitting the abandonment of a 43.9 mile line of railroad between railroad milepost 24.6, near Wayzata, to the end of the line at milepost 68.5, in Hutchinson, a distance of approximately 43.9 miles, in McLeod, Carver, and Hennepin Counties, MN. The line traverses U.S. Postal Service Zip Codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391, and includes the stations of Wayzata at milepost 24.6, Crystal Bay at milepost 27.5, Minnetonka Beach at milepost 29.0, Spring Park at milepost 30.6, Mound at milepost 32.5, St. Bonifacius at milepost 37.0, Mayer at milepost 45.0, New Germany at milepost 48.7, Lester Prairie at milepost 52.5, Silver Lake at milepost 60.2, and Hutchinson at milepost 68.5.

The proceeding will be docketed as No. AB 864 (Sub-No. 1). The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters

FINANCE AND COMMERCE

and has full knowledge of the facts herein stated as follows:

(A) The newspaper has complied with all of the requirements constituting qualifications as a legal newspaper, as provided by Minnesota Statute 331A.02, and 331A.07, and other applicable laws, as amended.

(B) She/He further states on oath that the printed

Official Publication

22073507

hereto attached as part hereof was cut from the columns of said newspaper, and was printed and published therein in the English language; that it was first so published on

December 12, 2003

for 1

times(s);

the subsequent dates of publications being as follows:

Friday, 12/12/2003

And that the following is a printed copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice, to wit:

X abcdefghijklmnopqrstuvwxyz

abcdefghijklmnopqrstuvwxyz

Madonna M. Courey

Affidavit of Publication

State of Minnesota, County of Carver.

Keith P. Anderson, being duly sworn, on oath says that he is an authorized agent and employee of the publisher of the newspaper known as THE WACONIA PATRIOT, Waconia, Minnesota, and has full knowledge of the facts which are stated below:

A.) The newspaper has complied with all the requirements constituting qualifications as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

B.) The printed Notice -

Dakota Rail abandonment

which is attached was cut from the columns of said newspaper, and was printed and published once each week for 1 successive weeks:

It was first published Thursday,

the 11 day of December 20 03
and was thereafter printed and published every Thursday, to and including Thursday,

the 11 day of December 20 03;

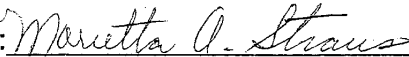


Authorized Agent



Subscribed and sworn to me on this

11 day of December 20 03

By: 

Notary Public

Rate Information

- (1) Lowest classified rate paid by commercial users for comparable space: \$15.50 per inch.
- (2) Maximum rate allowed by law for above matter: \$15.50.
- (3) Rate actually charged for above matter: \$7.80 per inch.
Each additional successive week: \$5.60.

NOTICE

Hennepin County Regional Railroad Authority gives notice that on or about January 14, 2004, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of a 43.9-mile line of railroad between railroad milepost 24.6, near Wayzata, to the end of the line at milepost 68.5, in Hutchinson, a distance of approximately 43.9 miles, in McLeod, Carver, and Hennepin Counties, MN. The line traverses U.S. Postal Service Zip Codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391, and includes the stations of Wayzata at milepost 24.6, Crystal Bay at milepost 27.5, Minnetonka Beach at milepost 29.0, Spring Park at milepost 30.6, Mound at milepost 32.5, St. Bonifacius at milepost 37.0, Mayer at milepost 45.0, New Germany at milepost 48.7, Lester Prairie at milepost 52.5, Silver Lake at milepost 60.2, and Hutchinson at milepost 68.5.

The proceeding will be docketed as No. AB 864 (Sub-No. 1). The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, Washington, DC 20423-001 or by calling that office at 202-565-1526. Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, NW, Washington, DC 20423 (See 49 CFR

1104.1(a) and 1104.3(a)), and one copy must be served on applicants' representative (See 49 CFR 1104.12(a)). Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative: Marilyn J. Maloney, Assistant Hennepin County Attorney, Hennepin County Attorney's Office, A2000 Hennepin County Government Center, 300 South 6th Street, Minneapolis, MN 55487, 612 348-7754.

(Published in The Waconia Patriot Dec. 11, 2003)

Received By
DEC 12 2003
Public Service

PUBLIC NOTICE
DAKOTA RAIL

Hennepin County Regional Railroad Authority gives notice that on or about January 14, 2004, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of a 43.9 mile line of railroad between railroad milepost 24.6, near Wayzata, to the end of the line at milepost 68.5, in Hutchinson, a distance of approximately 43.9 miles, in McLeod, Carver, and Hennepin Counties, MN. The line traverses U.S. Postal Service Zip Codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391, and includes the stations of Wayzata at milepost 24.6, Crystal Bay at milepost 27.5, Minnetonka Beach at milepost 29.0, Spring Park at milepost 30.6, Mound at milepost 32.5, St. Bonifacius at milepost 37.0, Mayer at milepost 45.0, New Germany at milepost 48.7, Lester Prairie at milepost 52.5, Silver Lake at milepost 60.2, and Hutchinson at milepost 68.5.

The proceeding will be docketed as No. AB 864 (Sub-No. 1). The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, Washington, DC 20423-001 or by calling that office at 202-565-1526. Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, NW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at 202-555-1592. Copies of any comments or requests for conditions should be served on the applicant's representative: Marilyn Maloney, Assistant Hennepin County Attorney, Hennepin County Attorney's Office, A2000 Hennepin County Government Center, 300 South 6th Street, Minneapolis, MN 55487, 612 348-7754. Published in the Chaska Herald on Thursday, December 11, 2003; No. 6769.

Affidavit of Publication Southwest Suburban Publishing

State of Minnesota)
)SS.
County of Carver)

Laurie A. Hartmann, being duly sworn, on oath says that she is the publisher or the authorized agent of the publisher of the newspapers known as the Chaska Herald and the Chanhassen Villager and has full knowledge of the facts herein stated as follows:

(A) These newspapers have complied with the requirements constituting qualification as a legal newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed public notice that is attached to this Affidavit and identified as No. 6769 was published on the date or dates and in the newspaper stated in the attached Notice and said Notice is hereby incorporated as part of this Affidavit. Said notice was cut from the columns of the newspaper specified. Printed below is a copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the kind and size of type used in the composition and publication of the Notice:

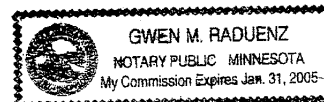
abcdefghijklmnopqrstuvwxyz

By Laurie A. Hartmann
Laurie A. Hartmann

Subscribed and sworn before me on

this 11th day of December, 2003

Gwen M. Raduenz
Notary Public



RATE INFORMATION

Lowest classified rate paid by commercial users for comparable space.... \$21.00 per column inch
Maximum rate allowed by law for the above matter..... \$21.00 per column inch
Rate actually charged for the above matter..... \$10.63 per column inch

Received by

DEC 12 2003

Public Service

driving, \$125.00.
Tony M. Metzger, Hutchinson, underage consumption, \$125.00.

Kimberly L. Murtha, Hutchinson, open bottle - passenger, \$195.00.

Tony E. Olson, Hutchinson, small amount of marijuana, \$120.00.

Becky L. Runke, Hutchinson, speeding, \$120.00.

Robert C. Sauter, Arlington, disorderly conduct, \$90.00.

Richard A. Schroeder, Winsted, drug paraphernalia, \$120.00.

Mollie A. Schuetz, Hutchinson, minor consumption, \$175.00.

Mark R. Stearns, Hutchinson, exhibition driving, \$110.00.

Lloyd A. Tullis, Hector, minor consumption, \$175.00.

Carrie A. Witt, Hutchinson, failure to yield row, \$131.00.

Matthew J. Jaskowiak, Hutchinson, driving after suspension, stay of adjudication for 1 year on condition no DL violations.

Lance L. Schuette, Hutchinson, owner allow open bottle, \$105.00.

Nicholas J. Capistrant, Litchfield, speeding, \$120.00.

Patrick L. Maus, Hutchinson, open bottle, \$125.00.

Gary A. Eastling, Cokato, careless driving, \$315.00, alcohol lectures, no probation.

Barry J. Hertzog, Winsted, speeding, possess drug paraphernalia, \$240.00.

Jared G. Pariseau, Winsted, disorderly conduct, \$175.00.

Ross C. Ziegenhagen, Silver Lake, unplugged firearm, \$110.00.

Matthew B. Buckentin, Hutchinson, speeding, no seat belt, no proof of insurance, failed to appear, license suspended.

Gina R. Curry, Dassel, semaphore, \$50.00.

Shannon L. Krulikowsky, Glencoe, speeding, \$110.00.

Mark A. Kuseske, Hutchinson, speeding, \$120.00.

Jonathan C. Kusske, Silver Lake, speeding, \$130.00.

Christina A.L. Lamphere, Hutchinson, speeding, failed to appear, license suspended.

utes, 1927, Chaps. 10935, 10936, as amended by Ch. 373 G.L. 1933, as amended by L. 1935, C. 166

STATE OF MINNESOTA } ss.
County of McLeod

A. Tudhope, Publisher,

being duly sworn, on oath

says: that he is, and during all the times herein stated has been the publisher of the newspaper known as THE GLENCOE ENTERPRISE, and has full knowledge of the facts hereinafter stated: that for more than one year prior to the publication

Glencoe Enterprise, Glencoe, MN

therein of the

thereinafter described, said newspaper was printed and published in the City of Glencoe, in the County of McLeod, State of Minnesota on Thursday of each week; that during all said time said newspaper has been printed in the English language from its known office of publication within the city from which it purports to be issued as above stated in column and sheet form equivalent in space to at least 450 running inches of single column, 2 inches wide; has been issued Thursday of each week from a known office established in said place of publication and equipped with skilled workmen and the necessary material for preparing and printing the same; that during all said time in its makeup not less than twenty-five percent of its news columns have been devoted to local news of interest to the community it purports to serve; that during all said time it has not wholly duplicated any other publications, and has not been entirely made up of patents, plate matter and advertisements; has been circulated in and near its said place of publication to the extent of at least two hundred and forty (240) copies regularly delivered to paying subscribers and has entry as second class matter in its local postoffice; and that there has been on file in the office of the County Auditor of McLeod County, Minnesota, the affidavit of a person having knowledge of the facts, showing the name and location of said newspaper and the existence of the conditions constituting its qualifications as a legal newspaper.

Public Notice

That the

hereto attached

was cut from the columns of said newspaper, and was printed and published therein in the English language, once each

week for once successive weeks; that it was first so published on Thursday the 11th

day of December 19 2003 and thereafter on Thursday of each week to and including the

day of _____ 19 ____; and that the following is a printed copy of

the lower case alphabet from A to Z both inclusive; and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice to-wit:

abcdefghijklmnopqrstuvwxyz
abcdefghijklmnopqrstuvwxyz

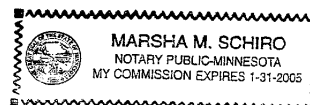
[Signature]

Subscribed and sworn to before me this 11th day of December 2003 19 ____

Marsha Schiro

Notary Public, McLeod County, Minnesota

My Commission expires 1-31-2005 19 ____



driving, \$120.00.
 Tony M. Metzger, Hutchinson, underage consumption, \$125.00.
 Kimberly L. Murtha, Hutchinson, open bottle - passenger, \$195.00.
 Tony E. Olson, Hutchinson, small amount of marijuana, \$120.00.
 Becky L. Runke, Hutchinson, speeding, \$120.00.
 Robert C. Sauter, Arlington, disorderly conduct, \$90.00.
 Richard A. Schroeder, Winsted, drug paraphernalia, \$120.00.
 Mollie A. Schuetz, Hutchinson, minor consumption, \$175.00.
 Mark R. Stearns, Hutchinson, exhibition driving, \$110.00.
 Lloyd A. Tullis, Hector, minor consumption, \$175.00.
 Carrie A. Witt, Hutchinson, failure to yield row, \$131.00.
 Matthew J. Jaskowiak, Hutchinson, driving after suspension, stay of adjudication for 1 year on condition no DL violations.
 Lance L. Schuette, Hutchinson, owner allow open bottle, \$105.00.
 Nicholas J. Capistrant, Litchfield, speeding, \$120.00.
 Patrick L. Maus, Hutchinson, open bottle, \$125.00.
 Gary A. Eastling, Cokato, careless driving, \$315.00, alcohol lectures, no probation.
 Barry J. Hertzog, Winsted, speeding, possess drug paraphernalia, \$240.00.
 Jared G. Pariseau, Winsted, disorderly conduct, \$175.00.
 Ross C. Ziegenhagen, Silver Lake, unplugged firearm, \$110.00.
 Matthew B. Buckentin, Hutchinson, speeding, no seat belt, no proof of insurance, failed to appear, license suspended.
 Gina R. Curry, Dassel, semaphore, \$50.00.
 Shannon L. Krulikovsky, Glencoe, speeding, \$110.00.
 Mark A. Kuseske, Hutchinson, speeding, \$120.00.
 Jonathan C. Kusske, Silver Lake, speeding, \$130.00.
 Christina A.L. Lamphere, Hutchinson, speeding, failed to appear, license suspended.

utes, 1927, Chaps. 10935, 10936, as amended by Ch. 373 G.L. 1933, as amended by L. 1935, C. 166

STATE OF MINNESOTA } ss.
 County of McLeod

A. Tudhope, Publisher,

being duly sworn, on oath says: that he is, and during all the times herein stated has been the publisher of the newspaper known as THE GLENCOE ENTERPRISE, and has full knowledge of the facts hereinafter stated; that for more than one year prior to the publication

Glencoe Enterprise, Glencoe, MN

therein of the

thereinafter described, said newspaper was printed and published in the City of Glencoe, in the County of McLeod, State of Minnesota on Thursday of each week; that during all said time said newspaper has been printed in the English language from its known office of publication within the city from which it purports to be issued as above stated in column and sheet form equivalent in space to at least 450 running inches of single column, 2 inches wide; has been issued Thursday of each week from a known office established in said place of publication and equipped with skilled workmen and the necessary material for preparing and printing the same; that during all said time in its makeup not less than twenty-five percent of its news columns have been devoted to local news of interest to the community it purports to serve; that during all said time it has not wholly duplicated any other publications, and has not been entirely made up of patents, plate matter and advertisements; has been circulated in and near its said place of publication to the extent of at least two hundred and forty (240) copies regularly delivered to paying subscribers and has entry as second class matter in its local postoffice; and that there has been on file in the office of the County Auditor of McLeod County, Minnesota, the affidavit of a person having knowledge of the facts, showing the name and location of said newspaper and the existence of the conditions constituting its qualifications as a legal newspaper.

Public Notice

That the

hereto attached

was cut from the columns of said newspaper, and was printed and published therein in the English language, once each

week for once successive weeks; that it was first so published on Thursday the 11th

day of December 19 2003 and thereafter on Thursday of each week (o and including the

day of _____ 19 _____; and that the following is a printed copy of

the lower case alphabet from A to Z both inclusive; and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice to-wit:

abcdefghijklmnopqrstuvwxyz
 abcdefghijklmnopqrstuvwxyz

Subscribed and sworn to before me this 11th day of December 2003

Marsha Schiro

Notary Public, McLeod County, Minnesota

My Commission expires 1-31-2005 19 _____

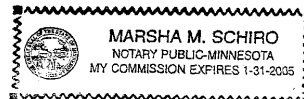


EXHIBIT NO. 6

Verification Regarding

Facts of Notice of Exemption

VERIFICATION

I, Sandra L. Vargas, Executive Director, for the Hennepin County Regional Railroad Authority, hereby verify that I have carefully examined all of the statements concerning the operations over the Hennepin County Regional Railroad Authority's line of railroad between MP 24.6 +/- (near Wayzata) and MP 68.5 +/- (in Hutchinson) in the Notice of Exemption, including the map attached as Exhibit No. 1 to the Notice; that I have knowledge of the matters set forth therein; and that all such statements made and matter set forth are true and correct to the best of my knowledge, information, and belief.

The foregoing is made on behalf of the Hennepin County Regional Railroad Authority by the undersigned after due and careful investigation of the matters herein certified. I verify under penalty of perjury under the laws of the United States of America, that I have been authorized by the Hennepin County Regional Railroad Authority to verify and file with the Surface Transportation Board the foregoing statement; that I know the contents thereof and the facts asserted therein; that I declare that the foregoing is true and correct.

Dated: _____


Sandra L. Vargas
Executive Director