

# NEWS RELEASE: “*We the People*” Lobbyist and “Candidate/Journalist” reports on Met Council’s 5/6/15 “Bureaucratic Steam Roller Organizing Meeting”; posts new youtube video with meeting audio; says “recent Federal Court order... bodes ill for Met Council’s plan”



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**Note:** A .pdf version of this News Release is attached with photos.

bobagain is available to speak with Legislators, and members of the public, at **Tree #1**, on an intermittent schedule, for the remaining days of the session – and into a special session, if needed. (see photo)

**Disclosure:** bobagain is a registered Lobbyist, representing “*We the People*”, an informal association, and has announced a campaign to win a Pulitzer Prize for investigative reporting, covering what he sees as the unfolding SWLRT disaster.

**Minneapolis, 5/16/15** – “Candidate-Journalist”, Transit activist and registered lobbyist for “*We the People*” (an informal association) Bob “Again” Carney Jr. (bobagain)

has uploaded a [90 minute youtube video, consisting mostly of the audio of a May 6<sup>th</sup> Metropolitan Council Committee of the Whole \(COTW\) meeting.](#)

The content of that video has become highly newsworthy following an injunction order issued May 13<sup>th</sup>, 2015 by Federal District Judge John R. Tunheim, shutting down construction of a ring dike in the Fargo-Moorhead area. Judge Tunheim is also the Judge in the Lakes and Parks Alliance (LPA) lawsuit challenging the Met Council’s current drive to implement the current alignment for Southwest Light Rail. LPA alleges the Met Council prematurely sought Municipal Consent of five Cities and Hennepin County, failing to first comply with required environmental review procedures.



bobagain has reserved **Tree #1** at the State Capitol for the remainder of the 2015 Session, and a Special Session, if needed.

Although Tunheim noted differences with the LPA case in his May 13<sup>th</sup> opinion, the following passage in that Fargo-Moorhead opinion also goes to the nub of the LPA's legal argument: Judge Tunheim cited a *Sierra Club* case, and wrote (citations omitted, page 47 of the Order:

*“When asserting a claim under NEPA – or because of their similarities, under MEPA... – a failure to comply with required environmental review procedures is a harm in and of itself. [Tunheim then cited the Sierra Club case] (noting that, in considering whether irreparable harm exists, it is appropriate for a district court to take into account the ‘difficulty of stopping a bureaucratic steam roller, once started.’)”*

In his conclusion, Judge Tunheim wrote (page 53):

*“The law simply requires that all federal and state environmental reviews be completed before construction begins. Construction of the (Oxbow-Hickson-Bakke) ring levee violates this principle and creates the real risk of a ‘steam roller’ effect. When considering a project of this size, scope, and potential environmental impact, the review process must be completed first.”*

After disclaiming that he speaks for LPA, and noting he is not a member of that organization, bobagain offered this analysis:

*“The nub of the LPA lawsuit is essentially the same ‘steam roller effect’ Judge Tunheim cited in his conclusion from this week’s injunction order. Minnesota State Law requires that a Draft Environmental Impact Statement (DEIS) be complete before the Municipal Consent process could have started for SWLRT. Cast in the framework of Judge Tunheim’s recent order, LPA is saying that by both starting and completing the Municipal Consent process before the DEIS was available, the Met Council was trying to ‘steam roll’ through their preferred result -- eliminating on a de facto basis other reasonable alternatives, including the ‘no build’ option that Governor Dayton recently and explicitly said is on the table. Unfortunately, Minnesota taxpayers are currently on course to spend in the year 2015 an additional \$121.8 million this year on SWLRT – more than double what the Star Tribune has reported as total spending to date. If the State Legislature does not act to freeze continuing spending on SWLRT – and such a freeze may not receive due consideration and action as the clock runs out for this Session -- LPA should consider seeking an injunction to stop further spending on the SWLRT project, to prevent the ‘steam roller effect’ from further diminishing or eliminating ‘no build’ as a real option, as well as to preserve other options, including an alternative route. Finally, let me add that it is outrageous that a group of private citizens should have to go out and raise the money needed to hire attorneys and bring the lawsuit that the LPA has brought forward. I believe LPA should be fully reimbursed for their legal costs, and some form of punishment, or reprimand, or admonishment should be considered for the people that – in effect – forced LPA to take the commendable but very burdensome actions they have taken.”*

Bobagain has been lobbying daily at the Legislature for about the past two weeks – calling on it to freeze spending on the proposed Southwest Light Rail line (SWLRT), and to consider a range of better transit options he has developed.

During five recent morning House sessions, bobagain has passed out 50 to 70 handouts (each handout has new material) to Representatives entering the House chamber. “Most legislators are taking the handouts – many legislators are very interested in the issues I’m raising,” bobagain commented.

Bobagain has been focusing on the danger that – despite Gov. Dayton’s recent “shocked and appalled” reaction to the most recent projected increase on project costs -- SWLRT is still on “autopilot” – to quote Rep. Linda Runbeck’s characterization of the current Transit capital spending process during the House debate on HF 4.

Bobagain also e-mailed Legislators (except 27 Senators who use e-mail forms) the text of his most recent Commentary submission to the Star Tribune – it is attached to this e-mail.

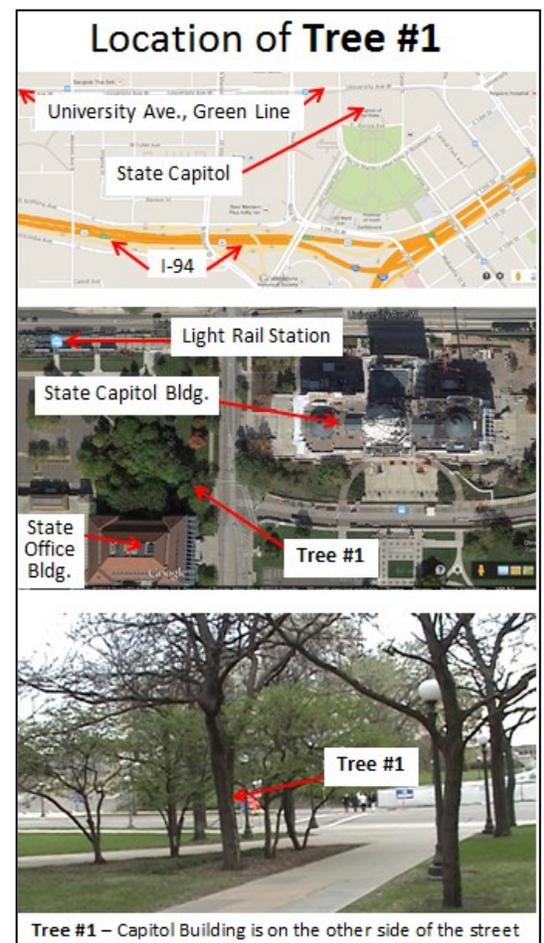
## **Met Council “determined to build SWLRT” – has put “Bureaucratic Steam Roller in high gear”**

Despite recent news reports that “all options are on the table”, including the “no build” option, bobagain has concluded from the May 6<sup>th</sup> Met Council COTW meeting that “the Met Council is determined to build SWLRT, and is paying only lip service to any and all other options.”

“The Met Council’s 5/6/15 COTW meeting amounts to an official ‘Bureaucratic Steam Roller Organizing Meeting,’ announcing a bureaucratic and special interest consensus to force through the current Southwest Light Rail plan, with whatever budget cuts are needed to bring it back to the \$1.6 billion cost zone. The ‘Bureaucratic Steam Roller’ is in high gear, with special interests shoveling on freight-train-oil-soaked, highly flammable piles of dollar bills as fast as they can,” bobagain further hyperbolically and metaphorically vented.

Quotes from the 5/6/15 meeting are preceded with a note of the hour, minute and second numbers from the bobagain channel’s youtube upload of the meeting.

Towards the middle of Fuhrmann’s presentation, Chair Duininck, seconded by Council Member Jennifer Munt’s following comments, announced the consensus supporting the bureaucratic steam roller plan. Chair Duininck said (48:00):



*“We [Fuhrmann and Duininck] sat through those two meetings today [CTIB, CMC], I don't think anybody talked about anything other than Light Rail transit, just to be clear, from CTIB to the CMC. We feel like it's our obligation to do our due diligence, and take a look at these options, and maybe understand why they were rejected -- an important audience member asked for that, the Governor being one of those people, so I think that it's important to take a look at, but I think today, even just today, I would characterize it as a consensus emerged pretty strongly that we need to move forward on LRT, and figure out a way to cut the costs and reduce the budget in a way that it's affordable.”*

Munt then made this statement, supporting and elaborating on the bureaucratic steam roller plan (48:39):

*“Folks, you probably know I have co-chaired the Community Advisory Committee for the last five years. We saw the presentation that you're seeing today. And... it was a room of 40 people. Not one person said that we should pull the plug on this project. Not one person said we should consider a mode other than Light Rail... And there was a strong recognition that when we do a light rail project, when we commit trains to tracks, we're doing that for the rest of our lives. And it's a really important decision. And \$341 million dollars cost overrun is serious business. But people also recognized that whether it was Hiawatha, or Central or Northstar, when a project gets to this phase, it is typical to revisit scope, to rein in the costs. And once we did that, once we told our staff 'here is the cost, not a cent more, here's when we need to open,' we have delivered three rail projects on time and on budget. And I have complete confidence in our staff's ability to do that a fourth time. And I venture to say, that's why the federal government trusts us with a full funding grant agreement to move a project forward. It's because we've demonstrated our ability to do it, and to pick alignments where the ridership has far exceeded anybody's expectation. If you were to ask people who are in the habit of riding the Hiawatha or Central Corridor today, and you said 'can we take your train away from you now? they would fight to keep their train. And I just want the people in this room to know that no light rail project would ever have happened without the perseverance of the people around these tables. When I leave here tonight I'm going to a meeting with the City of Hopkins and the City of Minnetonka. They're moving forward to plan their station area at Shady Oak. There are people who have been planning this project for a decade. This is not something we walk away from.”*

“These statements by Duininck and Munt demonstrate conclusively that the Met Council has declared there is a ‘consensus’ among all ‘steam roller stakeholders’ – it’s time for ‘FULL SPEED AHEAD!’”, bobagain said.

Council Member Wendy Wulff, first appointed by Gov. Tim Pawlenty and the only member not originally appointed by Gov. Dayton, had a question about the Bus Rapid Transit (BRT) option (1:00:36):

*“I was looking at the alternatives analysis document a little bit while the discussion was going on, to try to refresh my memory, and it appears, scanning through it, that the BRT dedicated guideway option that*

*they looked at presumed relocation of freight in the one very difficult corridor that we had all of the controversy over [Kenilworth]. I think it's... I mean the Governor did say 'all options are on the table', and that we need to do our due diligence of evaluating all options. But how can we do that if the BRT option the only allowable thing to look at is with the relocation of freight? But the two don't mesh. And I think we owe it to the tax payers to do a true due diligence with something that is actually possible, rather than saying 'ok, we're going to look at BRT, but we know already it's not going to work.' I mean, that's a sham process. With this kind of money we need to be very diligent in our analysis, and there has to be something to look at besides relocating freight in the Kenilworth corridor, to have BRT on a dedicated guideway as an option."*

Mr. Fuhrman responded:

*"Good observation, and I would respond to say, to have the closest possible apple-to-apple BRT vs LRT that we could assume, if you all concur, that BRT would run in that half mile long tunnel under the co-location freight rail, BRT buses in that half mile tunnel vs LRT trains."*

"Sometimes it's hard not to laugh," bobagain comuserated. "Now... rather than Light Rail trains in a tunnel under a park like corridor, we have busses in a tunnel running through the same corridor. Let's keep in mind that the biggest reason we were told a route reaching the densely populated areas of Uptown and Nicollet couldn't be done was that a tunnel would be too expensive. I think Wolfe hit on the right word in describing this process. It is a sham. We need to look at a new range of alternatives – including using smaller buses and lots of them – and including a view towards the rapidly emerging automated driving technology that was never considered in the earlier alternatives analysis the Met Council now proposes to dredge up, dust off, bend in to phony 'straw man' shapes, and lay in front of the steam roller," bobagain said. After the meeting, Wolfe declined to do a video interview with bobagain.

At the conclusion of the meeting, Wolfe also suggested there needed to be real choices, if only to put pressure on municipalities to give up elements to bring the budget down (see 1:30:05).

## **A crucial deadline and a design constraint are driving the Steam Roller plan**

Towards the end of the "Bureaucratic Steam Roller Organizing Meeting" (AKA the Met Council's 5/6 COTW meeting), Fuhrmann explained both why Labor Day is a crucial deadline, and why the Met Council is so determined not to alter the current alignment.

Council Member Jon Commers said (1:26:25):

*“If we had sort of a matrix of considerations – ways of trying to reach towards 20 to 25% [budget] reduction it does strike me... if we’ve got mode that’s in play, and we’ve got you know, costs around systems and stations, that are in play, I wonder if alignment on some level also needs to be in play if you want to reach towards that 20 to 25% reduction? So I just want to make that comment, and make that suggestion. It seems like it would be a missing piece to the... a missing dimension of consideration if we did not at least visit it.”*

The following excerpt from bobagain’s most recent Star Tribune submission (attached) wraps up this point:

*“Project Manager Mark Fuhrmann responded by explaining what I call the ‘alignment trap’. A shift along the current route, which runs partly in a tunnel through the Kenilworth Corridor -- a park for all practical purposes – would require a new Environmental study. Fuhrmann said the resulting delay would mean a 2020 opening ‘would not be achievable, and I’m not sure if FTA [the federal government] would keep the project on their pipeline for [a] full funding grant.’”*

*“Furhmann also noted ‘Obama has one budged left’. The Met Council must turn in an updated plan by about Labor Day of 2015 -- otherwise Southwest Light Rail can’t be in that budget.”*

*“The Obama budget ‘window of opportunity’ and the ‘alignment trap’ – any alignment shift means we miss the deadline -- drove Council Chair Adam Duininck to his stated conclusion during last Wednesday’s Council’s meeting: LRT is the only real option.”*

## **Background: reported SWLRT actual spending and anticipated 2015 spending**

The key idea behind a difficult-to-stop ‘bureaucratic steam roller’ – with fuel added by special interests, is to *keep spending money*, and to *keep arguing*: “we’ve spent so much we can’t stop now.” Bobagain’s research has identified these spending subtotals for anticipated 2015 spending, totaling **\$121.8 million**:

- The Counties Transit Improvement Board (CTIB): **\$63.6 million** is to be disbursed in 2015; this is most of the \$97.7 in total SWLRT grants to date. Source: CTIB’s 2014 Annual Report to the Legislature, page 34.
- The State of Minnesota: the **\$37 million** appropriated in the 2013 session was for FY 2016, which begins in mid-2015. Source: 2013 Conference Committee report on the final Transportation bill, enacted and signed by Gov. Mark Dayton, Sec. 4. Metropolitan Council, lines 12.17 through 12.30.
- The Hennepin County Regional Railroad Authority (HCRRA): **\$21.2 million** is budgeted for 2015. Source: HCRRA on-line budget, Fund 87 Special Projects.

According to a 4/27/2015 Star Tribune article:

*“To date, \$59 million has been spent on the project, according to Metro Transit. Of that amount, a local government group, the Counties Transit Improvement Board (CTIB), has spent \$37 million, raised through a five-county metro sales tax. Another \$11 million came from the state and the Hennepin County Regional Railroad Authority.”*

Bobagain is unconvinced the Star Tribune’s \$59 million amount – sourced to Metro Transit - is an accurate number representing the total of all historical and current costs from all funding sources associated with Southwest Light Rail. The project was transferred from Hennepin County to the Metropolitan Council on May 26, 2010. It is unclear what spending may be going on internal to the Metropolitan Council that should be counted as SWLRT spending, using a “...but for...” cost accounting test.

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