



**City of North St. Paul
Arts & Culture Commission
Regular Meeting Agenda**

**September 15, 2021
6:30 PM**

The Arts & Culture Commission Meeting will be conducted on **September 15, 2021** at 6:30 p.m. The meeting location is the Sandberg Room at City Hall, located at 2400 Margaret St., North St. Paul.

The **September 15, 2021** Zoom meeting can be accessed at **tinyurl.com/NSPartsandculture**
(from a PC, Mac, tablet, iPhone, or Android device)
or by phone at 1-929-205-6099, meeting ID 821 4097 2224, password 362656.

The Arts & Culture Commission Zoom meeting will be 'open to the public to listen in but will be muted from contributing at all times with the exception of a Public Hearing and open to the public forum.

Please join the meeting early to test your audio and video settings.

I. Call to Order

II. Roll Call

Tom Sonnek, Chair
Julie Barrett, Commissioner
Carey Nadeau Commissioner
Stacy Maher, Commissioner
Trudy Ohnsorg, Commissioner
Lisa Wong, Council Member

III. Adopt Agenda

IV. Approval of Minutes

A. Approval of the 9/1/21 Meeting Minutes

V. Meeting Open to the Public

VI. Commission Business, Action Items & Recommendations

- A. Arts & Culture Commission Co-Chair nomination
- B. Direction of the Commission_WHY
- C. Direction of the Commission_Key Elements

VII. Reports from Staff

- A. Open Meeting Law
<https://www.youtube.com/watch?v=jJer3r-7R0s>
- B. American Legal Publishing
<https://codelibrary.amlegal.com/codes/northstpaul/latest/overview>
- C. League of MN Cities_Website
<https://www.lmc.org/>
- D. Schifsky's mural - Resolution
- E. Civic Clerk - Interactive Collaboration N/A
- F. Description of Arts Commission Roles - N/A

VIII. Reports from Commissioners

IX. Adjournment

The next regularly scheduled Arts & Culture Commission meeting is Wednesday, October 6th

**September 1, 2021
6:30PM**

The September 1, 2021 Arts & Culture Commission meeting was held at:
City Hall, 2400 Margaret Street, North Saint Paul

An audio recording was done for the meeting.

I. Call to Order

Tom Sonnek called the meeting to order at 6:35. Chair Tom stated he didn't know where the council was on requiring the Arts & Council meeting to be recorded. He gave a little history of Council/Commission meetings and the recordings. Lisa indicated all meetings since COVID started have been hosted by ZOOM. She stated that the link to the meeting tonight is not working but will be recording audio on her cell phone. Tom stated that going forward, there is a chance for residents to partake in the meetings via ZOOM. Trudy inquired about attending a meeting via ZOOM while she is on vacation. Tom stated it's fine for commissioners to miss a meeting from time to time as long as there is a quorum. Lisa Ritchie stated that a quorum for the Arts & Culture Commission is 4 members. The rule is $\frac{1}{2} + 1$ (5 commissioners ... $\frac{1}{2} = 2 \frac{1}{2} + 1 = 3 \frac{1}{2}$... 1/2 numbers need to be rounded up totaling 4 needed for a quorum). Tom said he would have more questions about this and other things in the future such as the open meeting law. Lisa Wong indicated that we need to find out what the requirements are for this as there was an issue with her attending the meeting via ZOOM while she was on vacation.

II. Roll Call

Roll Call was not taken as introductions are in the agenda.

III. Adopt Agenda

On motion by Commissioner Ohnsborg, seconded by Commissioner Barrett with all present voting aye, motion carried to adopt the agenda.

IV. Approval of the Minutes

There were no minutes to approve as this was the first meeting for the Arts & Culture Commission

V. Meeting Open to Public

There was no one from the public in attendance.

VI. Public Hearings

There were no public hearings.

VII. Commission Business, Action Items & Recommendations

a. Introductions

Tom stated he would like to go around the table and have everyone introduce themselves and why they are interested in being on the commission.

He said it would also be interesting to hear who will be going to the state fair.

Julie Barrett...Julie has lived in North St. Paul for 15-16 years. She wanted to join the commission because she is really passionate about the arts and their role in public arts and love our city and the arts. She is not going to the fair this year. They just made a choice not go as their son developed a lot of anxiety this year around the pandemic so they intend to skip it this year.

Lisa Wong thanked everyone for being here. She introduced herself as a new council member as of January. She has been appointed as the council liaison to the commission. Provide guidance and point direction on how council would like to see the direction of this commission going. She is really excited...she is not an artist but she can appreciate it and looks forward to working with the commission. She is not a fair person and does not intend on going.

Carey Nadeau introduced herself next. She has lived in North Saint Paul approximately 15 years. Her son goes to Maplewood Middle School and her husband is on the ISD 622 school board. Together, Carey and her husband Citizens for 622 committee. It has been a lot of work but a lot of fun. Through this experience she got to learn about government and how boards work and how levy's work.

Trudy Ohnsorg stated that she believes she is the "newbie" of the group as her and her husband bought the octagonal house by Silver Lake and have lived in North Saint Paul approximately 2 years. One of Trudy's passions is landscape design. She taught landscape design at the college level for years and was a landscape designer at Bachman's. She previously lived in River Falls and got involved with how to work with the city to implement change. She was passionate about getting community education started. Over 2 years they were able to get it to work. From there, she joined the River Falls Arts Council. Eventually she moved back to St. Paul, which is where she is originally from and from there moved to North Saint Paul. She is looking for a way to get involved. She is passionate about the arts. She has been on many boards in her life and is currently on Minnesota Humanity Center. The mission is to help people connect through the arts and so forth. That board is at a very high level (state level) and so when this commission came about she was very hopeful to be picked so she can make a difference where she lives. She too is very excited to be on the commission. She does not intend on going to the fair this year.

Lisa Ritchie, administrative assistant for Community Development for the city of North Saint Paul as of February. Super excited to have been selected for the position as she has been a resident for 30 years. Her husband was born and raised here as well as his mother. Her daughter went to the same elementary school as her father and grandmother. Lisa is extremely passionate about the arts. She has a background in graphic design and spent 15 years that industry and then went back to school for interior design. Due to the economy taking a turn for the worse in 2008(ish) She then went into insurance until just recently when the administrative assistant position opened in the city. Her husband has worked for the city for many years, 32 as a volunteer firefighter and also Public Works. She was on the Arts commission many years ago. She is not planning on attending the fair this year.

Stacy Maher has been a North Saint Paul resident for 5 years. She grew up in Roseville, very nearby. She is not planning on attending the fair this year but can see the rides from where she works. She considers herself an "Okayist" gardener, as opposed to gardener as Trudy. She always admires Trudy's gardens when walking by. She considers gardens for be a form of art and her interest in the commission stems from wanting to be involved and

wants to have input in controlling things of interest to her. She previously was involved with traveling baseball and when this opportunity came up she thinks a good way to become involved.

Tom left the council last year after being on for 5 ½ years. Tom grew up in North Saint Paul and went to College at Mankato State for theatre and then to Indiana University for grad school, Masters degree in acting. Moved to LA and opened a theatre. Although his background is in theatre, it was never his intent for the commission to move into the direction of theatre, not that it can't...it was just never his intention. He is a lover of visual arts. One of the things Terry Furlong and Tom had discussed previously was bringing back an arts commission. They think downtown North Saint Paul has so much potential for murals and have had conversations with some artists about doing one. Tom mentioned several cities he has visited that have amazing art and is excited to see this come to fruition in North Saint Paul. He feels the timing is perfect right now as we need to bridge the old with the new. He sees potential with all of the new buildings and changes going on. We are in a cycle right now where we are blooming. Tom works at Capella University in quality improvement/organizational management and that is what he would like to bring to this commission. He wants the commission to last a long time and be healthy. He has some tools that he would like to show us and use with the commission. As far as the fair goes, he loves going to the fair and will probably go this year as his son wants to go.

b. How the Arts & Culture Commission functions with the Council

Tom stated he may have more questions than answers on this. He spent some time on the League of MN website trying to gather information on this. North Saint Paul is a "Plan B" structured government. Which means the city manager carries out the most of the duties and the council sets the direction. Council and Mayor are not full-time positions, they are almost like volunteer positions as the pay is minimal. That can impact how we have commissions. Tom read the ordinance and summed it up as the commission doesn't have any power. They can only make recommendations to the council. Tom described how the commissions do the research and then make recommendations. It will be put forth on the council agenda to review and decide. Trudy inquired about the Arts & Culture commission or Chair present to council in person. Tom stated that most likely will not be the case in most circumstances. The opportunity does exist but usually isn't necessary. Lisa Wong indicated a presentation would be welcomed. Stacy inquired about the appropriate approach for going after grant money. Would we as a commission get approval before we apply for the grant or after? Tom indicated we need to get permission first. Lisa Wong indicated it's recommended because of the capacity. Staff support may be needed as well. Lisa Ritchie indicated there was conflicting information as on one commission it was stated that the grant needed to be approved before presenting to council. Lisa will get clarification. Tom clearly remember voting on Council for whether or not to move forward for specific grant money. It was summed up that Lisa Ritchie will inquire to get an answer. Tom asked her to also inquire about are we governed by open meeting laws? The open meeting law means meetings must be planned in advance and posted for the public. It also means that 3 commissioners cannot meet to discuss Arts & Culture Commission topics. Stacy inquired whether or not the commission is able to meet as a group but not discuss business? Tom answered that he thinks you can and there may not be raised eyebrows if the arts commission were to do so but there would if Council members did. Tom recommended for everyone to review the League of MN website and research the open meeting law as well as other info.

Tom asked Lisa Wong if she has any other input regarding working with Council? Lisa suggested talking to the finance director to see if there is any money allocated to the Arts & Culture commission. Could the online training that League of MN Cities hosts for Open Meeting Laws be paid for (\$15 per person) out of the funds? Otherwise possibly set up an

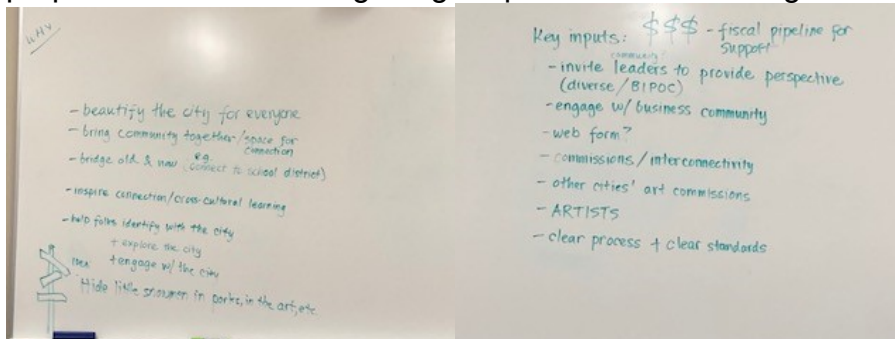
in-person training session with our city attorney. Tom asked Lisa Wong if she has anything else to add? Lisa welcomes any questions and looks forward to working with the committee. Tom asked Lisa if she was on the Planning commission as well and Lisa replied that she is. From Tom's experience, it was helpful to have the council liaison make appropriate recommendations for what to expect from the council in regards to how we frame things up for our recommendations. Tom asked Lisa Ritchie if she has anything add. She didn't other than that she has her business cards to give to everyone and they can contact her if needed. Lisa Wong asked if that included agenda items. Lisa Ritchie stated the agenda is driven by the chair of the commission. It will be up to Tom to determine what will be on the agendas. Lisa Wong stated that she had another point to bring up and that is the possibility to work with other commissions. She mentioned that the planning commission made a recommendation to include the consideration of adding a Mural to the new silo's that Shiftsky's is planning on installing. Lisa Ritchie indicated there is a resolution for this. Stacy asked if anyone has seen the murals on the silo's in Mankato...they are stunning. Tom suggested to add that to the homework assignment and have everyone search the Mankato silos. Lisa Ritchie stated what is nice about the murals being up high is that we won't have to worry about graffiti. Some of the commissioners stated they have seen some amazing works of "street art" in various places in the U.S. Stacy inquired about the process for the Schifsky's murals. Wondering if they approach the commission ahead of time to present. Lisa Ritchie thought Shifsky's would take the lead and contract it out but doesn't know for sure. Tom stated this will be interesting...as the planning commission would need to be involved to determine what would be approved in terms of ordinances. Lisa Wong stated the planning commission is currently updated the sign ordinance. Trudy inquired the commission could be an influence in an overriding theme to keep consistency (Art that reflects the history) through-out the city. Tom confirmed we should have a say in our public art. Carey inquired about the website containing our city ordinances. Lisa Ritchie confirmed it is posted on <https://www.northstpaul.org/> She also referenced https://codelibrary.amlegal.com/codes/northstpaul/latest/northsaintpaul_mn/0-0-0-3 as another option.

Trudy mentioned that she could reach out to her neighbor, the artist, if Tom wants her to.

c. Discuss the direction of this commission

Tom stated he would like the commission to consider "why are we here" and what are the key elements we need to deliver on that purpose. For example: If our overarching purpose is to bring murals to North Saint Paul, what would we need to do that?

Tom asked Julie to write on the white board. Toms example is: "Y" is a function of "X"
Y = Why / X = elements needed. The group continued to collaborate on determining their purpose and the following image represents their finding:



d. Defining roles

Tom asked Lisa or Lisa if we need to define roles. Lisa Ritchie stated that we need a Chair and a Co-chair to lead the commission. Tom Sonnek is the chair. Tom would like the commissioners to think about if they would like to be a co-chair or nominate someone to do so.

e. Meeting cadence

It was determined Wednesday at 6:30 PM is a good meeting day/time for the Arts & Culture Commission meetings. Tom recommended the commission meets more than once a month initially and the commission agreed to a September 15th meeting and the next regularly scheduled October 6th meeting. Additional meetings will be determined at the October 6th meeting.

f. Next steps

VIII. Reports from Staff

IX. Reports from Commissioners

X. Adjournment

On motion by Commissioner Haas, seconded by Commissioner. with all present voting aye, motion carried to adjourn.

Meeting adjourned at 8:20 PM

The next regularly scheduled Arts & Culture Commission meeting is September 15, 2021 at City Hall.

WAV

- beautify the city for everyone
- bring community together / space for connection
- bridge old & new (e.g. connect to school district)
- inspire connection / cross-cultural learning
- help folks identify with the city
 - + explore the city
 - + engage w/ the city
- Hide little showers in parks, in the art, etc.



Key inputs: \$\$\$ - fiscal pipeline for support

- invite ^{community?} leaders to provide perspective (diverse/BIPOC)
- engage w/ business community
- web form?
- commissions/interconnectivity
- other cities' art commissions
- ARTISTS
- clear process + clear standards

Minnesota Open Meeting Law

The Minnesota Open Meeting Law requires that meetings of governmental bodies generally be open to the public. This information brief discusses the groups and types of meetings covered by the open meeting law, and then reviews the requirements of and exceptions to the law and the penalties for its violation.

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Executive Summary

The Minnesota Open Meeting Law was originally enacted in [Laws 1957, chapter 773](#), section 1. It is now codified in [Minnesota Statutes, chapter 13D](#). The Minnesota Supreme Court has articulated three purposes of the open meeting law:

- To prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed about a public board's decisions or to detect improper influences
- To assure the public's right to be informed
- To afford the public an opportunity to present its views to the public body¹

"These purposes are deeply rooted in the fundamental proposition that a well-informed populace is essential to the vitality of our democratic form of government."² Courts interpret the law liberally and in favor of openness.

Entities covered by the law. The law applies to state and local multimember governmental bodies, including committees and subcommittees, and nonprofits created by political subdivisions. A separate law applies to the legislature.

Situations where the law applies. A meeting is a "meeting" for purposes of the law when a quorum or more of the governmental body is gathered—in person or by electronic means, whether or not action is taken or contemplated. The open meeting law does not address whether the governmental body must keep or publish meeting minutes, hold a meeting for a particular purpose, or allow members of the public to address the body. For any particular governmental body, there may be other laws or charter provisions that address those topics.

What constitutes an open meeting. A meeting is open when proper notice was given in advance of the meeting, the public may attend and observe, and relevant materials are available to the public.

Exceptions to the law. A meeting may be closed based on a limited attorney-client privilege, and for the purposes of labor negotiations, employee evaluations, and discussion of security issues and property transactions. The law does not apply to a governmental body exercising quasi-judicial functions involving disciplinary proceedings.

¹ *Prior Lake American v. Mader*, 642 N.W.2d 729, 735 (Minn. 2002) (en banc) (citing *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1, 4 (Minn. 1983)). While the courts consistently say that the open meeting law is to afford the public an opportunity to present its views to the public body, there is no general right for members of the public to speak at a meeting. Some statutes, and perhaps some home rule charters, specify that a hearing on a particular matter must be held at which anyone who wishes to address the public body may do so. See, e.g., [Minn. Stat. § 117.0412](#), subd. 2.

² *Prior Lake American*, 642 N.W.2d at 735.

Violations of the law. While actions taken at a meeting held in violation of the law are still valid, the law provides for penalties and potentially removal from office.

Where to get advice. A governmental entity can seek advice from its attorney, the Minnesota Attorney General, or the Commissioner of Administration. An individual may seek advice from a private attorney or the Commissioner of Administration.

Groups and Meetings Governed by the Open Meeting Law

The law applies to all levels of state and local government.

The open meeting law applies to:

- a state agency, board, commission, or department when it is required or permitted by law to transact public business in a meeting;
- the governing body of any school district, unorganized territory, county, city, town, or other public body;
- a committee, subcommittee, board, department, or commission of a public body subject to the law; and
- the governing body or a committee of a statewide or local public pension plan.³

“Public body” is not defined but the Minnesota Supreme Court has stated that “[i]n common understanding, ‘public body’ is possibly the broadest expression for the category of governmental entities that perform functions for the public benefit.”⁴

In determining whether the open meeting law applies to a particular entity, one should look at all of the entity’s characteristics. For example, in a 1998 case, the Minnesota Supreme Court held that because the statute authorizing creation of a municipal power agency authorized an agency to conduct its affairs as a private corporation, it could hold closed meetings.⁵ The court held so notwithstanding the statute that provides for municipal power agencies to be political subdivisions of the state.⁶

³ [Minn. Stat. § 13D.01](#), subd. 1.

⁴ *Star Tribune Co. v. University of Minnesota Board of Regents*, 683 N.W.2d 274, 280-282 (Minn. 2004) (en banc).

⁵ *Southern Minn. Mun. Power Agency v. Boyne*, 578 N.W.2d 362, 364 (Minn. 1998) (en banc) (citing Minn. Stat. § 453.54, subd. 21, and discussing the factors that distinguish a public corporation from a private corporation). See also *Minnesota Joint Underwriting Ass’n v. Star Tribune Media Co.*, 862 N.W.2d 62, 65 (Minn. 2015) (discussing *Boyne*; stating whether a particular entity is a “government entity” under the Data Practices Act is a question of law subject to the court’s de novo review).

⁶ [Minn. Stat. § 453.53](#), subd. 1, para. (b), cl. (1) (The agency agreement shall state: “(1) That the municipal power agency is created and incorporated . . . as a municipal corporation and a political subdivision of the state, to exercise thereunder a part of the sovereign powers of the state;”).

The law generally applies to nonprofit corporations created by governmental entities.

The list of groups covered by the open meeting law does not refer to nonprofit corporations created by a governmental entity. However, the law creating a specific public nonprofit corporation may specify that it is subject to the open meeting law.⁷ In addition, any corporation created by a political subdivision before May 31, 1997, is clearly subject to the open meeting law.⁸

Gatherings of less than a quorum of a public body are not subject to the law; a “meeting” is held when the group is capable of exercising decision-making powers.

The Minnesota Supreme Court has held that the open meeting law applies only to a quorum or more of members of the governing body or a committee, subcommittee, board, department, or commission of the governing body.⁹ Serial meetings in groups of less than a quorum held in order to avoid open meeting law requirements may also be found to be a violation, depending on the facts of the case.¹⁰

A public body subject to the law should be cautious about using e-mail to communicate with other members of the body. Although the statute does not specifically address the use of e-mail, it is likely that the court would analyze use of e-mail in the same way as it has telephone conversations and letters.¹¹ That is, private communication about official business through

⁷ E.g., [Minn. Stat. §§ 62Q.03](#), subd. 6 (Minnesota Risk Adjustment Association); [85B.02](#), subd. 6 (Lake Superior Center Authority); [116V.01](#), subd. 10 (Agricultural Utilization Research Institute); [124D.385](#), subd. 4 (Minnesota Commission on National and Community Service may create a nonprofit but it is subject to the open meeting law); and [128C.22](#) (State High School League).

⁸ [Minn. Stat. § 465.719](#), subd. 9.

⁹ *Moberg v. Independent School Dist. No. 281*, 336 N.W.2d 510 (Minn. 1983) (en banc).

¹⁰ *Id.* at 518; see also *Mankato Free Press Co. v. City of North Mankato*, 563 N.W.2d 291, 295 (Minn. App. 1997). On remand to the district court for a factual finding on whether the city used serial interviews to avoid the open meeting law, the trial court found, and the court of appeals affirmed, that the serial meetings were not held to avoid the law. *Mankato Free Press Co. v. City of North Mankato*, No. C9-98-677, 1998 WL 865714 (Minn. App. 1998) (unpublished opinion), review denied (Minn. Feb. 24, 1999).

¹¹ *Moberg*, 336 N.W.2d at 518. The Commissioner of Administration stated in a July 9, 2008, opinion that an e-mail sent to all members of a city council by the city manager was effectively “printed material” that should be available to members of the public and also suggested that the legislature revise the statute to recognize the use of electronic and other types of communications. Minn. Dept. of Admin. Advisory Op. 08-015. A September 8, 2009, opinion by the commissioner states that the exchange of e-mails by staff and members of the Metro Gang Strike Force Advisory Board violated the open meeting law because it was not just a matter of a quorum receiving information, but a quorum of the body discussing and then giving the staff person direction on the action to take. In June 2017, the Commissioner of Administration issued an opinion that a letter signed by a quorum of a school board that was sent without public notice, or discussion and decision on the substance of the letter in an open meeting violated the law. The school board said one member drafted it, sent it to the superintendent, who made minor revisions, placed it on letterhead, and then sent it to the other members to sign. The board asserted it did not discuss or take action on it. The commissioner however found that unlikely. “The Board’s assertion that it did not discuss, decide, or take action on the contents of the letter or sending the letter is not plausible based on the very existence of the letter purporting to be from “the Board” and bearing the signatures of a quorum of members of the Board.” Minn. Dept. of Admin. Advisory Op. 17-005 (Eveleth-Gilbert Public Schools, I.S.D. No. 2154, and a letter sent to the IRRRB).

telephone conversations or letters by a quorum of a public body subject to the law would violate the law.

Serial communication through telephone conversations or letters by less than a quorum with the intent to avoid a public hearing or to come to an agreement on an issue relating to official business could also violate the law. In a 1993 case, the Minnesota Court of Appeals held that the open meeting law was not violated when two of five city council members attended private mediation sessions related to city business. The court determined that the two council members did not constitute a committee or subcommittee of the council because the group was not capable of exercising decision-making powers.¹²

The law applies to informational meetings.

The Minnesota Supreme Court has held that the open meeting law applies to all gatherings of members of a governing body, whether or not action is taken or contemplated. This means that a gathering of members of a public body for an informational seminar on matters currently facing the body or that might come before the body must be conducted openly.¹³ However, there are some exceptions. A 1975 attorney general opinion stated that city council attendance at a League of Minnesota Cities training program for city officials did not violate the open meeting law if the members did not discuss specific municipal business.¹⁴ The statute governing the Lessard-Sams Outdoor Heritage Council allows members of the council to travel together to visit sites and learn about projects without it being a violation of the law as long as the members do not decide, or agree to decide, matters under the council's jurisdiction.¹⁵

The law does not cover chance or social gatherings.

The open meeting law does not apply to chance or social gatherings of members of a public body.¹⁶ However, a quorum of a public body may not, as a group, discuss or receive information on official business in any setting under the guise of a private social gathering.¹⁷

The law does not apply to certain types of advisory groups.

The Minnesota Court of Appeals has held that the open meeting law does not apply to certain types of advisory groups.¹⁸ In that case, a presidential search advisory committee to the University of Minnesota Board of Regents was held not to be a committee of the governing body for purposes of the open meeting law. In reaching its holding, the court pointed out that no

¹² *Sovereign v. Dunn*, 498 N.W.2d 62 (Minn. App. 1993), *review denied* (Minn. May 28, 1993).

¹³ *St. Cloud Newspapers, Inc.*, 332 N.W.2d 1.

¹⁴ Op. Att'y Gen. 63a-5, Feb. 5, 1975.

¹⁵ [Minn. Stat. § 97A.056](#), subd. 5, para. (b), provides "Travel to and from scheduled and publicly noticed site visits by council members for the purposes of receiving information is not a violation of paragraph (a). Any decision or agreement to make a decision during the travel is a violation of paragraph (a)."

¹⁶ *St. Cloud Newspapers, Inc.*, 332 N.W.2d at 7.

¹⁷ *Moberg*, 336 N.W.2d at 518.

¹⁸ *The Minnesota Daily v. University of Minnesota*, 432 N.W.2d 189 (Minn. App. 1988).

regents were on the search committee and that the committee had no power to set policy or make a final decision. It is not clear if a court would reach the same result if members of the governing body were also on the advisory committee. Depending on the number of members of the governing body involved and on the form or extent of the delegation of authority from the governing body to the members, a court might consider the advisory committee to be a committee of the governing body.

A separate law applies to the legislature.

In 1990, the legislature passed a law separate from the open meeting law that requires all legislative meetings be open to the public.¹⁹ The law applies to House and Senate floor sessions and to meetings of committees, subcommittees, conference committees, and legislative commissions. For purposes of this law, a meeting occurs when a quorum is present *and action is taken* regarding a matter within the jurisdiction of the group. Each house of the legislature must adopt rules to implement these requirements. Remedies provided under these rules are the exclusive means of enforcing this law.

Hybrid groups—those made up of both legislators and nonlegislators—may have different open meeting law requirements. The Legislative-Citizen Commission on Minnesota Resources is subject to Minnesota Statutes, chapter 13D, except that a meeting only occurs when a quorum is present and action is taken, similar to the legislative open meeting law.²⁰ In contrast, the Lessard-Sams Outdoor Heritage Council, which also has both legislators and nonlegislators on it, is subject to chapter 13D, and a meeting occurs when a quorum is present whether or not action is taken.²¹ Similarly, how the law applies to the hybrid Child Support Task Force was clarified in 2017.²²

¹⁹ [Minn. Stat. § 3.055](#).

²⁰ [Minn. Stat. § 116P.08](#), subd. 5, “(a) Meetings of the commission, committees, or subcommittees of the commission, technical advisory committees, and peer reviewers must be open to the public and are subject to [chapter 13D](#). The commission shall attempt to meet throughout various regions of the state during each biennium. For purposes of this subdivision, *a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the commission, a committee or subcommittee of the commission, a technical advisory committee, or peer reviewers.*”

(b) For legislative members of the commission, enforcement of this subdivision is governed by section 3.055, subdivision 2. For nonlegislative members of the commission, enforcement of this subdivision is governed by [section 13D.06](#), subdivisions 1 and 2.” (emphasis added).

²¹ [Minn. Stat. § 97A.056](#), subd. 5.

²² [Minn. Stat. § 518A.79](#), subd. 3a (added by [Laws 2017, 1st spec. sess. ch. 4](#), art. 2, § 48, effective January 1, 2018): “Except as otherwise provided in this section, the task force is subject to [chapter 13D](#). A meeting of the task force occurs when a quorum is present and the members receive information, discuss, or take action on any matter relating to the duties of the task force. The task force may conduct meetings as provided in [section 13D.015](#) or [13D.02](#). The task force may conduct meetings at any location in the state that is appropriate for the purposes of the task force as long as the location is open and accessible to the public. For legislative members of the task force, enforcement of this subdivision is governed by [section 3.055](#), subdivision 2. For nonlegislative members of the task force, enforcement of this subdivision is governed by [section 13D.06](#), subdivisions 1 and 2.”

Requirements of the Open Meeting Law

The primary requirement of the open meeting law is that meetings be open to the public.

The law also requires that votes in open meetings be recorded in a journal and that the journal be open to the public. The vote of each member must be recorded on appropriations of money, except for payments of judgments and claims and amounts fixed by statute.²³ A straw ballot to narrow the list of candidates for city administrator and not made public was held to be a secret vote in violation of the open meeting law, particularly in light of the fact that the straw vote was acted on and given the same effect as an official act.²⁴

Open meetings must be held in a public place within the borders of the public body.²⁵

Meetings may be held by interactive television if specified conditions are met to ensure openness and accessibility for those who wish to attend.²⁶ The Commissioner of Administration issued an opinion in 2013 that attending a meeting using a web-based technology like Skype is like attending by interactive TV and is allowed as long as the requirements for attending by interactive TV are met.²⁷

A state entity may hold meetings by telephone or other electronic means as long as specified conditions are met to ensure openness and accessibility for those who wish to attend. In addition, a meeting of any public body (state or local) may be conducted by telephone or other electronic means if a health pandemic or other emergency makes meeting in person impractical or imprudent and all of the same conditions as for other meetings held by telephone or other electronic means are met, unless unfeasible due to the pandemic or emergency.

In general, those conditions include the following:

- All members of the body can hear one another and can hear all discussion and testimony.
- Members of the public at the regular meeting location can hear all discussion, testimony, and votes.
- At least one member of the body (or, in the case of a health pandemic or other emergency, the chief legal counsel or chief administrative officer) is present at the regular meeting location. (If using interactive TV under [section 13D.02](#)—as opposed to

²³ [Minn. Stat. § 13D.01](#), subds. 4 and 5.

²⁴ *Mankato Free Press Co.*, 563 N.W.2d at 295-96. In contrast, the Commissioner of Administration issued an advisory opinion finding that a secret straw ballot taken and its results described and discussed at the same meeting as the ballot was not a violation. Minn. Dept. of Admin. Advisory Op. 10-011.

²⁵ *Quast v. Knutson*, 276 Minn. 340, 341, 150 N.W.2d 199, 200 (1967) (school board meeting held 20 miles outside the jurisdiction of the school board at a private office did not comply with open meeting law; consolidation proceedings were fatally defective because the resolution by which the proceedings were initiated was not adopted at a public meeting as required by law).

²⁶ [Minn. Stat. § 13D.02](#). See also [Minn. Stat. § 471.59](#), subd. 2 (joint powers board for educational purposes).

²⁷ Minn. Dept. of Admin. Advisory Op. 13-009.

telephone or other electronic means—there is the additional condition that each location be open and accessible to the public.)

- All votes are conducted by roll call.
- The public body must allow a person to monitor the meeting electronically from another location. The body may require the person to pay for any documented additional costs the body incurs as a result of the additional connection.
- The public body must give notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the right of the public to monitor the meeting from another location. In addition, the public body must post the notice on its website at least ten days before any regular meeting.²⁸

The law requires public bodies to give notice of their meetings.

In 1974, the Minnesota Supreme Court held that failure to give notice of a meeting is a violation of the open meeting law.²⁹ The court has also held that it is a violation of the open meeting law to conduct business before the time publicly announced for a meeting.³⁰

In 1987, the legislature spelled out the notice requirements in statute for regular, special, emergency, and closed meetings. Public bodies must do the following:

- Keep schedules of *regular* meetings on file at their offices³¹
- Post notice of *special* meetings (meetings held at a time or place different from regular meetings) on their principal bulletin board. The public body must also either mail notice to people who have requested such mailings, or publish notice in the official newspaper, at least three days before the meetings³²

²⁸ [Minn. Stat. §§ 13D.015](#) (state entities); [13D.02](#); [13D.021](#) (state or local entities in the case of health pandemic, other emergency). Various statutes for specific public bodies also allow for meetings by interactive television, telephone, or other electronic means: [Minn. Stat. §§ 13D.02](#), subd. 5 (school boards with audio and visual link); [35.0661](#) (Board of Animal Health during restricted travel for animal health reasons); [41A.0235](#) (Minnesota Agricultural and Economic Development Board); [41B.026](#) (Rural Finance Agency); [116L.03](#), subd. 8 (Minnesota Jobs Skills Partnership Board); [116M.15](#), subd. 5 (Minnesota Emerging Entrepreneur Board); [116T.02](#), subd. 6 (Northern Technology Initiative, Inc.); [116U.25](#) (Explore Minnesota Tourism Council); [123A.16](#), subd. 1 (education district boards); [129C.105](#) (Board of the Perpich Center for Arts Education); [134.31](#), subd. 7 (Advisory Committee for the Minnesota Braille and Talking Book Library); [176.102](#), subd. 3c (rehabilitation review panels); [176.103](#), subd. 3 (Medical Services Review Board); [248.10](#) (Rehabilitation Council for the Blind); [256.482](#), subd. 5b (Minnesota State Council on Disability); [256.975](#), subd. 2a. (Minnesota Board on Aging); [256C.28](#), subd. 7 (Commission of Deaf, DeafBlind and Hard-of-Hearing Minnesotans); [268A.02](#), subd. 3 (State Rehabilitation Council and Statewide Independent Living Council); [326B.32](#), subd. 7 (Board of Electricity); [326B.435](#), subd. 7 (Board of Plumbing); [326B.925](#), subd. 7 (Board of High Pressure Piping Systems); [462A.041](#) (Minnesota Housing Finance Agency).

²⁹ *Sullivan v. Credit River Township*, 299 Minn. 170, 217 N.W.2d 502 (1974).

³⁰ *Merz v. Leitch*, 342 N.W.2d 141, 145 (Minn. 1984) (en banc).

³¹ [Minn. Stat. § 13D.04](#), subd. 1.

³² [Minn. Stat. § 13D.04](#), subd. 2; *Rupp v. Mayasich*, 533 N.W.2d 893 (Minn. App. 1995) (bulletin board must be reasonably accessible to the public). A February 3, 2004, advisory opinion by the Commissioner of

- Make good faith efforts to notify news media that have filed written requests (with telephone numbers) for notice of *emergency* meetings (special meetings called because of circumstances that require immediate consideration)³³

The same notice requirements apply to closed meetings.³⁴

Absent any other specific law governing notice by a state agency, a state agency required or permitted by law to transact public business in a meeting satisfies notice requirements if it publishes notice in the State Register or posts notice on the agency's website. In addition, a schedule of the regular meetings must be kept on file at the primary offices or posted on the agency's website.³⁵

The law requires relevant materials to be publicly available.

The open meeting law requires that for open meetings, at least one copy of any printed material prepared by the public body and distributed or available to all members of the public body also be available in the meeting room for inspection by the public. This requirement does not apply to materials that are classified as other than public under the Government Data Practices Act.³⁶

Exceptions to the Open Meeting Law

A closed meeting, except one closed under the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.³⁷

The law does not apply to state agency disciplinary hearings.

The open meeting law does not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary hearings.³⁸

Administration stated that a public body's actions at a special meeting are limited to those topics included in the notice of special meeting. Minn. Dept. of Admin. Advisory Op. 04-004.

³³ Minn. Stat. § 13D.04, subd. 3.

³⁴ Minn. Stat. § 13D.04, subd. 5.

³⁵ Minn. Stat. § 13D.04, subd. 6.

³⁶ Minn. Stat. § 13D.01, subd. 6.

³⁷ Minn. Stat. § 13D.05, subd. 1.

³⁸ Minn. Stat. § 13D.01, subd. 2. This subdivision also says that the law does not apply to meetings of the Commissioner of Corrections, which does not really make sense since such a meeting is not of a multimember body. It may be explained by the legislative history, however. Until 1982, the exception was for meetings of the Corrections Board, a multimember body. A 1983 instruction directed the Revisor of Statutes to change "Corrections Board" to "Commissioner of Corrections" throughout statutes. [Laws 1983, ch. 274](#), § 18.

Certain meetings involving employee evaluation or discipline must be closed.

A public body must close meetings for preliminary consideration of allegations or charges against an individual subject to its authority.³⁹ If the members of the public body conclude that discipline may be warranted as a result of those charges, further meetings or hearings relating to the charges must be open. Meetings must also be open at the request of the individual who is the subject of the meeting.

Statutes other than the open meeting law may permit or require closed meetings for certain local governmental bodies to conduct specific kinds of disciplinary hearings. For example, school board hearings held to discharge or demote a teacher are private unless the affected teacher wants a public hearing.⁴⁰

A public body may close a meeting to evaluate the performance of an individual who is subject to its authority.⁴¹ Before closing a meeting, the public body must identify the individual to be evaluated. The public body must summarize the conclusions of the evaluation at its next open meeting. An evaluation meeting must be open at the request of the subject of the meeting.⁴²

A meeting may be closed to discuss labor negotiations.

The open meeting law permits a public body to hold a closed meeting to discuss strategy and proposals for labor negotiations conducted under the Public Employment Labor Relations Act.⁴³ The statute specifies procedures for tape-recording of these meetings, and for the recordings to become public when negotiations are completed.⁴⁴ Another law permits the Commissioner of the Bureau of Mediation Services to close negotiations and mediation sessions between public employers and public employees. These negotiations are public meetings, unless the commissioner closes them.⁴⁵

The law permits closed meetings based on a limited attorney-client privilege.

In 1976, the Minnesota Supreme Court held that there is a limited exception, based on the attorney-client privilege, for meetings to discuss strategy for threatened or pending litigation.⁴⁶ In 1990, the legislature added the attorney-client exception to the open meeting law.⁴⁷ Although

³⁹ [Minn. Stat. § 13D.05](#), subd. 2.

⁴⁰ [Minn. Stat. § 122A.41](#), subd.

⁴¹ [Minn. Stat. § 13D.05](#), subd. 3.

⁴² [Minn. Stat. § 13D.05](#), subd. 2.

⁴³ [Minn. Stat. § 13D.03](#), subd. 1.

⁴⁴ [Minn. Stat. § 13D.03](#), subd. 2.

⁴⁵ [Minn. Stat. § 179A.14](#), subd. 3.

⁴⁶ *Minneapolis Star & Tribune Co. v. Housing & Redevelopment Auth.*, 310 Minn. 313, 324, 251 N.W.2d 620, 626 (1976).

⁴⁷ [Minn. Stat. § 13D.05](#), subd. 3.

the statute is not limited, the court has since held that the scope of the exception remains limited in relation to the open meeting law.⁴⁸

The attorney-client privilege exception does not apply to a mere request for general legal advice. Nor does it apply when a governing body seeks to discuss with its attorney the strengths and weaknesses of a proposed legislative enactment (like a city ordinance) that may lead to future lawsuits because that can be viewed as general legal advice. Furthermore, discussion of proposed legislation is just the sort of discussion that should be public.⁴⁹

In order to close a meeting under the attorney-client privilege exception, the governing body must give a particularized statement describing the subject to be discussed. A general statement that the meeting is being closed to discuss pending or threatened litigation is not sufficient.⁵⁰

A meeting may be closed to address certain security issues.

If disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses, a meeting may be closed to:

- receive security briefings and reports,
- discuss issues related to security systems,
- discuss emergency response procedures, and
- discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities.

Before closing a meeting, the public body must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape-recorded at the expense of the governing body, and the recording must be preserved for at least four years.

⁴⁸ *Star Tribune v. Board of Ed., Special School Dist. No. 1*, 507 N.W.2d 869 (Minn. App. 1993) review denied (Minn. Dec. 22, 1993). The court of appeals did not accept the argument that the statutory exception encompassed the full attorney-client privilege because that would result in the exception swallowing the rule in favor of open meetings. In 2002, the Minnesota Supreme Court restated that the attorney-client privilege exception only applies when the purposes for the exception outweigh the purposes of the open meeting law. In that case, the city council was threatened with a lawsuit if it did not grant a request. The court found that the threat of a lawsuit did not warrant closing the meeting. *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002) (en banc). Cf. *Brainerd Daily Dispatch v. Dehen*, 693 N.W.2d 435 (Minn. App. 2005) (applying analysis of *Star Tribune* and *Prior Lake American*, finding threats were sufficiently specific and imminent that confidential consultation with legal counsel appointed by city's insurer to discuss defense strategy or reconciliation to address a threatened lawsuit justified closing the meeting).

⁴⁹ *Star Tribune*, 507 N.W.2d at 872.

⁵⁰ *The Free Press v. County of Blue Earth*, 677 N.W.2d 471 (Minn. App. 2004).

Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting.⁵¹

A meeting may be closed to discuss certain issues relating to government property sales or purchases.

A public body may close a meeting to:

- determine the asking price for real or personal property to be sold by the government entity;
- review confidential or nonpublic appraisal data; and
- develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting, the public body must identify on the record the particular property that is the subject of the closed meeting. The proceedings must be tape-recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this exception was transacted at a closed meeting held during the time when the tape is not available to the public, the court would review the recording of the meeting *in camera* and either dismiss the action if the court finds no violation, or permit use of the recording at trial (subject to protective orders) if the court finds there is a violation.⁵²

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body's internal procedures, and the purchase price or sale price is public data.⁵³

There is a narrow exception for certain meetings of public hospital boards.

Boards of public hospitals and certain health organizations may close meetings to discuss competitive market activities and contracts.⁵⁴

⁵¹ Minn. Stat. § 13D.05, subd. 3.

⁵² Minn. Stat. § 13D.05, subd. 3, referring to § 13D.03, subd. 3.

⁵³ Minn. Stat. § 13D.05, subd. 3. Property appraisal data covered by this law is described in [Minnesota Statutes, section 13.44](#), subdivision 3.

⁵⁴ Minn. Stat. § 144.581, subds. 4 and 5.

On-site inspections by town board members are not subject to the law.

The law does not apply to a gathering of town board members to perform on-site inspections, if the town has no employees or other staff able to perform the inspections and the town board is acting essentially in a staff capacity. The town board must make good faith efforts to provide notice of the inspections to the media that have filed a written request, including a telephone number, for notice. Notice must be by telephone or by any other method used to notify the members of the public body.⁵⁵

The law specifies how it relates to the Government Data Practices Act.

Except as specifically provided, public meetings may not be closed to discuss data that are not public data under the Government Data Practices Act.⁵⁶ Data that are not public may be discussed at an open meeting without liability, if the matter discussed is within the public body's authority and if it is reasonably necessary to conduct the business before the public body.⁵⁷

A portion of a meeting must be closed if the following data are discussed:

- Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults
- Active investigative data collected by a law enforcement agency, or internal affairs data relating to alleged misconduct by law enforcement personnel
- Certain types of educational, health, medical, welfare, or mental health data that are not public data
- An individual's medical records governed by the Minnesota Health Records Act, Minnesota Statutes, sections 144.291 to 144.298⁵⁸

The legislature has addressed social media.

In 2014, the legislature added a provision relating to use of social media. "The use of social media by members of a public body does not violate this chapter so long as the social media use is limited to exchanges with all members of the general public. For purposes of this section, e-mail is not considered a type of social media."⁵⁹ "Social media" is not defined.

⁵⁵ Minn. Stat. § 366.01, subd. 11.

⁵⁶ Minn. Stat. § 13D.05, subd. 1.

⁵⁷ Minn. Stat. §§ 13.03, subd. 11; 13.05, subd. 4; and 13D.05, subd. 1.

⁵⁸ Minn. Stat. § 13D.05, subd. 2.

⁵⁹ Minn. Stat. § 13D.065 (added by Laws 2014, ch. 274, § 2).

Penalties

The open meeting law provides a civil penalty of up to \$300 for intentional violation.⁶⁰ A person who is found to have intentionally violated the law in three or more legal actions involving the same governmental body forfeits the right to serve on that body for a time equal to the term the person was serving. The Minnesota Supreme Court has held that this removal provision is constitutional as to removal of elected officials only if the conduct constitutes malfeasance or nonfeasance and provided that the violations occurred after the person had a reasonable amount of time to learn the responsibilities of office.⁶¹

A public body may not pay a civil penalty on behalf of a person who violated the law. However, a public body may pay any costs, disbursements, or attorney fees incurred by or awarded against a member of the body in an action under the open meeting law if the member was found not guilty of a violation.⁶²

A court may award reasonable costs, disbursements, and reasonable attorney fees of up to \$13,000 to any party in an action under the open meeting law. However, the following conditions apply:

- A court may award costs and attorney fees to a defendant only if it finds that the action was frivolous and without merit
- A court may award monetary penalties or attorney fees against a member of a public body only if the court finds there was an intent to violate the open meeting law

The court must award reasonable attorney fees to a prevailing plaintiff if the public body was also the subject of a prior written opinion issued by the Commissioner of Administration, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not follow the opinion.⁶³

The appropriate mechanism to enforce the open meeting law is to bring an action in district court seeking injunctive relief or damages. The statute does not provide for a declaratory judgment action.⁶⁴

The Minnesota Supreme Court has held that actions taken at a meeting held in violation of the open meeting law are not invalid or rescindable.⁶⁵

⁶⁰ Minn. Stat. § 13D.06, subd. 1.

⁶¹ Minn. Stat. § 13D.06, subd. 3; *Claude v. Collins*, 518 N.W.2d 836, 843 (Minn. 1994); see also *Brown v. Cannon Falls Township*, 723 N.W.2d 31, 41-44 (Minn. App. 2006) (discussing the statutory history and that since 1994 the statute has required three or more legal actions).

⁶² Op. Att’y Gen. 471-a, Dec. 31, 1992; Minn. Stat. § 13D.06, subd. 4.

⁶³ Minn. Stat. § 13D.06, subd. 4.

⁶⁴ *Rupp v. Mayasich*, 561 N.W.2d 555 (Minn. App. 1997).

⁶⁵ *Sullivan v. Credit River Township*, 299 Minn. 170, 176-177, 217 N.W.2d 502, 507 (Minn. 1974).

Advice

Public bodies subject to the open meeting law may seek advice on the application of the law and how to comply with it from three sources:

- The governmental entity's attorney
- The attorney general⁶⁶
- The Commissioner of Administration⁶⁷

An individual may seek advice from two sources:

- The individual's attorney
- The Commissioner of Administration⁶⁸

An individual who disagrees with the manner in which members of a governing body perform their duties under the open meeting law may request the Commissioner of Administration to give a written opinion on the governing body's compliance with the law.

A governing body or person requesting an opinion of the Commissioner of Administration must pay a \$200 fee if the commissioner issues an opinion.

The commissioner may decide not to issue an opinion. If the commissioner decides not to issue an opinion, the commissioner must notify the requester within five days of receipt of the request. If the commissioner decides to issue an opinion, it must be done within 20 days of the request (with a 30-day extension possible for good cause and notice to the requester). The governing body must be allowed to explain how it performs its duties under the law.

Opinions of the Commissioner of Administration are not binding, but a court must give the opinions deference. However, a governing body that follows an opinion is not liable for fines, attorney's fees or any other penalty, or forfeiture of office.

For more information about open meetings and other issues related to the government, visit the government operations area of our website, www.house.mn/hrd/.

⁶⁶ Under [Minnesota Statutes, section 8.06](#), the attorney general is the attorney for all state officers and boards or commissions created by law. Under [Minnesota Statutes, section 8.07](#), the attorney general, on request from an attorney for a county, city, town, public pension fund, school board, or unorganized area, gives written opinions on matters of public importance.

⁶⁷ [Minn. Stat. § 13.072](#), subds. 1 and 2.

⁶⁸ *Id.*; see <https://mn.gov/admin/data-practices/> for access to prior opinions of the Commissioner of Administration or to find out how to request an opinion.

CITY OF NORTH ST. PAUL

RESOLUTION NO. 2021-063

**RESOLUTION APPROVING A CONDITIONAL USE
PERMIT FOR OUTDOOR STORAGE TO ALLOW FOR
THE ADDITION OF THREE (3) SILOS AND A VEHICLE
SCALE TO THE EXISTING T.A. SCHIFSKY & SONS
OPERATION LOCATED AT
2310 HIGHWAY 36 E**

WHEREAS, the City of North St. Paul (“City”) has received an application for a Conditional Use Permit for outdoor storage to allow for the addition of three (3) silos, a vehicle scale, and associated equipment from Rob Stangler, T.A. Schifsky & Sons, 2570 Highway 36 E, North St. Paul, MN 55109 at the property located at 2510 Highway 36 E; and,

WHEREAS, the applicant is requesting the Conditional Use Permit to allow the outdoor storage of three (3) additional silos, a vehicle scale, and associated equipment which will support the expansion of their existing asphalt plant, crushing operation, and related uses; and,

WHEREAS, the property is legally described as follows:

Lot 3 Block 7 of NORTH ST PAUL PROPER, RAMSEY COUNTY
SUBJ TO STH 36/118 AND EX E 186 FT, North St. Paul, Ramsey County, Minnesota; and,

WHEREAS, the existing asphalt plant, crushing operation, and related uses are a legal non-conforming uses located on properties that are zoned MU-3 Corridor Mixed-Use; and,

WHEREAS, Zoning Ordinance Section 154.003(C) allows City staff to review and approve an expansion of a non-conforming use within the MU-3 zoning district provided that the expansion meets the four (4) criteria within the Ordinance; and,

WHEREAS, City staff has found that the four (4) criteria within Zoning Ordinance Section 154.003(C) has been met subject to the conditions included within this Resolution; and,

WHEREAS, A public notice for the proposal was published in the newspaper dated May 9, 2021 and property owners within 350 feet of the site have been notified; and,

WHEREAS, the Planning Commission held a public hearing on May 20, 2021 to consider and receive public input and has reviewed this request and tabled the review of the application until the June 3, 2021 Planning Commission meeting; and,

WHEREAS, the Planning Commission reviewed and considered this request on June 3, 2021 and recommends the City Council approve the Conditional Use Permit.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH ST. PAUL, Minnesota hereby approves the requested Conditional Use Permit as described herein based on one or more of the following findings of fact concerning this property:

FINDINGS OF FACT:

- A1. The analysis contained within staff memos and the exhibits attached to the aforesaid memos, all minutes from the above mentioned meetings, and any and all other materials distributed at these meetings are hereby incorporated by reference.
- A2. The Subject Property is zoned MU-3 Corridor Mixed-Use. Asphalt plants, crushing operations, and related uses are not permitted under this designation.
- A3. Applicant has applied for the following conditional use:
 - i. Outdoor storage of three (3) additional silos, a vehicle scale, and associated equipment.

ANALYSIS:

- B1. The Conditional Use Permit shall only be permitted when the Conditional Use Permit is in harmony and consistent with the comprehensive plan.
- B2. The Conditional Use Permit shall only be permitted when the Conditional Use Permit does not adversely affect the health, safety, or general welfare of the city.
- B3. The Conditional Use Permit shall only be permitted when the Conditional Use Permit is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city.
- B4. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use and appearance is compatible with adjacent properties.
- B5. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems.
- B6. The Conditional Use Permit shall only be permitted when .the Conditional Use Permit when the use will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area.
- B7. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land.

- B8. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use.
- B9. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use will not create an intrusion of excessive noise, glare, or general unsightliness.
- B10. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use is consistent with officially adopted city plans and overlays.
- B11. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use is located outside of the front yard setback and shall not be placed between the principal building and the abutting street.
- B12. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use is completely screened from any adjacent street, sidewalk, public walkway, or public park.
- B13. The Conditional Use Permit shall only be permitted when the Conditional Use Permit when the use is screened from abutting residential uses with a wall, solid fencing, evergreen hedge, or equivalent material. All screening shall be six feet in height. Screening along district boundaries, where present, may provide all or part of the required screening.

DECISION:

The Applicant's request for a conditional use permit from Section 154.010(D)(32), of the North St. Paul City Code is hereby approved, subject to the following conditions, if any, which are necessary to protect the public health, safety, and general welfare and which are directly related to and bear a rough proportionality to the impact created by the variance:

- 1. Revised set of plans shall be submitted prior to building permit issuance for review addressing comments provided and incorporating any recommended comments as acceptable and necessary.
- 2. The applicant shall update their site plan to verify paved surfaces at each entrance to minimize sediment tracking on city streets. The failed concrete commercial driveway entrance at the south entrance off 3rd Street shall be replaced with a new commercial apron meeting city standards.
- 3. The applicant is responsible for and shall provide copies of all applicable permitting for the project prior to grading permit (mass grading) and/or building permit issuance, including but not limited to RWMWD and Minnesota Pollution Control Agency (MPCA) NPDES stormwater construction, City Erosion and Sediment Control Plan, MPCA/Metropolitan Council sanitary sewer extension, and Minnesota Department of

Health watermain extension permits, as applicable.

4. The screening fence shall be a six (6) foot tall chain link fence with vinyl slats. The chain link fencing, fence posts, and vinyl slats shall be black in color. The vinyl slats shall be inspected annually and any damaged or deteriorated slatting shall be replaced within 30 days of inspection.
5. The screening fencing shall be located at least ten (10) from the southern and western property lines of the property located at 2310 Highway 36 E.
6. T.A. Schifsky shall hire a certified arborist to evaluate the existing vegetation along the southern and western boundaries of the site and provide recommendations on vegetation trimming and/or removal to ensure that the existing healthy trees are allowed to grow to their ideal height and wide. This inspection and report with recommendations shall be completed by September 30, 2021. Any recommended removal and/or trimming shall be completed by September 30, 2022. This condition is in addition to the approved landscape plan.
7. T.A. Schifsky & Sons shall work with the City to evaluate the feasibility of installing murals or other types of art works on the exterior of the new silos.

ADOPTED this 15th day of June, 2021.

Motion by Council Member Wong
Second by Council Member Thorsen

Voting: Aye: Council Member Thorsen
Council Member Petersen
Council Member Wong
Council Member Cole
Mayor Furlong

Nay: None
Absent: None
Abstain: None

Terrence J. Furlong, Mayor

Attest: _____
Brian Frandle, Interim City Manager