



CITY OF GRAND RAPIDS HUMAN RIGHTS COMMISSION
CITY HALL, CONFERENCE ROOM 2B, 420 N. POKEGAMA AVE.

DATE: MARCH 28, 2018

TIME: 4:00 P.M.

4:00 CALL TO ORDER:

CALL OF ROLL:

	Present	Absent
Commissioner Hall	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Ensley	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Learmont	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Harrison	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Noyce – Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Weidendorf - Chair	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Hartshorn	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Moren	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Schirber	<input type="checkbox"/>	<input type="checkbox"/>

MEETING PROTOCOL POLICY:

Please be aware that the Council has adopted a Meeting Protocol Policy which informs attendees of the Council's desire to conduct meetings in an orderly manner which welcomes all civil input from citizens and interested parties. If you are unaware of the policy, copies (orange color) are available in the wall file by the Council entrance.

SETTING OF REGULAR AGENDA:

This is an opportunity to approve the regular agenda as presented or add/delete an Agenda item by a majority vote of the Commission members present.

PRESENTATION:

APPROVAL OF MINUTES: January 31, 2018 Regular Meeting

GUEST: Overview of Open Meeting Law & Public Fund Expenditures – Chad Sterle, City Attorney

FINANCIALS:

PUBLIC COMMENT/ACCOLADES:

CIRCLE OF HEALING UPDATE:

ITASCA DIVERSITY UPDATE:

BIG VIEW UPDATE:

OLD BUSINESS:

NEW BUSINESS: Mission Statement on Agendas
2018 Indigenous Peoples Day Plans
Ideas for hosting series of programs
Contingency plan on response to hate materials
MLK Day plans

CALLS/COMPLAINTS/INQUIRIES:

ADJOURNMENT:

CITY OF GRAND RAPIDS HUMAN RIGHTS COMMISSION

CALL TO ORDER: Pursuant to due notice and call thereof a regular meeting of the Grand Rapids Human Rights Commission was held in Conference Room 2B, Grand Rapids City Hall, Grand Rapids, Minnesota, on Wednesday, January 31, 2018 at 4:00 p.m.

CALL OF ROLL: On a Call of Roll, the following members were present: Commissioners Becky LaPlant, Karen Noyce, Doug Learmont, Melissa Weidendorf, John Schirber and Alice Moren

Absent: Mary Jo Wimmer, Frieda Hall and Jessica Hartshorn

Staff: Kim Gibeau and Vivian Olson-Verke

Visitor: Teresa Alto

CALL TO ORDER Commissioner Weidendorf called the meeting to order at 4:01 pm.

SETTING AGENDA Commissioner Schirber asked that Rack Cards be added to the agenda.

PRESENTATION: Teresa Alto, ICC Association of Arts Program Coordinator, presented a request for Grand Rapids Human Rights Commission to co-sponsor 1 – 2 presenters at the ‘Navigating Information in a Post-Truth Era’ conference March 22, 2018.

MOTION BY COMMISSIONER MOREN, SECOND BY COMMISSIONER SCHIRBER TO SPONSOR ‘NAVIGATING INFORMATION IN A POST-TRUTH ERA’ AT ICC IN THE AMOUNT OF \$500. Motion passed by unanimous vote.

APPROVAL OF MINUTES November 27, 2017 Regular Meeting

Correction made to agenda, noting minutes for approval are from November 2018, not December.

MOTION BY COMMISSIONER LAPLANT, SECOND BY COMMISSIONER NOYCE TO APPROVE THE MINUTES OF NOVEMBER 27, 2017. Motion passed by unanimous vote.

FINANCIALS Nothing to report.

PUBLIC COMMENT/ACCOLADES

Commissioner Schirber feels the Community Foreign Exchange Program is incredible, after hosting a student this year. They do an excellent job.

CIRCLE OF HEALING

Commissioner LaPlant informed the Board that ICC received a \$51,000.00 grant to be used for an ‘Intro to Teaching’ course partnering with the Grand Rapids High School for the purpose of increasing the number of native teachers in the Minnesota/Itasca area. Another project will focus on mentoring kids. For example: Ball Club Area youth just built a park with playground, basketball court and feast area. Another possible project would be to capture stories of current and historical impact and could partner with Indigenous People’s Day.

ITASCA DIVERSITY

Commissioners Noyce and LaPlant reported this group appears to have imploded and is re-organizing. They, as well as Commissioner Learmont, have pulled back at this point and are waiting to see how it goes forward. Commissioner Learmont is still involved in the Community Action Group.

BIG VIEW UPDATE

Commissioner Moren brought flyers depicting a new program “One Crisis Away” and reports it has been well received with many phone calls. She also reported the following events:

- Tuesday, February 6, 2016 Workshop on Basic Needs and Services at Blandin Foundation
- Thursday, February 13, 2018 Living on the Edge –A Poverty Simulation by Jodi Pfarr at St. Joseph’s Catholic Church. They are having an Essay Contest in association with this, involving 11 area schools, winners will be recognized at the February 26, 2018 Big View Meeting. They are asking for \$500.00 to sponsor the Big View event.

MOTION BY COMMISSIONER SCHIRBER, SECOND BY COMMISSIONER LAPLANT TO APPROVE SPONSORING “ONE CRISIS AWAY” PROGRAM IN THE AMOUNT OF \$500.00. Motion passed by majority vote, Commissioner Moren abstained.

OLD BUSINESS

Commissioner Schirber had the new rack cards with the names and phone numbers of current members. He distributed them to all the racks he was aware of, but would appreciate input if he missed any. He stated he only got about 250 as the names will be changing, but feel the cards could be updated with stickers. He also has 3 boxes of archival information and will hold them with the rack cards.

NEW BUSINESS

- The 2018 Indigenous People’s Day theme is “PEOPLE”. Commissioner Weidendorf suggested a sub-committee be formed. Commissioner Noyce suggested profiles both contemporary and historical. The sub-committee will include Commissioners Hall, LaPlant and Noyce, who will report monthly to the Board.
- Commissioner Noyce brought up the KKK leaflets distributed in Hibbing on MLK Day. There was discussion as to whether we have a contingency plan, or need a plan and what would we do if it happened in Grand Rapids.
- MLK Day was discussed. Some suggestions are to partner with ICC or have a series of speakers regarding DAKA, Immigration, Transgender, White supremacy, etc. in an effort to educate, and possibly forming a sub-committee.

ITEMS FOR NEXT AGENDA:

- Discuss ideas for hosting a series of programs for the community.
- Discuss plans for acknowledging/celebrating MLK Day.

CALLS/COMPLAINTS/ACCOLADES:

Commissioner Noyce mentioned an ironic writing in 'THE WEEK' publication that was good.

There being no further discussion the meeting was adjourned at 5:32 pm.

Respectfully submitted: *Vivian Olson-Verke*

The next regular meeting is February 28, 2018.

OPEN MEETING LAW

1. Purpose.

The purpose of Minnesota's Open Meeting Law is:

- a.) to prohibit public actions from being taken at secret meetings where it is impossible for the interested public to detect improper influence;
- b.) to ensure the public's right to be informed; and
- c.) to afford the public an opportunity to present its views.

2. Who is Subject to the Open Meeting Law? See Minn. Stat. § 13D.01

- All city council, school board, county board and town board meetings and executive sessions (with a few narrow exceptions).
- State agencies, boards, commissions and departments.
- Committee, subcommittee, board, department, or commission meetings of the public body.
- Meetings of governing bodies of local public pension plans.
- Housing and redevelopment authority meetings.
- Economic development agency meetings.

3. What is a "Meeting?" See Moberg v. Independent Sch. Dist. No. 281, 336 N.W. 2d 510 (Minn. 1983); St. Cloud Newspapers, Inc. v. District 742 Community Schs., 332 N.W.2d 1 (Minn. 1983).

The Open Meeting Law statute does not define the term "meeting." Minnesota courts have ruled that the Open Meeting Law applies to gatherings of officials where at least a *quorum* is present and issues relating to official business are discussed or information relating to official business is received or action (such as a vote) is taken.

- Examples:
 - chamber of commerce gatherings with councilmembers;
 - staff planning sessions with councilmembers;
 - neighborhood land use gatherings with councilmembers;

- hockey association discussions with councilmembers;
 - field trips;
 - retreats;
 - council meeting with fire department
- Telephone conversations, e-mail, letters among a quorum to create a consensus or decision.
 - Applies to deliberations as well as actions.
 - Applies to commissions, task forces.
 - Applies to serial meetings.
 - Applies to “after meeting” meetings and “before meeting” meetings.
 - Applies to intergovernmental meetings.
 - Does not apply if the gathering is only discussing non-governmental matters (the social or casual gathering).
 - Does not apply to generalized training sessions held by the League of Cities.
 - Does not apply to less than a quorum where the gathered members have no decision-making authority.
 - According to the Attorney General, a quorum of the council may attend a planning commission meeting without notice of a council meeting if the councilmembers just observe and do not participate or discuss.

4. **Electronic Communications.**

- See League memo, “Meetings of City Councils” Section II G 8.

5. **Use of Social Media.**

Minnesota Statute § 13D.065 provides:

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.

6. **Interactive Television.**

- Councilmembers must hear and see each other and all discussion and testimony.
- The public at the regular meeting location must hear and see all discussion, testimony, and voting.
- There must be at least one councilmember at regular meeting location.
- Each location where a councilmember is present is “open and accessible to the public.”

7. **What Actions Can/Must be Closed?**

A. **Labor Negotiations** *Minn. Stat. § 13D.03*

The governing body of a public employer *may*, by a majority vote in a public meeting, decide to hold a closed meeting to consider strategy for labor negotiations.

- The time of commencement and place of the closed meeting must be announced at the public meeting.
- Following the closed meeting, a written record of all members present must be made available to the public.
- After all labor contracts have been signed, a tape-recording of the meeting must also be made available to the public.
- If a claim is made that public business, other than labor negotiation strategy, was discussed at the meeting, a court must privately review the tape-recording of the meeting. The tape must be kept for two years after the contract is signed.

B. **Specific Types of Non Public Data** *Minn Stat. § 13D.05*

The general rule is that meetings cannot be closed to discuss data that is not public. Any portion of a meeting *must* be closed if expressly required by another law or if the following types of 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 created by a law enforcement agency or internal affairs data relating to allegations of law enforcement personnel misconduct.
- Educational, health, medical, welfare, or mental health data that are not public data under separate statutes.

Data discussed at an open meeting retains its original classification. However, a record of the meeting will be public.

C. Misconduct Allegations or Charges *Minn Stat. § 13D.05, Subd. 2(b)*

A public body *shall close* one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. If members conclude that discipline is warranted, any subsequent hearings related to the charge or allegation must be open. A meeting must also be open at the request of the individual who is the subject of the meeting.

D. Performance Evaluations *Minn. Stat. § 13D.05, Subd. 3(a)*

A public body *may close* a meeting to evaluate the performance of an individual who is subject to its authority. The public body must identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body must summarize its conclusions regarding the meeting. A meeting must also be open at the request of the individual who is the subject of the meeting.

E. Attorney-client Privilege *Minn. Stat. § 13D.05, Subd. 3(b); Northwest Publications, Inc. v. City of St. Paul, 435 N.W.2d 64 (Minn.Ct.App.1989; Star Tribune v. Board of Educ., 501 N.W.2d 869 (Minn Ct.App.1993); Prior Lake American v. Mader 642 N.W.2d 729 (Minn. 2002); Clearwater v. Independent School Dist. No. 166, 2001 WL 1155706 (Minn.App.); The Free Press v. County of Blue Earth, 677 N.W.2d 471 (Minn.Ct.App. 2004).*

A meeting may be closed if permitted by the attorney-client privilege. This privilege does not extend to a request for general legal advice or opinions.

F. Security Briefings *Minn. Stat. § 13D.05, Subd. 3(d)*

Meetings may be closed to receive security briefings and reports and emergency response procedures if disclosure of the information would pose a danger to public safety or compromise security procedures or responses.

Financial issues relating to security must be discussed at an open meeting.

Must tape record the closed portion of the meeting and must keep the tape for four years.

G. Appraisals; Developing Offers Or Counteroffers For Purchase Of Real Estate Or Personal Property *Minn. Stat. § 13D.04, Subd. 3.*

Meetings may be closed:

- to determine the asking price for real or personal property to be sold by the city
- to review appraisal data
- to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before closing the meeting, the council must identify on the record the real or personal property that will be discussed.

Must tape record the closed meeting and must keep the tape for eight years after the date of the meeting. Must keep a list of the persons at the closed meeting. The list of those present is available after closed meeting.

Must make the tape available after the city buys or sells the property or the city abandons the sale or purchase.

Actual sale or purchase and purchase price must be approved at an open meeting; vote to sell or purchase must be at an open meeting.

H. Keeping Tapes of Closed Meetings *Minn. Stat. § 13D.05, Subd. 1(d)*

All closed meetings, except those closed as permitted by 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.

8. Legal Meetings - Notice and Agenda Issues. *Minn Stat. § 13D.04*

- A schedule of the *regular meetings* of a public body shall be kept on file at its primary offices. If a regular meeting is to be held at a time or place different from that stated in the schedule of regular meetings, the public body shall give notice as provided for a “special meeting.”
- For a *special meeting* the public body shall post written notice of the date, time, place and purpose of the meeting on the principal bulletin board of the public body or on the door of its usual meeting room. Publication is an alternative.

- For an *emergency meeting* the public body shall make a good faith effort to provide notice to each news medium that has filed a written request for notice.
- All notice requirements apply to closed meetings.
- In statutory cities, the mayor may call a meeting or two of the five-person council may call a meeting.
- Possible use of interactive television
- A “recessed” meeting does not have to be renoticed as long as the time and place of the recessed meeting were established and recorded at the previous meeting.

9. **Procedures for Closing a Meeting.** *Minn. Stat. § 13D.01, Subd. 3*

- The body must first meet in open
- The body must announce why the meeting is to be closed (the exception that allows a closed meeting)
- The body must identify who will attend the closed meeting
- The body must specifically describe the matter to be discussed at the meeting vs. merely identifying the issues. *See The Free Press v. County of Blue Earth, 677 N.W.2d 471 (Minn.Ct.App. 2004).*
- All closed meetings, except those closed as permitted by 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.

10. **Remedies and Penalties.** *Minn. Stat. § 13D.06; Claude v. Collins, 518 N.W.2d 836 (Minn 1994).*

- Any person who intentionally violates the Open Meeting Law is subject to personal liability in the form of a civil penalty of up to \$300.
- If a person has been found to have intentionally violated the Open Meeting Law three or more times involving the same governing body, such person shall forfeit the right to serve on the governing body for a period of time equal to the term of office that was being served.
- A court may award costs and attorney’s fees of up to \$13,000 to any party in an action under the Open Meeting Law. Specific intent must be found.

- The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this section if the public body that is the defendant in the action was also the subject of a prior written opinion issued under section 13.072, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not act in conformity with the opinion. The court shall give deference to the opinion in a proceeding brought under this section.

11. Other Citizen Rights Under Open Meeting Law.

Right to Know When the Public Body Meets

- Regular meeting (schedule at City Offices)
- Special meeting (three days posted and mailed notice or delivered notice)
- Emergency meeting (notification of news media)

Right to Convenient Location

- Accessible
- Generally, must be in city corporate limits

Right to Watch and be Present

- Open meeting law (public right to be present)
- All meetings of the Council shall be open to the public (*Minn. Stat. § 412.191, Subd. 2*)

Right to Know How the Public Body Voted

- Record votes in journal
- Votes taken in public

Right to Know What Supporting Material the Public Body Had in Front of It

- Available at meeting
- Rule does not apply to confidential data or closed meeting information

Right to Have a Summary Record of Council Minutes – or Else Publish Them – or Else Mail to Those Who Have Requested

- Within 30 Days After Meeting
- Distribution at City Expense
- Rule Does Not Apply to Cities of Less Than 1,000 Population

Right to Have Ordinances Published

- Minn. Stat. § 421.191, Subd. 4
- Minn. Stat. Chp. 331A

12. Update and Review of Relevant Caselaw.

Canons of Construction

- *Prior Lake American v. Mader*, 642 N.W.2d 729 (2002)
- *Merz v. Leitch*, 342 N.W.2d 141 (1984)
- *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1 (1983)

Social Gatherings

- *Berglund v. City of Maplewood*, 173 F.Supp.2d 935 (D.Minn.2001)
- *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1 (1983)
- *Hubbard Broadcasting, Inc. v. City of Afton*, 323 N.W.2d 757 (1982)

Generalized Legal Advice

- *Northwest Publications, Inc. v. City of St. Paul*, 435 N.W.2d 64 (Minn.Ct.App. 1989)

Serialized Meetings

- *Mankato Free Press v. City of Mankato*, 563 N.W.2d 291 (Minn.Ct.App. 1997); Department of Administration Advisory Opinion 09-020

Councilmembers Attending Committee Meetings

- *Op.Atty.Gen., 63a-5, August 28, 1996* (re City Council of Ely)

No Delegated Authority to Act

- *Sovereign v. Dunn*, 498 N.W.2d 62 (Minn.Ct.App. 1993)

Attorney – Client Privilege

- *Demming v. Housing and Redevelopment Authority of Duluth*, 847 F.Supp. 130 (1994)
- *Minneapolis Star Tribune v. Housing and Redevelopment Authority In and For City of Minneapolis*, 310 Minn. 313, 251 N.W.2d 620 (1976)
- *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002)

- *The Free Press v. County of Blue Earth*, 677 N.W.2d 471 (Minn.Ct.App. 2004)
- *City Pages v. State of Minnesota, et al*, 655 N.W.2d 839 (Minn.Ct.App. 2003).
- *Brainerd Daily Dispatch v. Dehen*, 693 N.W.2d 435 (Minn.Ct.App. 2005)

Purpose of Open Meeting Law

- *Rupp v. Mayasich*, 533 N.W.2d 893 (Minn.Ct.App. 1995)

General Training Session

- *Op. Atty. Gen., 63a-5, Feb. 5, 1975*

Whether Ex-Officio Meeting is Really a Meeting

- *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1 (1983)
- *Minnesota Educ. Ass'n v. Bennett*, 321 N.W.2d 395 (1982)

Meeting of a Public Body

- *Star Tribune Company, et al v. University of Minnesota Board of Regents, et al.*, 2004 WL Minn. Jul 15, 2004.

Right To Record Meeting

- The public can record open meetings as long as it doesn't disrupt the proceedings.
Minnesota Attorney General Opinion 63a-5 (December 4, 1972)

Public Accessible Location

- *Quast v. Knutson*, 150 N.W.2d 199 (Minn. 1967).

Whether Every Communication Is a Meeting

- *O'Keefe v. Carter*, No. A12-0811 (Minn.Ct.App. Dec. 31, 2012) (unpublished opinion)