

Pursuant to due call and notice thereof, a Special City Council Meeting was duly held in the City Council Chambers at 9:00 a.m. on the 28th day of October, 2009. The following members were present: Mayor Diane Barrett; Council Members Fred Barsness, Bryan Haugen, Richard Nielsen and Brian Paulson. Also present: City Administrator Chris Heineman, City Attorney Scott Riggs and Administrative Assistant Pam Blow.

AGENDA

Motion by Nielsen, seconded by Barsness to approve the agenda as published. Motion carried 5-0-0.

CMMPA Communication Issues

Riggs noted that in working to review and provide comments to the Agency Agreement and Bylaws for the CMMPA, there was a meeting held last week at his office. CMMPA attorney Mike Gavin and CEO Bob Schulte, Administrator Heineman, City Attorneys Scott Riggs and Sarah Sonsalla were in attendance with Steve Thompson and Randy Eggert on a conference call. The meeting addressed many of the issues / comments previously noted by Riggs regarding the Agreement. During this meeting, most of the previous legal issues were explained and resolved to Riggs' satisfaction. Riggs noted that some of the deficiencies came about due to a lack of information, and that problem should be resolved for future communications.

CMMPA Agency Agreement and Bylaws

At Heineman's request, Riggs gave details regarding the issues raised in his memorandum of September 16, 2009, and their probable resolution as a result of the above-mentioned meeting. Riggs noted that there will be a language change to address the scope of authority and limitations for the CMMPA. Regarding entities from outside Minnesota joining CMMPA and current members from Iowa, Riggs noted that CMMPA currently provides only scheduling services for those entities, so any insurance or liability issues can be dealt with should these entities pursue membership agreements.

Riggs further noted that the next draft of the Agreement will include modifications to clarify liability issues and scope of powers for the Board of Directors of CMMPA. Changing the withdrawal period from 60 days to five years, is tied to the Additional Service Agreement already in place with CMMPA. The City is only bound to projects with separate signed contracts, and would have no other obligations during the five-year withdrawal period.

According to Riggs, the approval for amendments to bylaws was clarified during the meeting last week. The amendments previously in question had been approved by participants in specific projects, and those amendments were put forth to each of those project participants. Riggs noted that in the future, Council could direct its representative on how they should vote on any amendments, and the representative should be directed to provide information regarding any forthcoming action to Council and staff. October 30th is the deadline to submit comments on the Agreement and Bylaws, with final approval due by the end of December, 2009.

Riggs clarified that the five-year term of the Agreement is a policy issue for each member city, and this is not a legal issue. Barsness and Barrett noted that the five year opt-out term seems excessive. Schulte noted that by statute, there only needs to be a majority vote of approval on the Agreement; however, CMMPA wants all twelve members to agree. Schulte further stated that if the Big Stone II (BSPII) project goes forward, KMU will have a power source for the next forty years. Nielsen noted that the signed contracts for KMU's power supply currently provide for 85% of our power needs. He would like to see an opt-out penalty for this Agreement, similar to penalties on a cell phone contract. Nielsen further noted that he would like to know why other members agree with the five year opt-out timeframe. Barsness asked Schulte about his resignation as CEO of CMMPA, and how the transition would take place. Eggert noted that he will be sure to forward any information from CMMPA to Heineman in the future, to insure adequate communication. Haugen commented that all CMMPA members are on the same path to sign the Agreements by the end of 2009. Steve Thompson, Director of Operations for CMMPA, noted that should the City of Kenyon choose not to sign the membership Agreement, that they would have no vote on agency matters, and CMMPA would not be looking to fill future energy needs. Gavin noted that anyone can come to the monthly meetings for CMMPA, but there is only one vote per member.

Motion by Nielsen, seconded by Haugen to adjourn the meeting at 10:09 a.m. Motion carried 5-0-0.