



Hermantown City Council Meeting – January 3rd, 2023

Hermantown’s upcoming City Council meeting will include both remote access and in-person access to Council Chambers. The remote access will be available through the platform, “Zoom,” which allows the public to view and participate in the meeting via phone or computer. Interested parties can also choose to attend the City Council meetings in person at City Hall.

Remote access to the 6:30 p.m. City Council Meeting is available at:

<https://us02web.zoom.us/j/89153092971?pwd=eVdVNkRBUIhKMzVSODJGUlFXVWJtZz09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 891-5309-2971 and the passcode of 051670.

Public comment may also be submitted in advance of the meeting. Comments, questions, or concerns can be e-mailed to Community Engagement Director, Joe Wicklund, at jwicklund@hermantownmn.com up to 3:30 p.m. the day of the meeting with the e-mail title “City Council Meeting.” It is important to note that all comments regarding this meeting are public data.

A few important tips regarding the Zoom platform:

- If your computer does not support audio, you can still watch the meeting on your computer and call in on your phone to hear the meeting
- Everyone has varying levels of comfort regarding remote technology, so grace and understanding are appreciated

The 4:30 p.m. Pre-Agenda Meeting will be available in-person only at City Hall. Public comment is not a factor in the pre-agenda meeting, but the meeting is open and members of the public are invited and welcome to attend to this meeting.



AGENDA

Pre-Agenda Meeting Monday, January 3, 2023 at 4:30 p.m. Council Chambers City Hall - Hermantown Governmental Services Building

Pre-agenda: The Pre-agenda meeting is a work session between the City Council and City staff to review the upcoming City Council meeting and future meetings. The agenda is the same document as the upcoming City Council meeting, but does not follow the same format as the City Council meeting. It is a time for the City Council and City staff to have discussions about the agenda items, and asking and answering questions. Traditionally it is not a time for public comment on the agenda items, as the public can listen to the conversation and ask questions or provide input at the upcoming City Council meeting.

City Council Meeting January 3, 2023 at 6:30 p.m. Council Chambers City Hall - Hermantown Governmental Services Building

Invitation to participate:

The Hermantown City Council welcomes your thoughts, input and opinions to this meeting. The agenda for this meeting contains a brief description of each item to be considered, and the City Council encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Council when a motion is on the floor. If you wish to speak on a matter that does not appear on the agenda, you may do so during the public comment period regularly scheduled and set for the beginning of the meeting.

When addressing the City Council, please state your name and address for the record. Please address the City Council as a whole through the Mayor. Comments to individual Council Members or staff are not permitted. Speakers will be limited to three (3) minutes.

Order of discussion

- 1. Reading of the resolution title by Mayor**
- 2. Motion/Second**
- 3. Staff Explanation**
- 4. Initial Discussion by City Council**
- 5. Mayor invites public to speak to the motion (3-minute rule)**
- 6. Follow up staff explanation and/or discussion by City Council**
- 7. Call of the vote**

**CITY OF HERMANTOWN
AGENDA**

**Pre-Agenda Meeting Monday, January 3, 2023 at 4:30 p.m.
Council Chambers
Hermantown Governmental Services Building**

**City Council Meeting January 3, 2023 at 6:30 p.m.
Council Chambers
Hermantown Governmental Services Building**

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **OATH OF OFFICE**
4. **ROLL CALL**
5. **ANNOUNCEMENTS** *(Council Members may make announcements as needed.)*
6. **PUBLIC HEARING** – *(Only when necessary. The rule adopted three minutes per person if necessary. Any action required after the public hearing will be taken immediately following the closing of the public hearing.)*
7. **COMMUNICATIONS**
 - A. **Correspondence** 22-132 through 22-139 placed on file
8. **PRESENTATIONS** *(Department Heads may give reports if necessary.)*
 - A. John Mulder, City Administrator
RE: **City Council Orientation** *(Pre-Agenda Only)*
9. **PUBLIC DISCUSSION** *(This is the time for individuals to address the Council about any item not on the agenda. The time limit is three minutes per person.)*
10. **CONSENT AGENDA** *(All items on the Consent Agenda are items which are considered routine by the City Council and will be approved by one motion via voice vote. There will be no discussion of these items unless a Council Member or citizen so requests, in which event the item will be removed from the Consent Agenda and considered at the end of the Consent Agenda.)*
 - A. **Minutes** - Approval or correction of December 19, 2022 City Council Continuation Minutes
 - B. **Accounts Payable** – Approve general city warrants from December 16, 2022 through December 31, 2022 in the amount of \$504,398.14

C. Motions

- a. Appointment of Official Newspaper – Hermantown Star
- b. Appointment of Depositories – Multi Bank Securities; Wells Fargo Securities, RBC Dain Rauscher; US Bank; PMA Financial Network, Inc.; National Bank of Commerce; 4-M Fund; TD Ameritrade Institutional (Custodian)/Ehlers Investment Partners (Advisor)
- c. Appointment of Mayor Boucher as the city’s designated representative to the Hermantown Area Chamber of Commerce
- d. Appointment of Mayor Boucher as City Representative on the Metropolitan Interstate Council with John Mulder, City Administrator on the Transportation Advisory Committee with David Bolf, City Engineer as alternate
- e. Appointment of the following for a three-year term:

Planning & Zoning Commission

Val Ouellette
Sam Clark

Park Board

Michael Miller
Jenna Warmuth

Utility Commission

Jim Samberg

HEDA

Dwayne Haapanen

Board of Appeals & Adjustments

Cyndy Reno
Joe Peterson
Michael Boese
James Nelson

D. Resolutions

- a. **2023-01** Resolution Appointing Councilor Geissler As Acting Mayor
- b. **2023-02** Resolution Appointing Council Ex Officio Members To Various Boards, Commissions And Other Appointments For 2023
- c. **2023-03** Resolution Authorizing And Directing Mayor Wayne Boucher And City Administrator John Mulder To Sign Checks And Drafts For The City Of Hermantown With Alternates Acting Mayor Geissler And Director Of Finance & Administration Kevin Orme

11. MOTIONS

12. ORDINANCES

13. RESOLUTIONS *(Roll call will be taken only on items required by law and items requiring 4/5's votes, all others can be done by voice vote.)*

A. **2023-04** Resolution Accepting Resignation And Declaring A Vacancy

(motion, roll call)

B. **2023-05** Resolution Establishing Procedures Relating To Compliance With
Reimbursement Bond Regulations Under The Internal Revenue Code

(motion, roll call)

C. **2023-06** Resolution Approving Wage Rates For Part Time Employees In 2023

(motion, roll call)

13. **RECESS**



OFFICIAL OATH
OF
ANDY HJELLE
Council Member
State of Minnesota
County of St. Louis

I, Andy Hjelle, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Minnesota, and that I will discharge faithfully the duties of the office of Council Member of the City of Hermantown in the County of St. Louis, the State of Minnesota, to the best of my judgment and ability.

Andy Hjelle, Council Member

Subscribed and sworn to before me this 3rd day of January, 2023

_____, *City Clerk*

City of Hermantown, Minnesota



OFFICIAL OATH
OF
BRIAN LEBLANC
Council Member
State of Minnesota
County of St. Louis

I, Brian LeBlanc, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Minnesota, and that I will discharge faithfully the duties of the office of Council Member of the City of Hermantown in the County of St. Louis, the State of Minnesota, to the best of my judgment and ability.

Brian LeBlanc, Council Member

Subscribed and sworn to before me this 3rd day of January, 2023

_____, *City Clerk*

City of Hermantown, Minnesota

Date: December 28, 2022
To: City Council
From: John Mulder, City Administrator
RE: Correspondence

In your agenda packet is a correspondence summary log. This briefly summarizes and assigns a log number for written correspondence received at City Hall.

You are provided with the summary so that you may request a full copy of any correspondence article of interest to you.

I have included in the agenda packet only the correspondence that we believe to be of special interest.

2022 CORRESPONDENCE

| <u>DATE</u> | <u>LOG #</u> | <u>FROM</u> | <u>TO</u> | <u>REGARDING</u> | <u>FILED</u> |
|-------------|--------------|---|--|--|--------------|
| 12/16/2022 | 22-132 | Taylor Fideldy, Midwest Comminications | Eric Johnson, Comm. Dev. Dir. | 2023 Medallion Hunt | 12/13/2022 |
| 12/16/2022 | 22-133 | Natalie White, Short Elliott Hendrickson, Inc. | City of Hermantown | Revised FONSI/ROD for Hangar 101 Emerigent Action | 12/16/2022 |
| 12/19/2022 | 22-134 | Kara Good, MN Pollution Control Agency | Jackie Dolentz, City Clerk | Petroleum Stoarage Tank Release Letter - Seline Property | 12/14/2022 |
| 12/20/2022 | 22-135 | bakertilly | John Mulder, City Administrator | Organizational Mgmt & Staffing Study | 12/19/2022 |
| 12/21/2022 | 22-136 | Eric Johnson, Comm. Dev. Director | Planning Commission | CIDP Rob Miller (Evergreen Lawn Service) | 12/20/2022 |
| 12/28/2022 | 22-137 | Gunnar Johnson, Overom Law | Jenna Lipmna, office of MN Sec. of State | City of Hermantown Local Option Sales Tax | 12/21/2022 |
| 12/28/2022 | 22-138 | Gunnar Johnson, Overom Law | John Sisterman, MN Dept. of Revenue | Local Option Sales Tax Increase Implementation | 12/22/2022 |
| 12/28/2022 | 22-139 | Brian Kabat, Buell Consulting | John Mulder, City Administrator | Verizon Hawk Cir. Dr. Water Tower Installation | 12/20/2022 |

City Councilor Handbook 2023



Hermantown

Working together to serve
and build our community

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Chapter 1

Overview and Resources

Throughout this handbook, we will dive into the structure of the City of Hermantown and your roles as a City Councilor. Some of the information in this handbook is specifically related and created by the City of Hermantown, other parts are gleaned from other sources but are useful to you as you serve in your role in Hermantown.

We want you to have the best start possible as a new City Councilor or perhaps a returning member. The citizens of the City of Hermantown need YOU to advocate for their best interests and lead the City in meeting its goals for this year and beyond.

You will lobby for concerns and issues important to the area while balancing the demand for resources in the City's best interests.

You represent the community and you are an essential function of how the City's government works together.

When you encounter a question in connection with policy or procedures, we want you to feel empowered through this handbook to have the knowledge you need to perform your duties.

We also want you to know that you can always reach out to the City Administrator or City Attorney to guide you down the proper path when making decisions.

Additional resources can be found at:

[League of Minnesota Cities \(LMC\)](#)

The League of Minnesota Cities provides information, education, and training to elected officials and staff. LMC has an annual conference that provides an opportunity to connect with other Member cities to learn how they have handled opportunities and issues. Throughout the year, the LMC provides legislative updates on the upcoming session and the implication of any new legislation. They hold a risk management seminar every year and other seminars and sessions as needed. If resources exist and personal schedules allow, Council Members are encouraged to attend LMC's local, state, and national conferences.

[League of Minnesota Cities Handbook for Minnesota Cities](#)

The League of Minnesota Cities (LMC) assists cities by lobbying, providing training and serving as a resource for cities. The LMC Handbook provides information about Council Member roles and responsibilities, laws regulating Council action and special Council requirements.

[Hermantown City Code](#)

The City Code is a collection of ordinances that establishes City of Hermantown laws and regulations. Examples of topics covered within the City Code include, but are not limited to administration, City organization, City management, roles of officers and administrative departments, Mayor and Council Member salaries, Council meeting procedures, roles, and responsibilities of various committees within the City organization, utility rates, licensing requirements and regulations, public safety, planning and zoning and City financing.

[Handbook for the City of Hermantown](#)

This Handbook provides general City policies and procedures for employees and is available through the City Clerk's office. The Handbook is designed as a collection of the policies approved by the City Council and various procedures developed by staff to carry out the programs of the City.

[Minnesota State Law](#)

Minnesota state law establishes many rules and regulations for Minnesota cities.

[Coalition of Greater MN Cities \(CGMC\)](#)

The Coalition of Greater Minnesota Cities is geared toward greater Minnesota issues and provides an opportunity for Council Members to network with other cities in outstate Minnesota. The City of Hermantown is a member of this Coalition.

[National League of Cities \(NLC\)](#)

The National League of Cities advocates and promotes cities and towns, provides programs and services, keeps leaders informed of critical issues, strengthens leadership skills by offering numerous training and education programs, recognizes municipal achievements, partners with state leagues, and provides opportunities for involvement and networking. This organization has an annual conference (in Washington D.C. in the spring and a fall conference in various locations) that focuses on lobbying and federal issues that impact cities and information about national policies.

Chapter 2

Mission Statement

MISSION OF THE HERMANTOWN CITY COUNCIL

Working together to serve and
build our community.

SHARED VALUES AND GUIDING PRINCIPLES

The Hermantown City Council and Staff share the following core values and guiding principles as we fulfill our mission for the community.

Good Governance and Stewardship... We operate honestly, ethically, and with integrity, civility, and professionalism. We pride ourselves in listening and making informed decisions to set policy, manage limited resources, and provide a strong voice for the community as a whole.

Innovative, Creative, and Transformative... We fulfill our potential by embracing change that respects our community culture and heritage. We are open to new ideas, approaches, and best practices and will take risks that support continuous improvement.

Approachable Leadership... We are approachable leaders who are open minded, think independently and are future driven as we set a clear vision and strategy for the community.

Fiscal Responsibility... We build trust and confidence through accountable and transparent stewardship of the public funds and resources entrusted to us.

Inclusive and Respectful... We practice civility and share a mutual respect for the diversity of community interests as we make timely decisions based on broad engagement and communication.

Relationships and Alliances...We collaborate with our citizens, businesses, and other partners to build strong, sustainable alliances. We also communicate and demonstrate our values and strengths in order to achieve better outcomes together.

Quality Services...We are committed to delivering exceptional service to the community through our valued employees. Our team is empowered to act, find solutions, and respectfully serve our citizens and businesses in a timely, flexible, friendly, and professional manner.

Quality of Life... We are an intergenerational, safe, and caring community of choice that will protect our cultural and natural resources and celebrate our successes.

Chapter 3

Form of Government

The City of Hermantown is a statutory city governed by Chapter 412 of the Minnesota Statutes and utilizes a what is defined as “Plan A”. An in depth look into the operation of a statutory is described in the following Chapter.

The City of Hermantown’s council consists of the mayor and four council members and it delegates administrative duties to the City Administrator. This Administrator is accountable to the council for the administration of the city in accordance with city council decisions.

The administration of the City of Hermantown, namely the City Administrator, the City Clerk and the Finance Director, are NOT elected by the public; rather, they are appointed by the City Council.

The City Clerk and the Finance Director perform their duties as directed by the City Administrator.

The boards and commissions established by the City of Hermantown are the Planning Commission, Hermantown Economic Development Authority, Utilities Commission and the Park Board. These boards and commissions are governed by Section 230 of the Hermantown City Code. In addition, the Council at times creates advisory groups or taskforces, such as the Broadband Taskforce and the Comprehensive Plan Advisory Group.

Chapter 4

Statutory City



HANDBOOK FOR MINNESOTA CITIES

Chapter 3

The Statutory City

Minnesota law provides for two basic types of cities: statutory cities operating under the statutory city code and home rule charter cities operating under a local charter. Learn about the organization and general powers of statutory cities, the most common type of city in the state.

RELEVANT LINKS:

[Minn. Stat. ch. 412.](#)

[Minn. Stat. § 412.891.](#)

[Minn. Stat. ch. 462. Minn. Stat. ch. 419. Minn. Stat. § 459.06.](#)

[Minn. Stat. § 412.541.](#)

I. The statutory city code

Most Minnesota cities are incorporated as statutory cities. They all operate under the statutory city code (city code) found at Chapter 412 of the Minnesota Statutes and a number of other statutes that cover special cases or apply to home rule charter cities as well as to statutory cities. Although all statutory cities have the same basic powers, the city code allows them to select one of several forms of organization. Statutory cities lack the power to change the city code. They are dependent upon the Legislature for all changes.

The great benefit of the city code is that it uniformly applies the laws regarding city government to all statutory cities in the state. Therefore, the city code is the primary source of authority for the actions taken by statutory cities through their city councils. There is, however, one important exception: the city code covers Iron Range statutory cities operating under cash-basis laws only to the extent that it is not in conflict with any of the cash-basis laws.

In addition to the powers the city code grants, all cities—including home rule charter cities—receive additional authority from other state statutes. For example, authority for land-use planning, creating police civil-service commissions, and municipal-forest maintenance are detailed in laws outside the city code.

II. Forms of statutory city government

The Legislature has provided three “plans” or forms of organization for statutory cities: the Standard Plan, Optional Plan A, and Optional Plan B. These plans provide voters with a wide range of choices in determining the structure of their city government.

The Standard Plan has the common weak mayor-council form of government consisting of an elected mayor, an elected clerk (or a combined clerk-treasurer) who serves as a voting member of the council, and three or five council members. The treasurer is also an elected official but is not a member of the council.

RELEVANT LINKS:

[Minn. Stat. § 412.541, subd. 2.](#)

Plan A is a modification of the Standard Plan. It retains the weak mayor-council characteristics, but provides for an appointed clerk, an appointed treasurer (or a combined clerk-treasurer), a mayor, and four or six council members.

Optional Plan B is the council-manager plan. This plan consists of an elected mayor and four or six council members with an appointed city manager. The city manager oversees administrative duties while the mayor and council maintain traditional policy making roles.

While the Standard Plan and Plan A are available to all cities, only cities with a population over 1,000 may adopt Plan B. The law does not restrict any Optional Plan to any particular geographic location in the state. All new cities automatically organize under Plan A unless they complete the required legal steps to put one of the other plans into effect. Voters must approve a change of plan.

[Minn. Stat. § 412.02, subd. 6.](#)

The council of any statutory city may, by ordinance adopted at least 60 days before the next regular city election, submit to the city's voters the question of whether to increase the size of the city council to seven or reduce the size to five members. The ordinance must include a schedule of elections and terms to accomplish the change. Citizens vote on the proposal at the next general city election. If a majority of those voting on the question approve it, the ordinance goes into effect under the specified schedule.

[Minn. Stat. § 414.02, subd. 3.](#)
[Minn. Stat. § 414.031, subd. 4a.](#)
[Minn. Stat. § 414.041, subd. 5.](#)

There is no provision in the city code for the adoption of a system of wards. Only home rule charter cities can have wards, except that in certain incorporation, annexation, and consolidation proceedings, the Office of Strategic and Long-Range Planning (Municipal Boundary Adjustments) may include the establishment of a ward system in its order. Also, a few statutory cities that were originally incorporated by legislative act have ward systems.

[Minn. Stat. § 412.572.](#)

A. The Standard Plan

In 1967, the Legislature required every city operating under the Standard Plan to assume the Plan A form by January 1, 1970, unless the voters rejected it between May 4, 1967 and January 1, 1970. In Minnesota, 95 out of the 853 cities remain on the Standard Plan, thus the term is somewhat dated and misleading.

The Standard Plan of city government was the form used by the majority of smaller Minnesota cities before 1970. As in all plans, the Standard Plan has a council of five or seven members. It is different from other plans because an elected clerk fills one of the council seats.

RELEVANT LINKS:

[A.G. Op. 471-H \(Mar. 29, 1957\).](#)

See Handbook, [Elected Officials and Council Structure and Role](#).

See Handbook, [Elected Officials and Council Structure and Role](#) and Handbook, [City Administrative Staff](#).

Voters also elect a treasurer if the city has not combined the positions of clerk and treasurer. The treasurer, however, is not a member of the council. By ordinance and a vote of the electorate, the city may increase the council size to seven members.

As council members, the mayor and clerk have the same duties and powers as the other council members. In addition, they have their own special duties. The council possesses all legislative and administrative powers; it cannot delegate the power to enact ordinances or to prescribe rules and regulations. All administrative personnel are appointed by and directly accountable to the council. For example, the council is responsible for the direction of the police chief, the liquor-store manager, and the street superintendent. The same is true regarding appointment of members to independent and advisory boards and commissions.

The council can delegate certain functions to appointed administrative boards. For example, state statutes authorize the establishment of a utilities commission, a civil-service commission, or a park board (if the city has a population of more than 1,000) with direct responsibility for their specific programs. The council may also establish advisory boards, such as a planning commission, to conduct studies and make recommendations.

1. Distinct features of the Standard Plan

- The council has five or seven members consisting of a mayor, a clerk, and three or five council members.
- Voters elect a clerk and a treasurer. The city may combine these offices into one elective office of clerk-treasurer.
- The council has all administrative authority and responsibility.
- The council has the power to appoint independent and advisory boards and commissions, and to delegate certain functions to these bodies.

[Minn. Stat. § 412.572](#). [Minn. Stat. § 412.581](#). [Minn. Stat. § 412.591](#).

[Minn. Stat. § 412.541](#), subd. 1.

RELEVANT LINKS:

See Handbook, [City Administrative Staff](#).

[Minn. Stat. § 415.16](#).

See Handbook, [City Administrative Staff](#).

B. Plan A

Plan A constitutes a simple change in organization from the Standard Plan. In Minnesota, 634 cities presently operate under the Plan A form of government. One of the distinctive features of this plan is that the clerk is no longer a member of the council and that position is filled with a fourth (or sixth) elected council member. Another feature is that the council appoints the clerk and treasurer for indefinite terms of office. The duties of these two appointed officers are the same under Plan A as they are under the Standard Plan of government except that the clerk is not a member of the council and cannot vote at council meetings.

This plan allows cities to hire trained and experienced people who can perform the complex duties of the clerk and treasurer. Because the council appoints people to these positions, it has more control over how these employees perform their functions than it does in the Standard Plan where voters elect these employees.

To help ensure the selection of qualified people for these positions, state law allows the council to appoint people who are not residents of the city and prohibits the council from requiring residence as a condition of employment. In the selection of a clerk, for example, many cities have gone outside the city to hire a person with training and experience in city management.

1. Distinct features of Plan A

- A five or seven-member council, consisting of a mayor and four or six council members, runs the government.
- The council appoints a clerk and a treasurer (or a combined clerk-treasurer) for indefinite terms. The council may remove these employees at any time in accordance with state law and any personnel policy, contract, or ordinance in effect for that city.
- The council may appoint independent boards and commissions, such as a utilities commission, and advisory bodies, such as a planning commission.
- The council appoints all personnel, including the police chief, attorney, fire chief, and liquor-store manager.
- The council has all the administrative and legislative authority and responsibility that councils in Standard Plan cities have.

Minn. Stat. §§ 412.601-.751.
See Handbook, *The Home Rule Charter City*.

Minn. Stat. § 412.611.

RELEVANT LINKS:

Minn. Stat. § 412.641.
Minn. Stat. § 415.16.
See
Handbook,
*City
Administrative
Staff*.

Minn. Stat. § 412.651.

C. Plan B

Optional Plan B embodies the council-manager plan of government. At present, only 18 statutory cities operate under this plan. About 30 cities in Minnesota have adopted the council-manager form under their home rule charters. Some of these cities previously operated as Plan B statutory cities.

Under Plan B, the elected city council consists of a mayor and four or six council members. All policy and legislative decisions are the responsibility of the council. The council delegates the administrative duties to a city manager. The manager is accountable to the council for the effective administration of city business in accordance with council decisions.

1. City manager

Under Plan B, the council chooses a manager on the basis of training, experience, and administrative qualifications. The manager does not need to be a resident of the city. The council must appoint the first manager as soon as practicable after adopting this plan. The term of office is indefinite so the council may remove the manager at any time.

If the manager has been in office for one year or more, however, they may demand that the council make written charges and hold a public hearing prior to discharge. The law does not require specific grounds for dismissal, either before or after the hearing. Pending the hearing, the council may suspend the manager and designate some properly qualified person to perform those duties.

The manager has responsibility for the administration of all city business and is answerable to the council. The law prohibits the council as a whole or any of the individual council members from interfering with the manager's authority to hire employees. It also prohibits any individual council member from attempting to deal with or control any administrative person who is subordinate to the manager. Instead, the council must exert all its control through the manager. This provision, however, does not prohibit individual council members from obtaining information pertaining to city business from employees other than the manager.

[Minn. Stat. § 412.651, subd. 3.](#)
[Minn. Stat. § 412.681.](#)
A.G. Op. 469-a-2 (Sept. 20, 1951).

[Minn. Stat. § 412.691.](#)

[Minn. Stat. § 412.621.](#)

2. Clerk, treasurer

Plan B provides for a manager, an appointed clerk, an appointed treasurer, and any other officers subordinate to the manager as the council may create by ordinance. The manager shall appoint the clerk, treasurer, heads of departments, and all subordinate officers and employees. The manager also appoints the attorney, but the council must confirm the appointment. In the performance of their duties, the clerk and treasurer are subject to the direction of the manager, but their functions are the same as those of their counterparts in other cities. The only exception to this rule is that the manager, not the clerk, signs written instruments, such as contracts, on behalf of the city. The council may also give additional duties to the clerk and treasurer. Or the council can abolish or combine positions, including these offices, as it deems fit. It may also direct the manager to perform the duties of any of the various offices except that of treasurer.

3. Boards and commissions

Plan B abolishes all independent administrative boards and commissions except for the civil-service commission, if there is one.

RELEVANT LINKS:

The council itself must assume the functions of such boards as the library board, park board, and public-utility commission. The council may continue or create commissions for joint operations with other units of government. For example, the council could create a park board that would administer parks under a cooperative program with two or more cities acting together. The council also could establish advisory boards or commissions to study any municipal function or to investigate any subject of interest to the city.

As a result, the city may continue to have a planning commission after the adoption of Plan B. If a city abandons Plan B and adopts the Standard Plan or Plan A, the city may again establish independent boards and commissions as authorized by law.

[Minn. Stat. § 412.651.](#)

[Minn. Stat. § 412.691.](#)

4. Manager's duties

Under Plan B, the manager has the following duties:

- Enforcing city ordinances and resolutions.
- Appointing and removing, on the basis of merit and fitness, the clerk and all department heads and subordinate employees. Where there are civil-service provisions applicable to the city, they are binding upon the manager.
- Exercising administrative control over all city departments and divisions created by law or by the council.
- Attending all meetings of the council and participating in the discussion, but not voting.
- Recommending to the council measures necessary for the welfare of citizens and the efficient administration of the city.
- Making reports on the financial condition and needs of the city.
- Preparing, if the council directs, an administrative code for council adoption.
- Assuming all duties required under state laws, city ordinances, and council resolutions.
- Acting as the chief purchasing agent for the city. As purchasing agents, managers are responsible for all purchasing. Managers may, in conformance with the budget, but without prior council approval, make purchases and let contracts when the amount does not exceed \$20,000, unless the city council provides for a lower limit. City councils must audit claims resulting from such transactions. Larger purchases and contracts need council approval.

RELEVANT LINKS:

[Minn. Stat. §§ 412.701-731.](#)

5. City budget

One of the most important provisions of Plan B is that the manager must prepare estimates for an annual budget and submit them to the council. The manager must budget on a “funds” basis and must include all city funds except for the bond, utilities, and special-assessment funds. Inclusion of these is optional, but budgeting and appropriations procedures should include all the moneys the city receives and spends. The manager may use either a cash or an accrual basis for preparing the budget.

A cash budget is one that includes only those items for which the city actually receives money (cash) in the case of receipts or pays out in the case of disbursements or expenditures, during the 12-month period covered by the budget.

An accrual basis budget is one that includes only those funds that become due and payable to the city during the budget year, whether the city actually receives payment, and those expenses that the city incurred during the year no matter when the city pays them.

The main purpose of a budget is to collect data on the anticipated revenues and expenses of the city for the coming year, and to allow for comprehensive fiscal planning. The budget should include anticipated revenues and expenditures for the next year. Once the council has approved the budget, the manager may not change it without the council's consent.

[Minn. Stat. §§ 412.601-751.](#)

The laws establishing the Plan B form of government detail the procedures for preparing and adopting a budget. These procedures are flexible and could easily apply to all cities regardless of their form of government.

6. Payment of claims and emergency borrowing

Two other special features of Plan B relate to the payment of claims against the city and to emergency-borrowing procedures.

[Minn. Stat. § 412.741.](#)
See Handbook, *Expenditures Purchasing and Contracts.*

Plan B cities follow the usual city procedure for the payment of claims: filing of a claim, audit, approval, and issuance of orders. In Plan B cities, however, the manager and mayor, rather than the clerk, must sign the order, and there is no authorization for marking an order "not paid for want of funds." Every council resolution or motion authorizing a disbursement must specify the purpose of the disbursement and the fund the city will use to pay it. The manager must make a notation on each contract showing which fund the city will use to pay it.

RELEVANT LINKS:

[Minn. Stat. § 412.751.](#) [Minn. Stat. § 475.755.](#)

Although the law prohibits the council from marking an order "not paid for want of funds," Plan B city councils may authorize the treasurer to sell emergency-debt certificates under certain circumstances. The emergency-debt certificates must mature within two years or less and must be repaid by levy.

7. Distinct features of Plan B

Plan B cities have the following distinct features:

- A council composed of an elected mayor and four (or six) elected council members run the government. The council exercises legislative authority and appoints a city manager to exercise administrative authority.
- A city manager, appointed by and responsible to the council, must effectively administer city business in accordance with the decisions of the council.
- The manager appoints a clerk and treasurer for indefinite terms.
- The manager appoints an attorney subject to the approval of the council.
- All independent administrative boards and commissions, except for a civil-service board (if there is one), expire and the council assumes their functions.
- Advisory boards and commissions may continue to operate.
- The manager has full responsibility, subject to existing civil-service rules and regulations, to appoint and remove all city administrative officials and employees.
- The manager must prepare estimates for an annual budget and submit them to the council.
- No authorization exists for marking an order “not paid for want of funds.”
- A council may, in specified circumstances, authorize the treasurer to issue emergency-debt certificates.

D. Changing the form of government

Changing the form of government in a statutory city requires two procedures. The first procedure involves completing the necessary legal steps, which include the initiation of the proposal, its submission to the voters, and the certification of the results to the county auditor and the secretary of state.

[Minn. Stat. § 412.551.](#)

RELEVANT LINKS:

[Minn. Stat. § 412.571.](#) [Minn. Stat. § 412.572.](#) [Minn. Stat. § 412.541.](#)

The second procedure is the gradual alteration of the government structure to conform to the requirements of the new plan. This step takes time because the change cannot cut short the term of office for an elected official or change the time of election for any elected person. All cities use the Plan A form of organization, unless they have voted to remain on the Standard Plan or to adopt Plan B. If a city abandons an Optional Plan, its government reverts to the Standard Plan unless the abandonment procedure specifies the adoption of an Optional Plan previously in effect.

Minn. Stat. §§ 412.541-.572.
Minn. Stat. § 412.601.

Minn. Stat. § 412.551.

See Handbook, *Election Procedures*. See LMC information memo, *City Special Elections*.

Minn. Stat. § 205.10, subd. 1.

A.G. Op. 472-0 (Mar. 20, 1961).

RELEVANT LINKS:

Minn. Stat. § 205.16, subd. 4.

1. Changing to an Optional Plan

Cities must take several steps to change to an Optional Plan.

a. Initiating the proposal

A city may initiate the proposal in one of two ways. The council may, upon its own motion, submit an Optional Plan for voter consideration. Alternatively, the voters may require the council to submit the question at an election by presenting a written petition with signatures from a number of voters equal to at least 15 percent of the total number of people voting in the last city election.

Once the council has received a petition requesting a referendum on one of the optional forms of government, it is doubtful that the council could submit a different plan at the same election or could call an earlier election for a vote on a different plan. Such actions would circumvent the provision making the petition mandatory.

b. Submitting the plan to the voters

Ordinarily, the council has discretion to determine whether the Optional Plan question should go to the voters at either a regular election or a special election. If the council decides on a special election, it must also set its date. The procedures for calling a special election on the adoption of an Optional Plan are the same as for any other special election.

A petition requesting the submission of an Optional Plan to the voters may also request a special election on the question. A special-election petition, however, requires a number of signers equal to 20 percent of the number of voters voting at the last city election, rather than the 15 percent for the Optional Plan petition. If petitioners present a special-election request that meets the 20-percent requirement, the council must order a special election and set a date for it. If the council fails to comply within a reasonable time, a court order could presumably force the city to act.

The attorney general has determined the city must hold an election when voters submit a proper petition.

If the council receives a petition asking for the submission of an Optional Plan before a regular city election and there is enough time to allow for the necessary 74-day notice to the county auditor, the council probably cannot delay submitting the question until a later time without the consent of the petitioners.

Minn. Stat. § 412.551, subd. 2.

Minn. Stat. § 412.551, subd. 3. Minn. Stat. § 412.551, subd. 4.

Minn. Stat. § 205.10.

Minn. Stat. § 205.185, subd. 3. Minn. Stat. § 412.551, subd. 5.

Minn. Stat. § 414.02, subd. 3(g).

RELEVANT LINKS:

See generally [Minn. Stat. § 412.571](#).

A.G. Op. 470-L (Oct. 8, 1951).
A.G. Op. 471-M (Apr. 12, 1956).

When submitting an Optional Plan question to the voters, the question on the ballot must follow substantially one of the following:

For plan A: “Shall Optional Plan A, modifying the Standard Plan of city government by providing for the appointment by the council of the clerk and treasurer (or clerk-treasurer), be adopted for the government of the city?”

For plan B: “Shall Optional Plan B, providing for the council-manager form of city government, be adopted for the government of the city?”

The question should be followed by the words: “yes” and “no” with an oval or similar target shape to the left of each word so that voters may indicate their choices.

Passage requires a majority vote on the question. Once an Optional Plan goes into effect, the city may not change it for three years. If a majority of the votes are negative, the Optional Plan proposal fails, and the city continues to operate under its existing form of government. In this case, voters may not petition the council to call a special election on the question of adopting an Optional Plan within the following six months. This restriction does not apply to the council, which may generally call a special election at any time.

c. Certifying the plan’s adoption

When a majority of the voters approve an Optional Plan, the clerk must promptly notify the county auditor and the secretary of state by filing a certificate stating the date of the election, the question submitted, and the vote. If the voters reject a proposed change in the form of government, the clerk must certify the election results to the county auditor.

New cities are incorporated directly under Plan A but may adopt an alternate plan by following the procedures outlined above.

2. Changing to Plan A

After the adoption of Plan A, the elected clerk and treasurer serve out the balance of their respective terms. During this period, their relationship to the council is the same as before, with the clerk continuing in the dual role of council member and administrative officer. If a vacancy occurs in any of these offices before the end of the incumbent’s term, the council must fill the vacancy just as it would have done had the city not adopted the Optional Plan. A successor, during the unexpired term, serves in the same manner and with the same duties as the predecessor. The successor to the clerk, for example, would continue to act as a member of the council until the end of the term.

Plan A goes into effect upon the expiration of the term of the incumbent clerk. When that term expires, the council appoints a new clerk who performs the duties given by statute and by council action. The differences in the relationship to the council are that the council appoints the clerk for an indefinite term, the clerk is no longer a member of the council, and the council may remove that person at any time as permitted under the city's personnel policy, any relevant city contracts, and state law. When the treasurer's term ends, the council should appoint someone to fill this position.

To replace the clerk on the council, voters elect an additional council member at the election that precedes the end of the incumbent clerk's term. The new council member serves a term of four years beginning on the first Monday in January of the next year. This new council member is like any other person serving as a member of the council and receiving a council member's compensation.

When the voters adopt an Optional Plan at the same election at which they elect the clerk, the elected clerk becomes the fourth or sixth council member upon taking office in January, unless the council wishes to appoint that person to the office of clerk. The council must then declare a vacancy in the position of the council member and fill the vacancy as it normally would. When voters elect the treasurer in the election at which they adopt an Optional Plan, the election for treasurer is nullified. At the first council meeting in the following year, the council should fill the office of treasurer by appointment for an indefinite term.

3. Changing to Plan B

When a city adopts Plan B, the status of the incumbent clerk and treasurer is the same as in a city adopting Plan A. Plan B goes into effect as soon as the voters adopt it, but it does not become fully operative until the council appoints and qualifies the first city manager.

A.G. Op. 472-C (Sept. 10, 1964).

A.G. Op. 484e-4 (Dec. 17, 1957).

See generally [Minn. Stat. § 412.571](#).

RELEVANT LINKS:

The council must make this appointment as soon as practicable after voters adopt the plan. When the manager has taken office, the independent boards and commissions go out of existence, except for an existing civil-service commission.

[Minn. Stat. § 412.571, subd. 2.](#)
[Minn. Stat. § 412.681.](#)

When changing from a Standard Plan to Plan B, the manager cannot remove the elected incumbent clerk and treasurer before the expiration of their respective terms, but these positions become subordinate to the manager and are subject to the manager's direction. The statutes, however, specify the duties of the treasurer; therefore, the manager may not curtail the treasurer's duties or assign another officer to perform those duties during the holdover period.

If a vacancy in the office of the elective clerk or treasurer occurs before the expiration of the incumbent's term, it is the council and not the manager who appoints the successor. As in the case of Plan A cities, the appointment is only for the unexpired term. When the terms of the clerk and treasurer expire, the manager appoints the successors. The manager also has the power to remove them.

4. Changes to all optional plans

The statutory city code is applicable to all cities operating under the Standard Plan, Plan A, and Plan B, except to the extent that it is inconsistent with the statutory provisions relating to the plan under which the city is operating. The same is true of all the ordinances passed by the city prior to the adoption of the new plan. The old ordinances are still in effect until the council repeals or amends them, unless they are inconsistent with the state law governing the newly adopted Optional Plan. Thus, the ordinances for the preservation of the peace would still be valid and effective, but ordinances establishing certain council committees or prescribing duties for certain officers might be inoperative.

The change to another plan does not change judicial proceedings that began prior to the city's adoption of another plan, nor does it change rights or liabilities the city acquired before such an adoption. The council and city officers must make organizational, accounting, and other adjustments in accordance with the scheme of their new form of government.

5. Changing from one plan to another

Any time more than three years following the adoption of a plan, the voters or the council may request a change to another plan. The three steps of initiation, submission to voters, and certification are the same as for the original adoption proceedings.

[Minn. Stat. § 412.561, subd. 2.](#)

[Minn. Stat. § 412.551.](#)

RELEVANT LINKS:

[Minn. Stat. § 412.571.](#)

When a city changes from one Optional Plan to another, incumbent members of the council continue to serve until the expiration of their respective terms, and the change does not affect the election schedule. The new Optional Plan goes into effect as soon as is practicable after approval.

A.G. Op. 484-E-4 (Nov. 20, 1957).

[Minn. Stat. § 412.551, subd. 4.](#)

When the council receives a petition requesting a transfer to another Optional Plan, or when the council itself initiates such a proposal, only one question, that of adopting the suggested Optional Plan, goes on the ballot. An affirmative vote means the adoption of the suggested Optional Plan. A negative vote, however, means only the rejection of the suggested option. In such a case, the city continues to operate under the Optional Plan that was in effect at the time of the election; it does not revert to the Standard Plan.

E. Abandoning Plan A or Plan B

The council may submit a question on the abandonment of a plan to the voters at any time after three years have elapsed since the plan's adoption. A vote in favor of abandoning an Optional Plan means the city will revert to the Standard Plan. Either the voters through petition, or the council through its own motion, may request an abandonment.

The question goes to the voters in the same manner as the original adoption question did. The only change in the procedure is the substitution of the word "abandoned" in the proposition statement on the ballot. If the voters favor abandonment, the incumbent council members continue in office until their terms expire.

In the election in the year when the terms of two council members expire, voters will elect only one council member. They will also elect a clerk. The clerk does not serve as a member of the council until the first council meeting in the year following the election.

The appointed treasurer would continue to hold office until voters elect a successor and they officially begin the term of office.

[Minn. Stat. ch. 412.](#) [Minn. Stat. § 412.211.](#) [Minn. Stat. § 412.221.](#)

RELEVANT LINKS:

[Minn. Stat. §§ 462.351-.365.](#)

[Minn. Stat. § 469.001-.047.](#)

[Minn. Stat. ch. 429.](#)
[Minn. Stat. ch. 475.](#)

[Minn. Stat. § 462.358.](#) [Minn. Stat. ch. 505.](#)

[Minn. Stat. § 459.14.](#)
[Minn. Stat. § 459.06.](#)

[Minn. Stat. § 416.01.](#)

[Minn. Stat. § 134.07.](#)
[Minn. Stat. § 360.032.](#)

See Handbook [Table of Contents](#).
See Handbook, *The Home Rule Charter City*.

III. General powers of a statutory city

The basic listing of powers of statutory cities, whether they are Standard Plan, Plan A, or Plan B cities, is in the law called the statutory city code (city code). That list contains most, but not all, of the powers councils can exercise. For example, the city code authorizes cities to do the following:

- Create departments and advisory boards, and appoint officers, employees, and agents for the city to conduct city affairs.
- Prescribe the duties, compensation, and employment conditions for its employees.
- Make the annual tax levy, and exercise full authority over the financial affairs of the city.
- Own and operate any waterworks, gas, light, power, or heat plant.
- Purchase gas, electricity, water, or heat for wholesale prices and resell it to local consumers.
- Provide parks, parkways, recreational facilities, and, in cities of more than 1,000 population, a park board.
- Designate a legal newspaper.
- Prosecute people who violate ordinances.

Scattered throughout the statutes are many powers that statutory cities can exercise. Among these are the following:

- Plan for the future development of the city and take steps to implement that plan.
- Carry out a program of housing and redevelopment in the city.
- Levy special assessments for public improvements.
- Borrow money.
- Control the subdivision of land.
- Provide off-street parking facilities.
- Acquire and maintain a municipal forest.
- Construct and maintain war memorial buildings.
- Operate libraries.
- Construct and operate municipal airports.

Cities have many powers in addition to these. To determine whether a statutory city has a certain power, begin by checking the table of contents of this Handbook, use the search engine connected to the online version of this Handbook, or contact the League. City officials in statutory cities should refer to statutes when they have questions concerning city authority. Both statutes and the city charter govern home rule charter cities.

A common problem that arises in a discussion of city powers is the interpretation of how such powers apply in actual practice. Will the courts allow cities to exercise only those powers that the law strictly spells out, or will they allow a city to exercise any functions or powers reasonably related to a statutory grant of authority? Traditionally, the courts solved this problem by referring to a rule that Judge John F. Dillon put forth in 1872. Dillon's rule held that a strict or literal interpretation of the law should be used in defining municipal powers.

RELEVANT LINKS:

City of Duluth v. Cervený, 218 Minn. 511, 16 N.W. 779 (Minn. 1944). See also *Tousley v. Leach*, 180 Minn. 293, 230 N.W. 788 (Minn. 1930). *Sverkerson v. City of Minneapolis*, 204 Minn. 388, 283 N.W. 555 (Minn. 1939). *City of St. Paul v. Fielding & Shepley*, 155 Minn. 471, 194 N.W. 18 (Minn. 1923).

Minnesota courts, however, have deviated markedly from Dillon's rule. They have tended toward more liberal interpretations of statutory or charter grants of authority to cities. In commenting upon the interpretation of city authority "to provide for the general welfare," the Minnesota Supreme Court has stated: "The council's estimate of the general welfare should be followed unless it is plainly erroneous." The important point is that cities can generally assume that they can exercise any powers the statutes expressly grant to them or any powers that directly relate to the statutory grant and that are necessary for its fulfillment.

Chapter 5

Organizational Chart

Elected Officials

Mayor

Wayne Boucher January 2021 to December 2024

City Councilors

| | | |
|---------------|-----------------|---------------|
| John Geissler | January 2021 to | December 2024 |
| Andy Hjelle | January 2023 to | December 2026 |
| Brian LeBlanc | January 2023 to | December 2026 |
| TBD | January 2023 to | December 2024 |

Appointed Officials

City Administrator John Mulder

City Department Heads

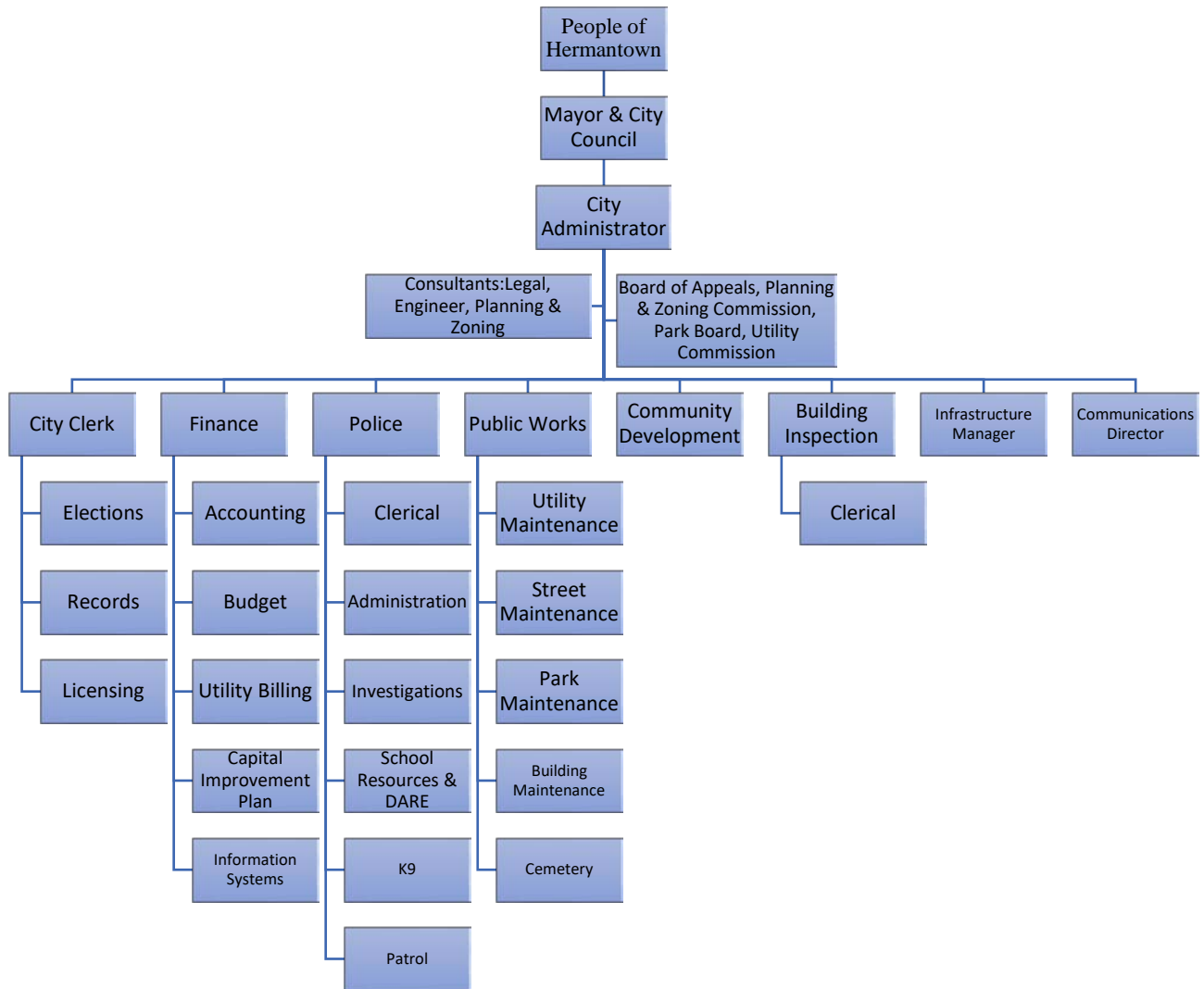
| | |
|---------------------------------------|----------------|
| Director of Finance & Administration | Kevin Orme |
| Building Official | Adam Schminski |
| Public Works Director | Paul Senst |
| Police Chief | Jim Crace |
| Community Development Director | Eric Johnson |
| Communications & Community Engagement | Joe Wicklund |
| City Clerk | Jackie Dolentz |

City Attorney Gunnar Johnson, Overom Law, PLLC

City Engineer David Bolf, Northland Consulting Engineers. LLP

City Auditor CliftonLarsonAllen LLP

Hermantown's Organizational Structure



Chapter 6

Duties of the City Council

Mayor

As the head of the City, the Mayor officially speaks for both the government and the community as a whole. The Mayor is the presiding officer and a regular member of the City Council.

1. **Official Head of the City.** The Mayor performs ceremonial duties on behalf of the community.
2. **Executing Official Documents.** The Mayor must sign official documents of any kind to which the City is a party.
3. **Power to Make Some Appointments.** The Mayor has the authority to make appointments to City advisory commissions.
4. **Presiding Officer at Council Meetings.** The Mayor serves as the presiding officer at Council meetings.
5. **Declaring Local Emergencies.** Only the Mayor can declare a local emergency. A local emergency cannot last for more than three days except with the consent of the City Council. A local emergency must receive prompt and general publicity. The City Clerk must promptly file any order or proclamation declaring, continuing, or terminating the emergency.

Council Members

The Council Members' duties are performed by the Council as a whole, not by individual members. The most important single responsibility of a Council Member is participation at Council meetings.

1. **Judging the Qualification and Election of Its Own Members.** The Council certifies election results, determining whether an individual has the necessary qualifications to hold office.

2. **Setting and Interpreting Rules Governing Its Own Proceedings.** The Council preserves order during its own meetings; establishes rules of procedure; and compels the attendance of members at meetings.
3. **Exercising all the Powers of Cities that the Law Does Not Delegate to Others.** The Council has the authority to exercise all powers given to the City.
4. **Legislating for the City.** The Council enacts ordinances by a majority vote of all its members, sets administrative policies, and otherwise establishing public policy for the City. The Council has the power to declare that violations of any ordinance and may prescribe penalties for ordinance violations.
5. **Transacting City Business.** The transactions of City business include a wealth of activities, such as purchasing, executing legal papers, taking bids, letting contracts, and making discretionary administrative decisions.
6. **Managing the City's Financial Operations.** The Council has full authority over the City's financial affairs but should seek the advice of the staff and of consultants in making many of these decisions.
7. **Conducting the City's Intergovernmental Affairs.** The Council may make agreements for the joint exercise of powers through agreements with other units of government, appoint individuals to serve on intergovernmental bodies, conduct City business with state and federal agencies, participate in intergovernmental programs, and the work of municipal associations.
8. **Protecting the Welfare of the City and Its Inhabitants.** The Council formulates policies that will help the City solve future problems and adjust to social and economic trends.
9. **Providing Community Leadership.** The Council provides leadership by promoting new ideas and suggesting new programs to improve the community and its surrounding areas.

Chapter 7

Tips for Successful Public Service

- ◆ Speak the majority vote (rather than personal vote) of the City Council to avoid confusing the public.
- ◆ Learn about the City, its history, operations, finances, City ordinances, Charter and policies.
- ◆ Devote sufficient time to the office and to studying the present and future problems of the community.
- ◆ Save energy and time by setting priorities. Governing a City requires a team effort. Be a team player.
- ◆ Use caution when making public decisions because they represent the community. Be careful to not allow personal experiences to influence decisions and focus on what the community needs as a whole. Take budget preparation seriously because it influences the next year as well as future years.
- ◆ Make decisions on the basis of public policy and be consistent. Treat similar situations similarly, and avoid favoritism.
- ◆ Be proactive. Focus on ways to prevent problems. Find the long-term public interest of the community as a whole rather than focusing on the demands of special interest groups.
- ◆ Be thoughtful when making decisions and be careful to not rush to judgment.
- ◆ Embrace change. Look for ways to be responsible through new ideas from the community, staff, the public and other Council Members.
- ◆ If not sure of an answer to a question, it's okay to say, "I don't know the answer." Then find the answer to that question within a reasonable time limit. Providing correct information is important. The City Administrator can generally be very helpful.
- ◆ Remember that most decisions and actions require approval of the governing body, and this takes a majority vote.
- ◆ Keep in mind that Council Members have legal authority as a governing body.
- ◆ Keep other Council Members and the City Administrator in the communication loop about topics because this puts everyone on the same page, using the City Administrator as the voice to communicate to a quorum or more of fellow Council Members.
- ◆ Participate in official meetings with the dignity and decorum fitting those who hold public trust.
- ◆ Personal dress and courteous behavior at meetings help create an environment for making sound public decisions.

- ◆ Conduct official public meetings with some formality and follow rules of procedure. Formal meetings expedite the process and tend to promote better decision making.
- ◆ Ask questions. Be curious. Don't make assumptions.
- ◆ Be active. Vote yes or no on motions. Respect an official position and share it as the voice of one City Council.
- ◆ Respect the letter and intent of the open meetings law. Be trusted by not repeating information under any circumstances unless there is a professional reason to do so.
- ◆ Retain competent, key employees, pay them well, trust their professional judgment and recognize their authority and responsibilities.
- ◆ Focus on policy-making and allow the City Administrator to work with the City's day-to-day operations. Work within the system by directing businesses and people to City staff as appropriate (such as suppliers and vendors). Direct contact with governing body Members should be with the governing body as a whole.
- ◆ Be accountable for policies and decisions made.
- ◆ Be positive and ask the right questions. "How can we do this?"
- ◆ Learn to evaluate recommendations and alternative courses of action. Request options and encourage imaginative solutions.
- ◆ Focus on the long-term future of the City to avoid taking short-term gains at the expense of long-term losses.
- ◆ In determining the public interest, balance personal rights and property interests, recognize that in decisions must be made with the best interest of those involved in mind.
- ◆ Focus on the total development—physical, economic and social—of the community.
- ◆ Keep in contact and cooperate with federal, state, county and school officials. Cities must work within the intergovernmental system to be effective.
- ◆ Get to know officials of neighboring and similar size cities. Visit other cities, particularly those with a reputation of being well run.
- ◆ Listen to fellow Council Members and the public to better understand what they are trying to say.
- ◆ Keep constituents informed and encourage citizen participation.
- ◆ Remember what's said privately and publicly can often be seen as news. Be friendly and deal effectively with the news media and represent the City Council as one voice. Consult with the City Administrator if there are any questions or help needed. Be careful about rumors. Check them out and help clarify any false information.
- ◆ Take care in those appointed to boards and commissions to ensure they are capable and representative of the whole community.
- ◆ Use manuals, guides and other technical assistance and information. Attend workshops and conferences to grow.

- ◆ Focus on the future and try to leave the City better than when first becoming a Council Member.
- ◆ At least once a year, schedule a governing body discussion to review processes and procedures. Ask "How are we doing? How can we do things better?"
- ◆ Be enthusiastic and positive about public service and the privilege to serve and make it a fun and rewarding experience.
- ◆ Be a leader, as well as part of the team of elected and appointed officials who were selected to make the City an even better place to live.
- ◆ Celebrate! Good things do happen. Let the public share those successes.

Chapter 8

Compensation

City Council Compensation

Council salaries are set by ordinance (must be adopted at least six months before the election). Salary increases are effective the first meeting in January after the November election. Salary amounts (2022):

Mayor: \$800.00/monthly

Council Member: \$600.00/monthly

If the Mayor attends any mediation sessions, he or she shall be entitled to payment of \$50 if four hours or less shall be spent at any single mediation session, or \$100 if more than four hours shall be spent at any single mediation session.

Benefits

The Mayor and the Council members shall be entitled to reimbursement for expenses incurred by the Mayor or Council members in connection with the performance of his or her official duties as Council member or Mayor. Requests for reimbursements should be made on a form provided by the City and should be accompanied by itemized receipts. Mileage reimbursement shall be made in an amount equal to an amount established by the Internal Revenue Service (IRS). No reimbursement shall be made for insurance charges related to the business use of the Mayor's or any Council member's automobile.

In lieu of reimbursement for cell phones and internet, the Mayor and each Council member will receive an additional stipend of \$75.00 per month.

The City shall provide the Mayor and each Council member with a \$30,000.00 term life insurance policy at no cost to the Mayor or Council member while they hold their respective office.

Payroll information

City Council Members are paid on the same pay schedule as regular employees. Pay days are bi-weekly on Fridays with the first pay day in January. Payroll is automatic; no timesheets needed. Newly elected City Council Members must complete the following enrollment items before the year's first pay period:

- ◆ W-4 Employee's Withholding Certificate
- ◆ I-9 Employment Eligibility Verification DHS (additional documents needed included will need to be accompanied with this document, i.e., passport or driver's license and social security card)
- ◆ Direct deposit form
- ◆ Pay stub email notification form
- ◆ Public Employees Retirement Association (PERA) Membership election form
- ◆ Consent/Release form
- ◆ Minnesota new Hire Reporting Form
- ◆ Statement Concerning Your Employment in a Job Not Covered by Social Security
- ◆ Accounts payable automatic clearing house (ACH) authorization form
- ◆ Group Life insurance

To complete necessary paperwork, contact the City Clerk at (218) 729-3600.

Public Employees Retirement Association Benefit

All local public officials elected to their positions by the public at large, and individuals appointed to boards and commissions of governmental subdivisions are eligible to participate in the plan. Officials appointed to vacant elective positions are also eligible for the plan for the remainder of the office's term. DCP is the only PERA retirement plan available to officials elected to governing body positions (ex: city council, county board, school board, etc.) after June 20, 2002.

Participation in the plan is completely voluntary for each individual and there is no minimum salary requirement. Elected officials participating in the plan may choose to discontinue participation at any time.

Chapter 9

A Good Start to Good Governance



A Good Start to Good Governance

Guidance for Newly Elected City Officials from the League of Minnesota Cities

Congratulations on your election! Serving a city says a lot about a person's sense of public responsibility, but being on city council isn't easy. The League of Minnesota Cities offers guidance to elected officials across the state on a variety of topics and we're here to help. Here's just a sample:

- **Can I rehash the city council meeting with my colleagues at the café after we adjourn?**
Find out if council can talk about city business outside of a public meeting — see page 11.
- **Can I talk to the public works director about some department performance problems I've identified?**
Find out what power a single councilmember has to make changes — see page 2.
- **Can I improve the efficiency of our city government by using email to communicate among councilmembers?**
Find out if it's a problem that the public can't see and participate in these discussions — see page 12.

Comprehensive resources for new city officials like you at: www.lmc.org/goodstart

The information below on elected officials and council structure and role is an excerpt from Chapter 6 of the League's Handbook for Minnesota Cities.

The Handbook is available FREE on the League's website at www.lmc.org. It has information for city councils on:

- the form and structure of Minnesota Cities;
- elections, elected officials, and council meetings;

Elected officials and council structure and role

1

The cornerstone of city government in Minnesota is the elected city council. The city council fashions the policies that determine a community's present and future well-being. Because people look to their local government for leadership, much of the responsibility for community development falls on the shoulders of city councilmembers.

Although the mayor is a member of the council in statutory cities and the clerk is a member of the council in Standard Plan cities, the mayor and clerk in all cities have some special duties. This document will discuss the special aspects of these positions and the city council's role in city governance.

■ Terms of office

All terms of office in statutory cities begin on the first Monday of January following the election. The terms of the old officers end at this time, or as soon after that as the newly elected officers qualify by taking an oath and filing a bond, if one is required. If the newly elected officer refuses or fails to qualify, the incumbent officer continues to hold office until the council declares the office vacant and appoints a successor. The length of the various terms of office is provided by statute.

■ Oath of office

Whether or not officials need a bond, they must take and sign an oath of office before exercising any of their powers. This includes members of councils, boards, commissions, and administrative officers. This applies to appointed as well as to elected officials. The oath is as follows: *"I, (name) do solemnly swear to support the Constitution of the United States, the Constitution of the State of Minnesota, and to discharge faithfully the duties of the office of (insert brief description of office) of the city of (insert city), Minnesota, to the best of my judgment and ability, so help me God."*

If the officer objects to an oath on religious grounds, the word "affirm" can substitute for the word "swear," and the phrase "and this I do under the penalties of perjury" can substitute for the phrase "so help me God."

Any person with authority to take and certify acknowledgments may administer the oath, including the city clerk, a justice of the peace, a notary public or a register of deeds. The candidate taking the oath must lift his or her hand while reciting the oath. The candidate

qualifying for office must take the oath and sign a copy of the oath in the presence of the administering official.

The signed copy should go to the city clerk for filing. City assessors should file their copy with the county auditor. If an officer must also submit a bond, the oath should be attached to the bond and both documents should go to the city council for approval and then to the clerk for filing.

City council and its powers

It is the duty of the mayor, clerk, and councilmembers to ensure the city is fulfilling its duties under the law and lawfully exercising its powers.

City officials can sometimes be held personally liable for failing to act or for taking unauthorized actions on the part of the city. To avoid personal-liability lawsuits, city officials should gain a working knowledge of the laws that regulate city government. Whenever there is any doubt about the validity of an action or procedure, city officials should consult their city attorney.

■ Role of the individual councilmember

Councilmembers' statutory duties are to be performed, almost without exception, by the council as a whole. For example, the council, not individual councilmembers, must supervise administrative officers, formulate policies, and exercise city powers.

Councilmembers should devote their official time to problems of basic policy and act as liaisons between the city and the general public. Councilmembers should be concerned, not only with the conduct of daily affairs, but also with the future development of the city.

The most important single responsibility of a councilmember is participation at council meetings. In statutory cities, each councilmember, including the mayor, has full authority to make and second motions, participate in discussions, and vote on every matter before the council.

In a statutory city, any two councilmembers of a five-member council or any three members of a seven-member council may call a special meeting. Care should be exercised to give proper notice, however.

As individuals, councilmembers have no administrative authority. They cannot give orders or otherwise supervise city employees unless specifically directed to do so by the council. The council, however, has complete authority over all administrative affairs in the city. In Plan B cities, this authority is generally restricted to conducting investigations and establishing policies to be performed by the manager.

■ The council's authority

The city council is a continuing body. New members have no effect on the body except to change its membership. This means that all ordinances and resolutions remain in effect until the council alters or rescinds them, or until they expire through their own terms. At

any time, the council can change any resolution, ordinance or administrative order whether or not the individuals presently on the council are the same as those serving when the council originally took action.

There are exceptions to this rule. For example, the council cannot dissolve a perpetual-cemetery maintenance fund. In addition, the council cannot rescind or unilaterally alter any valid contracts. This means the law of contracts applies to the council as it does to any other party. Whether a contract was validly made is a question of fact.

The following information outlines the major areas of council authority and responsibility.

1. Judging the qualification and election of its own members

The council evaluates the credentials of individuals who are, or who claim to be, members of the council. This power includes certifying election results, determining whether an individual has the necessary qualifications to hold office, and deciding whether a council vacancy has occurred.

2. Setting and interpreting rules governing its own proceedings

The council has the following powers:

- To preserve order during its own meetings.
- To establish rules of procedure.
- To compel the attendance of members at meetings and to punish nonattendance. The council does not have the power to remove members from office, but it may punish members by fines or by deducting a part of the absentee's compensation for failure to comply with attendance orders.

3. Exercising all the powers of cities that the law does not delegate to others

Except for powers that the statutes delegate to a specific official or independent board or commission, the council has the authority to exercise all powers given to the city.

4. Legislating for the city

The council may enact ordinances by a majority vote of all its members except where a larger number is required by law. The power to legislate also includes setting administrative policies and otherwise establishing public policy for the city.

The council has the power to declare that violations of any ordinance are a crime and may prescribe penalties for ordinance violations. The statutory city code limits the penalty for ordinance violations to a fine of up to \$1,000 or 90 days in jail, or both.

5. Directing the enforcement of city ordinances

The council directs the enforcement of city ordinances by determining the level of law enforcement, setting qualifications for the police chief and police officers, purchasing certain types of equipment for police use, and by directing and supervising the work of police officers indirectly, through the police chief. The city council also directs all departments and employees responsible for the administration of its policies and

ordinances in the general administration of their duties. The city council generally should not direct the enforcement efforts of its employees as to particular situations.

6. Appointing administrative personnel

In Standard Plan and Plan A cities, the council has the sole authority to appoint all city employees.

In Plan B cities, the council appoints a city manager, who in turn appoints all city employees. The council may not dictate that the city manager appoint a particular person to city employment.

Additionally, the council may not give any orders to any subordinate of the manager, either publicly or privately.

7. Transacting city business

The transaction of city business includes a wealth of activities, such as purchasing, executing legal papers, taking bids, letting contracts, making discretionary administrative decisions, and evaluating the work of the administrative departments and personnel.

8. Managing the city's financial operations

The council has full authority over the city's financial affairs, including but not limited to:

- Levying taxes.
- Adopting a budget.
- Auditing and settling accounts.
- Safekeeping and disbursement of public monies.
- Borrowing money.
- Designating depositories.

Councils should seek the advice of their staff and of consultants in making many of these decisions.

9. Appointing members of the boards

The council may create departments and advisory boards and appoint officers, employees, and agents for the city as deemed necessary for the proper management and operation of the city.

10. Conducting the city's intergovernmental affairs

The council may make agreements for the joint exercise of powers through agreements with other units of government, appoint people to serve on intergovernmental bodies, conduct city business with state and federal agencies, and participate in intergovernmental programs and the work of municipal associations such as the League of Minnesota Cities.

11. Protecting the welfare of the city and its inhabitants

Elected officials must formulate policies that will help the city solve anticipated problems and adjust to social and economic trends. This requires long-range planning regarding city facilities and needs.

12. Providing community leadership

In addition to participating in civic events, city officials provide leadership by promoting new ideas and suggesting new programs to improve the community and its surrounding areas.

Mayor

As the head of the city, the mayor officially speaks for both the government and the community as a whole. In all statutory cities and in most charter cities, the mayor is the presiding officer and a regular member of the city council. The mayor has all the powers and duties for the office of councilmember in addition to those of mayor.

In a home rule charter city, the charter spells out the duties and responsibilities of the mayor. This chapter, however, deals with mayors of statutory cities.

Many mayors belong to the Minnesota Mayor's Association (MMA), which is affiliated with the League and holds an annual conference on issues of interest to mayors. Contact the League for more information about the MMA.

■ Official head of the city

As the official head of the city, the mayor has three important responsibilities: First, the mayor usually serves as the city's representative before the Minnesota Legislature, federal agencies, and other local governments.

Second, the mayor performs ceremonial duties on behalf of the community. The mayor usually greets important visitors, gives formal and informal talks, and takes part in public events. Because local civic groups frequently ask the mayor to speak, the mayor must be prepared to explain city problems and defend city programs.

A third responsibility is to exert leadership in city affairs. Because the mayors of statutory cities lack significant individual authority, this responsibility frequently calls for tact rather than overt acts of direction or supervisory control.

■ Executing official documents

The mayor of a statutory city must sign ordinances, contracts authorized by the council, and written orders for payment of claims that have been audited and allowed by the council. These are ministerial duties, and the mayor may not refuse to sign if the purpose, approval, and form are legally correct and complete.

■ **Power to make some appointments**

The power to appoint usually resides in the council. The mayor has authority to make the following appointments, however, subject to council approval:

- Park board members.
- Public library board members.
- Emergency management director.
- Hospital board members.
- Some police civil service commission members.
- HRA members.
- EDA members.

The mayor has authority to make the following appointments without needing council approval:

- City art commission members (First Class cities).
- The mayor also appoints to fill vacancies in elective offices if the council vote to fill the vacancy is tied.

■ **Presiding officer at council meetings**

Plan A and Plan B statutory city councils are usually composed of five members consisting of the mayor and four councilmembers. In a Standard Plan city, the council consists of the mayor, the clerk, and three councilmembers. Any statutory city, however, may adopt a council size of seven following a council ordinance and voter approval at the next general city election.

The mayor serves as presiding officer at council meetings. The mayor generally recognizes speakers for debate and motions, and rules on questions of council procedure. The power to rule on council procedure is especially significant because once rulings are made they are binding on the council, unless the council votes to challenge them.

A statutory city mayor can vote on all motions put before the council, but does not have the right to veto council actions. The right of the mayor to make and second motions is implied from the mayor's privilege of voting and taking part in regular council deliberations. The mayor has an obligation to be impartial and objective in conducting the meeting. Mayors may also call special meetings.

■ **Declaring local emergencies**

Only the mayor can declare a local emergency. A local emergency cannot last for more than three days except with the consent of the city council. A local emergency must receive prompt and general publicity. The clerk must promptly file any order or proclamation declaring, continuing or terminating the emergency.

A declaration of a local emergency invokes the response and recovery aspects of any local or interjurisdictional disaster plans and may authorize aid and assistance. No interjurisdictional agency or official may declare a local emergency unless expressly authorized by an agreement. An interjurisdictional disaster agency must provide aid and services in accordance with the agreement.

Team mindset by leaders

Highly cohesive teams have more success achieving the goals they have set for themselves. Lack of civility within a team working environment impacts team performance by causing unnecessary stress and tension among team members. Leaders of highly cohesive teams do the following:

1. Cut people slack — remember the situation likely is new for everyone and may be causing angst for all.
2. Don't play the blame game. Don't play the power game. Councils and council-staff represent a team.
3. Focus on process, not the people involved.
4. Assume good motives of others.
5. Listen to learn, rather than pretending to listen while formulating a counterargument.
6. Ask expansive questions and be patient with silence while waiting for a response. Compromise is good, but understanding all the underlying interests may lead to a new idea that meets everyone's needs.
7. Practice interpersonal empathy. Remember empathy does not mean giving up your beliefs; rather, it means listening, respecting others' positions, and validating their worth.
8. Identify individual strengths of team members and recognize their unique contributions to validate belonging.
9. Learn to delegate with clear expectations to empower others.
10. Celebrate success — all success. Realize success comes in all shapes and sizes.

The information below on meetings and hearings is an excerpt from the League's Governing and Managing Information Memo on "Meetings of City Councils." The section on the open meeting law applies to all city councils, city boards, commissions, and other public bodies.

The League has many Information Memos on topics for city councils such as:

- Securing Payment of Utility Charges;
- Acquisition and Maintenance of City Streets;
- Liquor Licensing and Regulation, and more.

You can find these memos on the League's website at www.lmc.org. Or to get a FREE copy of any memo or to ask a question about city government, contact the League's Research Service at (800) 925-1122 or research@lmc.org.

Meetings and hearings

■ Meetings

A meeting is a gathering of a quorum of public officials to discuss, decide or receive information on matters over which they have authority. The members of the public usually do not speak at a meeting, although some city councils will occasionally recognize a member of the audience.

1. Types of meetings

There are basically two different types of meetings:

- **Regular meetings.** Regular meetings of a statutory city council are held at times established by council rules. A council will typically meet once a month on a particular day, although some councils may have regular meetings scheduled more frequently. Home rule charter cities should consult their charters and any council rules concerning the scheduling of regular meetings.
- **Special meetings.** Special meetings are meetings held at times or places that are different from the regularly scheduled meetings. These are often scheduled to deal with specific items that need to be addressed before the next regular meeting. Generally, any matter can be addressed at a special meeting that can be addressed at a regular meeting. There are different types of special meetings, such as emergency meetings and continued meetings, which are discussed in more detail in a later section of this memo.

2. First meeting of the year

There is no date set by statute for the first meeting of the year. In most statutory cities, the date is set by an ordinance establishing rules of procedure for the council. A home rule charter city should consult both its charter and any procedural rules the council has adopted.

The term of office for new statutory city councilmembers begins on the first Monday in January. The first meeting is usually held on or shortly after this date. In the meantime, all previously chosen and qualified councilmembers shall serve until their successors qualify. The first day of a new term in a home rule charter city is generally set by the charter.

The following must be done at the first meeting of the year:

- Appoint an acting mayor.
- Select an official newspaper.
- Select an official depository for city funds. (This must be done within 30 days of the start of the city's fiscal year.)

In addition, although not required by statute, many city councils will also do the following at the first meeting of the year:

- Review council's bylaws and make any needed changes.
- Assign committee duties to members.
- Approve official bonds that have been filed with the clerk.

Home rule charter cities may have additional requirements for their first meeting of the year in their charters.

■ Hearing from the public

A public hearing is a meeting that is held where members of the public can express their opinions.

1. Discretionary hearings

The council can regulate the time, place, and manner of the public comment portion of meetings and make sure that people who want to speak on the issue get the opportunity. The council does not deliberate or discuss matters during the public-comment portion of this type of meeting; instead, it listens to the public. Once the public-comment period is finished, the council will often continue with or wrap up the meeting.

In order to recess or continue a meeting of this sort, the council should not formally end the public-comment part of the hearing. Many city councils will allow public comment even when not legally required to do so. Generally, public-comment portions of meetings are for the purpose of allowing the public to comment on a specific issue. Such comment periods can be helpful in raising concerns about an issue that the council may not have considered.

2. Public Comment Portion of Meetings

When a specific statute, ordinance or charter provision requires that the council hold a public hearing, the notice requirements must be followed carefully. Often there are special notice requirements that are more substantial than the notice that is needed for a simple special meeting. For example, hearings required for zoning ordinance amendments and special assessments have special notice requirements.

Following are several of the more common matters that require public hearings:

- Street vacation.
- Annexation by ordinance.
- Local improvement projects that will be paid for with special assessments.
- When special assessments are made to property.
- Storm sewer improvement district purchases and improvements of waterworks, sewers, drains, and storm sewers.
- Adoption of a housing redevelopment authority (HRA) resolution.
- Adoption of an economic development authority (EDA) enabling resolution.
- Sale of port authority land.
- Sale of EDA land.

- Increase of levy for an EDA.
- Continuation of a municipal liquor store after a net loss for two of three consecutive years.
- Adoption or amendment of a zoning ordinance.
- Subdivision applications.
- Granting of a conditional use permit.
- Adoption of a charter amendment by ordinance.

There are other situations that may require public hearings. Contact the League's Research Department at (651) 281-1200 or (800) 925-1122 for further information if you are unsure about a particular situation.

The open meeting law

The Minnesota open meeting law generally requires that all meetings of public bodies be open to the public. This presumption of openness serves three basic purposes:

- To prohibit actions from being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning decisions of public bodies or detect improper influences.
- To ensure the public's right to be informed.
- To afford the public an opportunity to present its views to the public body.

The open meeting law also contains some specific notice and record-keeping requirements, which are discussed in detail in later sections of this document.

■ Groups to which the law applies

The open meeting law applies to all governing bodies of any school district, unorganized territory, county, city, town or other public body, and to any committee, sub-committee, board, department or commission of a public body.

Thus, the law applies to meetings of all city councils, planning commissions, advisory boards, firefighter relief associations, economic development authorities, and housing redevelopment authorities, among others.

The Minnesota Supreme Court has held, however, that the governing body of a municipal power agency, created under Minn. Stat. §§ 453.51-453.62, is not subject to the open meeting law because the Minnesota Legislature granted these agencies authority to conduct their affairs as private corporations.

■ What is a meeting?

There is no statutory definition of the term "meeting" for the purpose of the open meeting law. Minnesota courts have generally ruled that a meeting is a gathering of a quorum of public officials to discuss, decide or receive information on matters over which they have authority.

Because the term "meeting" has not been clearly defined, the issue of whether or not a meeting has been held must be decided on a case-by-case basis. Some examples of cases are discussed in further detail in a later section of this memo.

■ Gatherings to which the law applies

The open meeting law applies to any gathering of a quorum or more of public officials where the members discuss, decide or receive information as a group on issues relating to the official business of the public body.

A "quorum" is a majority of the members of a statutory city council. A majority of the qualified members of any board or commission also constitutes a quorum. Home rule charter cities may have different quorum requirements in their charters.

Thus, the open meeting law would apply to any of the following types of gatherings:

- Regular and special meetings.
- Public hearings.
- Executive sessions.
- Work sessions.
- Retreats.

■ Exceptions and the procedures to use them

There are some exceptions to the open meeting law. Under certain circumstances, some meetings may be closed. There are also some meetings that must be closed. Before a meeting can be closed under any of the exceptions, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. 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.

1. Meetings that may be closed

The public body may choose to close certain meetings. The following types of meetings may be closed:

- **Meetings to consider strategies for labor negotiations under PELRA.** Although a meeting to consider strategies for labor negotiations may be closed, the actual negotiations must be done at an open meeting if a quorum of the council is present.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the council must decide to close the meeting by a majority vote at a public meeting.
- Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.
- A written roll of all people present at the closed meeting must be available to the public after the closed meeting.
- The meeting must be tape-recorded.
- The recording must be kept for two years after the contract is signed.
- The recording becomes public after all labor agreements are signed by the city council for the current budget period.

If an action claiming that other public business was transacted at the closed meeting is brought during the time the tape is not public, the court will review the recording privately. If it finds no violation of the open meeting law, the action will be dismissed and the recording will be preserved in court records until it becomes available to the public. If the court determines there may have been a violation, the entire recording may be introduced at the trial. However, the court may issue appropriate protective orders requested by either party.

- **Meetings to evaluate the performance of an individual subject to the public body's authority.**

Procedure. The following must be done to use this exception:

- The public body must identify the individual to be evaluated prior to closing the meeting.
- The meeting must be open at the request of the individual who is the subject of the meeting, so some advance notice to the individual is needed in order to allow the individual to make an informed decision.
- Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.
- The meeting must be electronically recorded, and the recording must be preserved for at least three years after the meeting.
- At the next open meeting, the public body must summarize its conclusions regarding the evaluation. The council should be careful not to release private or confidential data in its summary.

- **Attorney-client privilege.** Meetings between the governing body and its attorney to discuss active, threatened, or pending litigation may be closed when the balancing of the purposes served by the attorney-client privilege against those served by the open meeting law dictates the need for absolute confidentiality. The need for absolute confidentiality should relate to litigation strategy, and will usually arise only after a substantive decision on the underlying matter has been made. This privilege may not be abused to suppress public observations of the decision-making process, and does not include situations where the council will be receiving general legal opinions and advice on the strengths and weaknesses of a proposed underlying action that may give rise to future litigation.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. The council should also describe how a balancing of the purposes of the attorney-client privilege against the purposes of the open meeting law demonstrates the need for absolute confidentiality.
 - The council must actually communicate with its attorney at the meeting.
- **Purchase or sale of property.** A public body may close a meeting to: determine the asking price for real or personal property to be sold by the public body; review confidential or nonpublic appraisal data; develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the public body must state on the record the specific grounds for closing the meeting, describe the subject to be discussed, and identify the particular property that is the subject of the meeting.
 - The meeting must be tape-recorded and the property must be identified on the tape. The recording must be preserved for eight years, and must be made available to the public after all property discussed at the meeting has been purchased or sold or after the public body has abandoned the purchase or sale.
 - A list of councilmembers and all other persons present at the closed meeting must be made available to the public after the closed meeting.
 - The actual purchase or sale of the property must be approved at an open meeting, and the purchase or sale price is public data.
- **Security Briefings.** A meeting may be closed to receive security briefing and reports, to discuss issues related to security systems, to discuss emergency-response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities
 - if disclosure of the information would pose a danger to public safety or compromise security procedures or responses. Financial issues related to security matters must be discussed, and all related financial decisions must be made at an open meeting.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the public body must state on the record the specific grounds for closing the meeting and describe the subject to be discussed. When describing the subject to be discussed, the public body must refer to the facilities, systems, procedures, services or infrastructure to be considered during the closed meeting.
- The closed meeting must be tape-recorded, and the recording must be preserved for at least four years.

2. Meetings that must be closed

There are some meetings that the law requires to be closed. The following meetings must be closed:

- **Meetings for preliminary consideration of allegations or charges against an individual subject to the public body's authority.** While the law permits the council to announce that it is closing a meeting to consider charges against an individual, it is still the best practice not to refer to that individual by name. The council should state only that it is closing the meeting to give preliminary consideration to allegations against someone subject to its authority. However, if someone requests the name of the employee who is the subject of the closed meeting, the name will probably have to be furnished since the existence and status of any complaints against an employee are public data.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the council must state on the record the specific grounds for closing the meeting and describe the subject to be discussed.
- The meeting must be open at the request of the individual who is the subject of the meeting. Thus, the individual should be given advance notice of the existence and nature of the charges against him or her, so that the individual can make an informed decision.
- The meeting must be electronically recorded and the recording must be preserved for at least three years after the meeting.

- If the public body decides that discipline of any nature may be warranted regarding the specific charges, further meetings must be open.
(Note: There is a special provision dealing with allegations of law enforcement personnel misconduct; see next discussion*.)

- **Portions of meetings at which any of the following data is discussed:**

- Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
- *Internal affairs data relating to allegations of law enforcement personnel misconduct or active law enforcement investigative data.
- Educational data, health data, medical data, welfare data or mental health data that are not-public data.
- An individual's medical records governed by sections §§ 144.291 to 144.298.

Procedure. Before closing the meeting, the council must state on the record the specific grounds for closing the meeting and describe the subject to be discussed. The meeting must be electronically recorded, and the recording must be preserved for at least three years after the meeting.

- **Notice requirements**

Public notice must be given of all meetings of a public body. The notice requirements differ depending on the type of meeting.

However, if a person receives actual notice of a meeting at least 24 hours before the meeting, all notice requirements under the open meeting law are satisfied, regardless of the method of receipt.

It should also be noted that statutory cities have some additional requirements for mailing notice to their councilmembers regarding special meetings. There may also be additional notice requirements for home rule charter cities to consider. These cities should consult their charters for more information.

- 1. Regular meetings**

A schedule of the regular meetings must be kept on file in the city office. If the city decides to hold a meeting at a different time or place, it must give the notice required for a special meeting.

Cities must keep a schedule of the regular meetings of the council on file at the primary office of the council. This requirement can be complied with by posting the regular meeting schedule in a convenient public location.

- 2. Special meetings**

A special meeting is a meeting that is held at a time or location different from that of a regular meeting.

A city must post written notice of a special meeting on its principal bulletin board or on the door of its meeting room if it does not have a bulletin board. If notice is posted on a bulletin board, the bulletin board must be located in a place that is reasonably accessible to the public. The notice must give the date, time, place, and purpose of the meeting. It must also be mailed to each individual who has filed a written request for notice of special meetings. As an alternative to posting the notice, the city can publish notice in the official newspaper at least three days before the meeting.

A city must post written notice of a special meeting on its principal bulletin board or on the door of its meeting room if it does not have a bulletin board at least three days prior to the meeting. In statutory cities, the clerk must mail notice of special meetings to all councilmembers at least one day before the meeting.

In calculating the number of days for providing notice, do not count the first day that the notice is given, but do count the last day. If the last day is a Saturday, Sunday or a legal holiday, that day is omitted from the calculation and the following day is considered the last day (unless, of course, it happens to be a Saturday, Sunday or legal holiday).

3. Emergency meetings

An “emergency meeting” is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body. Posted or published notice of an emergency meeting is not required. However, the city must make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or any other method to notify members of the public body. The notice must include the subject of the meeting.

4. Recessed or continued meetings

No additional notice is needed for a recessed or continued meeting if all of the following criteria are met:

- The meeting is a recessed or continued session of a previous meeting.
- The time and place of the meeting was established during the previous meeting.
- The time and place of the meeting was recorded in the minutes of the previous meeting.

5. Closed meetings

The same notice requirements apply to closed meetings as to open meetings. Additionally, advance notice to an individual who will be the subject of such a meeting is needed under certain circumstances (such as to employees who are the subject of performance evaluations or disciplinary proceedings).

■ Written materials

At least one copy of the materials related to agenda items that are made available to the council at or before the meeting must also be made available for inspection by the public. However, this does not apply to not-public data or materials relating to the agenda items of a closed meeting.

■ Common problems in applying the law

There are many situations for which the open meeting law is unclear. This section provides an overview of some of the more common situations and how the law may be applied.

1. Data practices

Generally, meetings may not be closed to discuss data that is not public. However, the public body must close any part of a meeting at which certain types of not-public data are discussed (such as active law enforcement investigative data, police internal affairs data, medical records data, and certain victim, health, medical or welfare data).

If not-public data is discussed at an open meeting when the meeting is required to be closed, it is a violation of the open meeting law. Discussions of some types of not-public data may also be a violation of the Minnesota Government Data Practices Act (MGDPA). However, not-public data may generally be discussed at an open meeting without liability or penalty if both of the following criteria are met:

- The disclosure relates to a matter within the scope of the council’s authority.
- The disclosure is necessary to conduct the business or agenda item before the public body.

Data that is discussed at an open meeting retains its original classification under the MGDPA.

However, a record of the meeting is public, regardless of the form. It is suggested that not-public data that is discussed at an open meeting not be specifically detailed in the minutes.

2. Executive sessions

The attorney general has advised that executive sessions of a city council must be open to the public.

3. Committees and liaisons

The attorney general has advised that standing committees appointed by a governing body also are likely subject to the open meeting law.

Many city councils create committees to make recommendations to the council. Commonly, such committees will be responsible for researching a particular area and submitting a recommendation to the council for its approval. Such committees are often labeled as advisory, and the council is still responsible for making the final decision. The law is not clear when these types of committees or citizen panels are subject to the Open Meeting Law. Courts often do a fact analysis when reviewing Open Meeting Law challenges involving so-called “advisory” committees to determine if the committee represents a standing committee whose recommendations the council generally or always follows, or if the committee acts in more of an ad hoc advisory capacity. Many cities err on the side of caution and follow Open Meeting Law guidelines for all its citizen advisory committees.

City councils routinely appoint individual councilmembers to act as liaisons between the council and particular committees. These types of meetings may also be subject to the open meeting law if the committee contains a quorum or more of the council or has decision-making authority. In addition, notice for a special council meeting may be needed if a quorum of the council will be present at the meeting and participating in the discussion.

For example, when a quorum of a city council attended a meeting of the city's planning commission, the Minnesota Court of Appeals ruled that there was a violation of the open meeting law, not because of the councilmembers' attendance at the meeting, but because the councilmembers conducted public business in conjunction with that meeting. Based on that decision, the attorney general has advised that mere attendance by additional councilmembers at a meeting of a council committee held in compliance with the open meeting law would not constitute a special council meeting requiring separate notice. The attorney general warned, however, that the additional councilmembers should not participate in committee discussions or deliberations absent a separate notice of a special city council meeting.

4. Chance or social gatherings

Chance or social gatherings of a quorum are not considered meetings under the open meeting law and are therefore exempt from it. However, a quorum may not, as a group, discuss or receive information on official business in any setting under the guise of a social gathering.

YOU'LL WANT TO KNOW THIS

In 1982, the Minnesota Supreme Court held that a conversation between two councilmembers over lunch regarding an application for a special-use permit did not violate the open meeting law because a quorum was not present.

5. Serial gatherings

The Minnesota Supreme Court has noted that meetings of less than a quorum of the public body held serially to avoid public hearings or to fashion agreement on an issue may violate the open meeting law. In short, this type of situation is a circumvention of the statute. As such, councilmembers should avoid this type of practice.

6. Technology trouble

The open meeting law does not address situations that may occur as a result of communication through telephone calls, letters, email or similar technology. The Minnesota Supreme Court found that the open meeting law did not apply to letters or to telephone conversations between less than a quorum. While it is possible that a similar decision might be reached concerning the use of email and other forms of technology, it should be stressed that if a quorum of members is involved in the communication, it would likely be considered to be a violation of the open meeting law.

In addition, serial discussions between less than a quorum of the council that are used to deliberate matters that should be dealt with at an open meeting would likely violate the open meeting law. Therefore, city councils and other groups to which the open meeting law applies should not use letters, telephone conversations, email, and other such technology if the following circumstances exist:

- A quorum of the council is involved.
- Information relating to official city business is being discussed.

The use of social media by members of a public body does not violate the open meeting law as long as the social media use is limited to exchanges with all members of the general public. The open meeting law does not define the term "social media," but this term is generally understood to mean forms of electronic communication, including websites for social networking like Facebook, LinkedIn, as well as blogs and microblogs like Twitter through which users create online communities to share information, ideas, and other content. The personal use of social media by councilmembers could still be used to support other claims such as claims of defamation or of conflict of interest in decision-making. As a result, councilmembers should make sure that any comments they make on social media are factually correct and should not comment on issues that will come before the council in the future for a quasi-judicial hearing and decision, such as the consideration of whether to grant an application for a conditional use permit.

YOU'LL WANT TO KNOW THIS

City-owned social media accounts and social media accounts of elected officials (being used in their role as an elected official) must keep in mind First Amendment protections when considering policies about comment moderation and the blocking of users. Policies that restrict comments to the topic or delete negative comments — and practices of blocking or restricting friends or followers — could face challenges.

Councilmembers unable to make a meeting may ask to attend meetings through interactive technology, such as Skype, Zoom, Teams, or other technology where the user can be seen and heard. There is an exception to the open meeting law where a member can be in attendance through the use of interactive technology. The remote location must be a public place unless the councilmember qualifies for one of the limited exceptions — which includes the current military service exception or for the health exception for 60 days after the removal of a previously declared emergency under Minn. Stat. 12.31 — both of which only can be used three times per year. Additionally, when one or more members join remotely, then notice must be posted at least three days before the meeting indicating the location from which the remote attendee or attendees are joining. We encourage interested cities to develop a policy for using technology like Zoom with the assistance of your city attorney.

■ **Intentional violations of the open meeting law**

A public officer who intentionally violates the open meeting law can be fined up to \$300. This fine may not be paid by the public body. In addition, a court may also award reasonable costs, disbursements, and attorney fees up to \$13,000 to the person who brought the violation to court.

If a plaintiff prevails in a lawsuit under the open meeting law, a court shall award reasonable attorney fees if the court determines the public body was the subject of a prior written advisory opinion from the commissioner of the Department of Administration, and the court finds that the opinion is directly related to the lawsuit and that the public body did not act in conformity with the opinion. A court is also required to give deference to the advisory opinion in a lawsuit brought to determine whether the open meeting law was violated.

If a public official is found to have intentionally violated this chapter in three or more separate actions, the public official must be removed from office and may not serve in any other capacity with that public body for a period of time equal to the term of office the person was serving. However, removal is only required if the conduct constitutes malfeasance or nonfeasance.

The statute does not address whether actions taken at an improper meeting would be invalid. The Minnesota Supreme Court once held that an attempted school district consolidation was fatally defective when the initiating resolution was adopted at a meeting that was not open to the public.

However, in more recent decisions, Minnesota courts have refused to invalidate actions taken at improperly closed meetings. In an unpublished decision, the court stated that “even a violation of the open meeting law will not invalidate actions taken at that meeting.”

A public body may pay any costs, disbursements or attorney fees incurred by or awarded against any of its members for an action under the open meeting law.

Tables of motions

There are three basic types of motions: privileged motions, subsidiary motions, and main motions. Privileged motions take precedence over subsidiary motions; subsidiary motions take precedence over main motions. The following charts of motions are listed in order of precedence and are based upon *Robert's Rules of Order Newly Revised*, 10th Edition (2000):

Privileged motions — A privileged motion is a motion that does not relate to the business at hand. Such a motion usually deals with items that require immediate consideration.

| Motion | Requires a second | Can Interrupt speaker | Debatable | Amendable | Votes required to pass | Can be reconsidered |
|--|-------------------|-----------------------|-----------|-----------|---|---------------------|
| Fix a time to adjourn. | ✓ | | | ✓ | Majority | ✓ |
| To adjourn. | ✓ | | | | Majority | |
| Recess. (A motion to take an intermission.) | ✓ | | | ✓ | Majority | |
| Raise a question of privilege. (A motion referring to a matter of personal concern to a member, e.g., asking to have the heat turned up, the windows opened, or the motion be stated again.) | | ✓ | | | Usually, no vote is taken. The chair decides. | |
| Call for the orders of the day. (Forces the consideration of a postponed motion.) | | ✓ | | | Usually, no vote is taken. The chair decides. | |

Subsidiary motions — A subsidiary motion is a motion that assists the group in disposing of the main motion.

| Motion | Requires a second | Can Interrupt speaker | Debatable | Amendable | Votes required to pass | Can be reconsidered |
|---|-------------------|-----------------------|-----------|-----------|------------------------|---|
| Lay on the table. (To postpone discussion temporarily.) | ✓ | | | | Majority | |
| Previous question or call for the question. (To stop debate and force an immediate vote.) | ✓ | | | | 2/3 | ✓ |
| Postpone to a definite time. | ✓ | | ✓ | ✓ | Majority | ✓ |
| Commit or refer. (A motion to refer to a smaller committee.) | ✓ | | ✓ | ✓ | Majority | If group has not begun consideration of a question. |
| Amend. | ✓ | | ✓ | ✓ | Majority | Y |
| Postpone indefinitely. | ✓ | | ✓ | | Majority | Affirmative vote only |

Main motions — A main motion is a formal proposal that is made by a member that brings a particular matter before the group for consideration or action.

| Motion | Requires a second | Can Interrupt speaker | Debatable | Amendable | Votes required to pass | Can be reconsidered |
|--|-------------------|-----------------------|-----------|-----------|-------------------------|---------------------|
| Any general motion, resolution, or ordinance. | ✓ | | ✓ | ✓ | Majority | ✓ |
| Take from the table. | ✓ | | | | Majority | |
| Reconsider. (To reconsider a motion already passed/defeated.) | ✓ | ✓ | ✓ | | Majority | |
| Appeal or challenge a ruling of the chair. | ✓ | ✓ | Depends | | Majority | ✓ |
| Rescind. (A motion to strike out a previously adopted motion, resolution, bylaw, etc.) | ✓ | | ✓ | ✓ | Varies, based on motion | Negative vote only |

Chapter 10

Open Meeting Law

The Minnesota Open Meeting Law provides all meetings of the City Council and any committee, subcommittee, board, department or commission thereof shall be open to the public. The Minnesota Open Meeting Law exists to prohibit elected officials from making decisions without the public being fully informed. The law is enforced to assure the public's right to be informed of and participate in actions of the City Council. For purposes of the Open Meeting Law, a "meeting" is defined as a gathering of a quorum or more, where members intentionally discuss, decide or receive information as a group on issues relating to the official business of the City.

Whenever the Council meets, the public needs to be aware of the date, time and location of the meeting. They must have the opportunity to watch the meeting, see how the Council members vote on issues, have access to the printed information the Council has at the meeting and receive a summary of Council minutes.

Thus, any scheduled gathering of the City Council or a committee must have proper notice and be open. This includes meetings where members receive information that may influence later decisions. Chance meetings and social gatherings are excluded; however, Council members cannot discuss or receive information on official business in private social settings. Further, even though gatherings of less than a quorum do not meet the definition of "meeting," serial gatherings of less than a quorum may be a violation upon the individual case.

There are a few exceptions to the Open Meeting Law and strict adherence to these requirements is necessary to avoid violating the statute. If the Council is considering a closed meeting, the City Attorney should be consulted.

If a Council Member intentionally violates the provisions of the Open Meeting Law, they are subject to personal liability including civil penalties. Government entities are prohibited from paying these penalties for Council members. If a Council member has three or more intentional violations by the same Council member the result is forfeiture of the right to serve on the City Council.

Chapter 11

Robert's Rules of Order

ROBERT'S RULES OF ORDER

There are three basic types of motions: privileged motions, subsidiary motions, and main motions. Privileged motions take precedence over subsidiary motions; subsidiary motions take precedence over main motions. The following charts of motions are listed in order of precedence and are based upon *Robert's Rules of Order Newly Revised, 10th Edition (2000)*:

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|---|-------------------|-----------------------|-----------|-----------|---|---------------------|
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| To adjourn. | ✓ | | | | Majority | |
| Recess. (A motion to take an intermission.) | ✓ | | | ✓ | Majority | |
| Raise a question of privilege. (A motion referring to a matter of personal concern to a member, e.g., asking to have the heat turned up, the windows opened, or the motion be stated again.) | | ✓ | | | Usually, no vote is taken. The chair decides. | |
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| Previous question or call for the question. (To stop debate and force an immediate vote.) | ✓ | | | | 2/3 | ✓ |
| Postpone to a definite time. | ✓ | | ✓ | ✓ | Majority | ✓ |
| Commit or refer. (A motion to refer to a smaller committee.) | ✓ | | ✓ | ✓ | Majority | If group has not begun consideration of a question. |
| Amend. | ✓ | | ✓ | ✓ | Majority | Y |
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|---|-------------------|-----------------------|-----------|-----------|-------------------------|---------------------|
| Any general motion, resolution, or ordinance. | ✓ | | ✓ | ✓ | Majority | ✓ |
| Take from the table. | ✓ | | | | Majority | |
| Reconsider. (To reconsider a motion already passed/defeated.) | ✓ | ✓ | ✓ | | Majority | |
| Appeal or challenge a ruling of the chair. | ✓ | ✓ | Depends | | Majority | ✓ |
| Rescind. (A motion to strike out a previously adopted motion, resolution, bylaw, etc.) | ✓ | | ✓ | ✓ | Varies, based on motion | Negative vote only |

Chapter 12

Special Revenue Funds

HEDA – Hermantown Economic Development Authority is for the accounting of revenue collected from conduit financing and expenditures such as business subsidy and community study.

Community Development is for the accounting of revenues that assist community infrastructure projects.

Park Dedication is for the accounting of revenue collected from new buildings and developments, and expenditures for park development.

Wetland Mitigation is for the accounting of revenue from landowners who disturb the wetland in connection of development, and expenditures for Wetland acquisition and preservation.

City Sales Tax is for the collection of 1.5% local sales tax, and expenditures authorized by the Minnesota Legislature.

Police Program is for the accounting of alcohol and drug forfeitures, Hermantown High School District and the expenditures for furthering alcohol and drug investigations, the school liaison and DARE programs.

Cable Television is for the accounting of revenue from Mediacom franchise fees, and expenditures to provide local public channel in Hermantown.

Soccer Association is for the accounting of revenue from the Hermantown Soccer Association, and expenditures related to the development of the Stebner Park soccer fields.

EWC Lease is for the accounting of revenue and expenditures from Essentia for leasing part of the EWC.

COVID-ARPA is for the accounting of revenue and expenditures from the Federal government for COVID related purposes.

Chapter 13 - Special Assessments

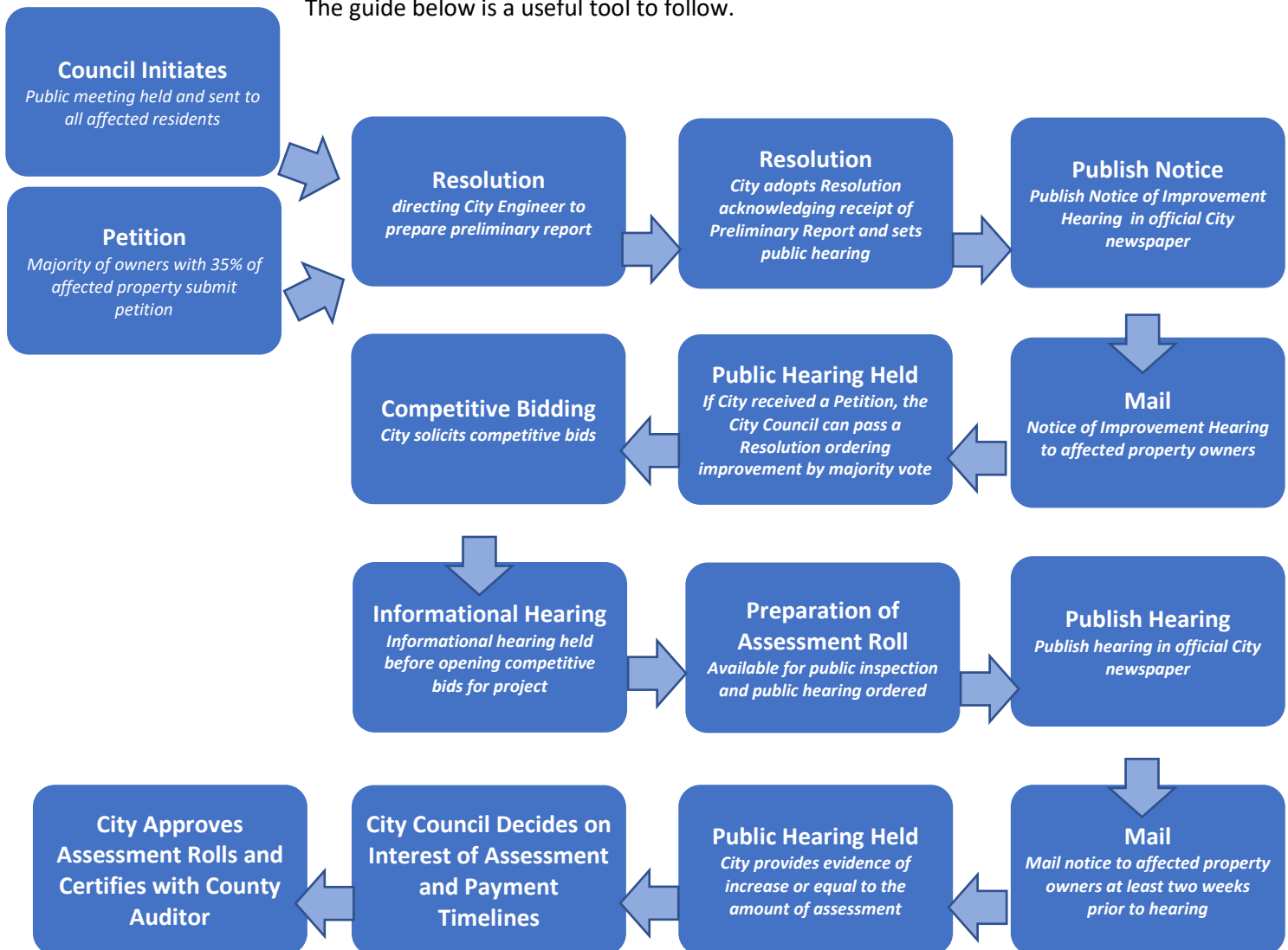
As City Councilors, you may initiate special assessments to charge certain properties for the cost of making a local improvement or to collect certain charges that will benefit those properties. This is another essential function of the City to collect payments for improvements.

What can be paid for with special assessments?

- A. Street and sidewalk improvements.
- B. Storm and sanitary sewer systems.
- C. Street light systems.
- D. Waterworks systems.
- E. Parking facilities.
- F. Enhanced 911 markers.

The amount that is charged to a particular property must be based upon the benefits that the property will receive from the improvement. The City cannot charge an amount greater than the amount the benefit will increase the value of the property.

The guide below is a useful tool to follow.



Chapter 14

Public Purpose Expenditures

Under Minnesota law the expenditure of public funds must be for public purposes.

[The following is an excerpt from the League of Minnesota Cities, Information Memo: Public Purpose Expenditures (7/13/2020) pg. 1-3, 28.]

RELEVANT
LINKS:

I. Criteria for valid public expenditures

For an expenditure of public funds to qualify as a lawful expenditure, it should have:

- A public purpose. A public purpose for the expenditure must exist.
- Authority. Specific or implied authority for the expenditure must arise out of a statute or from the city's charter. Specific authority usually is clear. In contrast, whether a statute or charter provision implicitly provides authority for an expenditure often becomes subject to interpretation. Cities should consult with their city attorneys regarding whether implied authority for a specific expenditure exists.

Minn. Const. art. X,
§ 1. Minn. Const. art.
XI, § 2.
Minn. Const. art.
XII, § 1.
Minn. Stat. §
469.191.

The Minnesota Constitution allows taxation for furthering a public purpose, but generally prohibits enacting local or special ordinances or laws to tax for a private purpose. Minnesota's Constitution also generally prohibits cities from donating money or loaning the credit of the state for the specific purpose to aid an individual, an association, or a corporation. This does not mean, however, that a city can never contribute to an association or a corporation; but, in order to do so, the expenditure must further a public purpose and must be authorized by a statute or charter.

Handbook,
*Community
Development and
Redevelopment.*

For example, a specific state law allows cities to give donations (of up to \$50,000 per year) to any incorporated developmental society or organization for promoting, advertising, improving, or developing the economic and agricultural resources. Also, various statutory economic development tools make it possible for cities to make certain contributions toward development and redevelopment. Again, cities should consult with their city attorneys or bond attorneys regarding allowable expenditures for development.

Since, as stated above, a public expenditure must always further a public purpose, analysis of what qualifies as a "public purpose" becomes crucial.

Visina v. Freeman,
89 N.W.2d 635
(Minn. 1958).

The meaning of "public purpose" constantly is evolving. The Minnesota Supreme Court has followed a liberal approach, generally finding a "public purpose" when the activity in question meets all the following:

R.E. Short Co. v. City of Minneapolis, 269 N.W.2d 331 (Minn. 1978).

City of Pipestone v. Madsen, 178 N.W.2d 594 (Minn. 1970).

Abrahamson v. St. Louis Sch. Dist., 802 N.W.2d 393 (Minn. App. 2011), affirmed in part and reversed in part in *Abrahamson v. St. Louis Cnty. Sch. Dist. 2142*, 819 N.W.2d 129 (Minn. 2012).

Walser Auto Sales v. City of Richfield, 635 N.W.2d 391 (Minn. App. 2001) (taxpayer lawsuit).

See generally, *State Auditor's Statements of Position*.

- The activity will benefit the community as a body.
- The activity directly relates to functions of government.
- The activity does not have, as its primary objective, the benefit of a private interest.

The Minnesota Supreme Court has recognized that an incidental benefit to a private interest does not, per se, deprive the spending activity of its public nature, if the primary purpose of the expenditure is public.

The Minnesota Supreme Court further clarified that activities that promote the following objectives for the benefit of all the city's residents further a public purpose:

- Public health
- Safety
- General welfare
- Security
- Prosperity
- Contentment

By no coincidence, these interests also represent the foundation of all legitimate council actions. Councilmembers are elected or appointed to govern by and for these interests, acting as specialists on what best serves the local population. Therefore, it is wise for a city council to work with its city attorney and to document, in writing, reasonable findings of the council in its determination of a valid public.

Attorney general (AG) opinions provide guidance in analyzing the validity of a public expenditure. However, the AG opinions serve only as guideposts, with courts making the final decision if an expenditure gets challenged. Judicial review focuses on (1) whether the expenditure benefits the community as a whole; and (2) whether the expenditure relates to the functions of government.

The following issues could arise from an invalid expenditure:

- Taxpayer lawsuits. Depending on the outcome, a council may have to cover the expense of defending itself in a taxpayer lawsuit and, if the taxpayer wins, dealing with a court order finding the expenditure not valid. Personal liability for the expenditure also might fall upon individual councilmembers in some situations since they have a fiduciary responsibility to spend the public's money for a public purpose.
- Non-compliance finding by the state auditor. The state auditor has the authority to find that the city made an unauthorized expenditure of public funds. This could result in future special audits and embarrassment for the city.

Appendix A, Public Purpose
Expenditure Chart.

- Public mistrust. The council could lose the trust of the people in the community.
- Changes in law. Substantial violations may prompt the adoption of more restrictive legislation on city expenditures.

A later section of this memo contains a checklist cities can use to make a preliminary determination of whether specific expenditures qualify as a proper use of public funds.

Appendix A: Public purpose expenditure chart

This chart sets forth criteria to help determine the validity of a public expenditure. An expenditure that does not meet the tests below may not represent a proper public expenditure. In those instances, a city should consult its city attorney before authorizing the expenditure.

Also see Part I above for a discussion of the criteria for public purpose expenditures.

| Test | Answer | Public expenditure <u>NOT</u> authorized | Public expenditure authorized |
|---|--------|--|-------------------------------|
| 1. Does a statute or charter provision specifically or implicitly authorize the specific expenditure? | Yes | | ✓ |
| | No | ✓ | |
| 2. Does the expenditure benefit the community as a whole? | Yes | | ✓ |
| | No | ✓ | |
| 3. Is the expenditure directly related to the functions of government? | Yes | | ✓ |
| | No | ✓ | |
| 4. Does the expenditure have as its primary objective the benefit of a private interest? | Yes | ✓ | |
| | No | | ✓ |

Chapter 15

Data Practices

MINNESOTA GOVERNMENT DATA PRACTICES ACT

The Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data are public. State or federal law must specifically classify data for the government to limit access. The Act also describes government's duty to respond to data requests made by a member of the public or by the subject of the data.

WHO?

- The Data Practices Act applies to government entities
- in Minnesota, but does not apply to the Legislature or
- to the courts. Anyone can make a request to view or
- receive copies of government data. Public data are available to anyone for any reason and private or nonpublic data are available if the requester is the subject of the data being requested. Confidential or protected nonpublic data are available only to those government employees who require access to it for work-related reasons.

WHEN?

- Government must respond to a request from a
- member of the public within a reasonable amount
- of time. Government must respond to requests
- from data subjects for data about themselves immediately or within ten business days.

HOW?

- **Step 1:** A person submits a data request to the
- Responsible Authority for the government entity that
- maintains the data. If the request is for private
- information, the government entity may ask for proof of identity.

Step 2: The government entity retrieves the responsive data, if it has any.

Step 3: The entity reviews the requested data. If the government entity denies access to any of the requested data, it must inform the requestor of the specific law that justifies the denial.

Step 4: The government entity provides access to the data and collects copy costs, if copies are requested.

WHAT?

- "Government data" means all data collected, created,
- received, maintained or disseminated by state or local
- government, regardless of its physical form, storage
- media, or conditions of use. Paper documents, email, CD-
- Roms, videotape, and computer files are all forms of "government data."

WHY?

- The Act seeks to balance three principles:
- 1) Government's need to have data to do its work; 2) The
- need to maintain an accountable and transparent
- government; and 3) The need to protect individual privacy rights.

HOW MUCH?

- **Government may charge limited amounts for**
- **copies.** Inspection of government records is always free.
- Government may never charge for the cost of separating
- public and not public data (i.e. redaction).

For members of the public: If the request is for 100 or fewer printed black and white pages: no more than \$0.25 per page.

For all other requests (including electronic data): Actual cost of searching and retrieving the data, and for making the copies.

For data subjects: For all requests: Only the actual cost of making the copies. Government may not charge for search and retrieval time.



Chapter 16

Conflicts of Interest

ELECTED OFFICIALS: TAKE CARE TO ACT ETHICALLY, MANAGE CONFLICTS OF INTEREST



By Scott T. Anderson; Shareholder and Attorney; Rupp, Anderson, Squires & Waldspurger P.A.

One of the most challenging issues with which county officials often grapple relates to situations that may give rise to conflicts of interest. Conflict of interest is a part of a larger discussion of public sector ethics in general.

Conflict of interest does not refer to all situations where there are relationships between parties. Instead it refers to a specific situation where a public official has a personal financial interest in a matter.

Public Sector Ethics

Ethics is a discipline that is broadly concerned with what is good and bad, or what is morally right and wrong. When we speak of ethics as it relates to public sector officials, we are talking about applied ethics, that discipline of philosophy that

applies ethical theory to real life situations. Judicial ethics, bioethics, business ethics, attorney ethics and ethics for public officials are attempts to guide behavior in a way society deems right or correct or moral.

For an elected official, it may be helpful to think of ethics as that law that governs the operation of government and its relationship to the general public. It advances the idea that public officials are stewards for the public and not individuals advancing their own private interests.

Within public sector ethics, we find the concepts of honesty, transparency in government, self-dealing, conflict of interest and the avoidance of the appearance of impropriety:

- Statutes dealing with bribery go toward advancing honesty and the avoidance of self-dealing in government.
- The Open Meeting Law advances the ethical concept of transparency in government.
- Data practice laws make certain data private to preclude public officials from using such data for their personal advantage or goals.
- Conflict of interest laws attempt to ensure that public officials do not make decisions based on their personal financial interests versus a decision based on advancing the health, safety and welfare of the public in general.
- Laws against the acceptance of gifts by certain officials from certain persons attempt to preclude favoritism and cronyism in government decisions, as do municipal bid laws relating to how certain public contracts are awarded.

Viewed in this manner, one can see these seemingly disparate laws are all related. These laws have a common goal to maintain the integrity of public service.

But the goal is broader and more ambitious. The laws aim to promote public confidence in the integrity of public service and government in general. We want to know that public officials are not engaged in self-dealing and that there is a level playing field for all persons dealing with government.

Conflict of Interest

Conflict of interest laws, as a subset of public sector ethics, deal with having a direct or indirect financial interest in certain contracts, work, labor or business to which a county or other governmental entity is a party. The conflict of interest laws come

from statutes, cases decided by the courts and policies or codes of conduct established by governmental entities.

Basically three sources provide interpretations of what constitutes conflicts of interest to help guide behavior: opinions of the Attorney General of the State of Minnesota; opinions issued by the Minnesota Campaign Finance and Public Disclosure Board and court cases.

Laws Regulating Conflicts of Interest

Two statutes deal with personal financial interests that are termed conflicts of interest. The first, Minnesota Statutes, Section 382.18 states that no county official, deputy or clerk, or employee of such official shall be directly or indirectly interested in any contract, work, labor or business to which the county is a party.

This is broad language. It goes beyond a mere contract and does not specify that abstention from voting on a transaction within its reach cures the conflict. Such a transaction is prohibited, and may not be entered into. There are other provisions of the statute that may be pertinent to certain transactions.

The second, Minnesota Statutes, Section 471.87 states that a public officer who is authorized to take part in any manner in making any sale, lease or contract in his or her official capacity shall not voluntarily have a personal financial interest in that sale, lease or contract, or personally benefit financially therefrom. Certain exceptions to this prohibition are set forth in Minnesota Statutes, Section 471.88.

For Section 471.87 to apply, the situation has to deal with a sale, a lease or a contract. The official must voluntarily have the financial interest. And the official must personally benefit from the sale, lease or contract. All three of these factors must be present. For direction on how a conflict of interest in this situation is resolved, we look to case law.

Conflicts of Interest Case Law

In addition to the two statutes, there is law fashioned by court decisions (common law) dealing with conflicts of interest. Under this court-made law, a public official is disqualified from voting on a matter if the official has a "direct interest" in the outcome of the matter.

There is no hard and fast rule on when this type of conflict of interest exists. Instead, each situation must be examined and decided on the basis of the specific facts present. If litigated, the court determines whether a common law conflict of interest exists by considering the following factors:

- the nature of the decision being made.
- the nature of the pecuniary interest.
- the number of officials making the decision who are interested.
- the need, if any, to have interested persons make the decision.
- the other means available, if any, such as the opportunity for review, that serve to ensure that the officials do not act arbitrarily to further their own selfish interests.

Common law conflicts of interest may exist where statutory conflicts do not exist. When a common law conflict of interest exists, it can be avoided by abstaining from the vote.

If an official's interest is such that he or she cannot vote on the item, the official should also not attempt to influence the vote through his or her discussion of the topic. Therefore, if the official is abstaining from voting, he or she should not take part in any of the discussion of the topic.

In each of these three conflicts of interest situations, the focus is on a financial interest of the individual official in the contract or work. Although some situations may involve financial interests that make the question fairly straight forward, whether a disqualifying interest is present is not always easy to determine.

What if the interest is indirect, e.g., is that of a family member, a spouse or other relative? Does that mandate that the county not enter into that contract? Or if it is a permit or other permission, does that mean the official cannot take part in the permitting? Or is it a common law conflict of interest such that the county can enter into the contract, but the official must abstain from taking part?

When these questions come up, advice from legal counsel can and should be sought. Requests for opinions can in some circumstances be made to other agencies.

Appearance of Impropriety

Knowing a person involved, even knowing him or her well and for a long time, does not make it improper or illegal to act on an issue. However, public officials must also consider how to avoid the appearance of impropriety when making decisions.

This means avoiding the appearance of family, social, political or other relationships influencing an official's conduct or judgment. It also includes lending an official's position to advance private interests of others, or leaving an impression that such persons are in a position to unduly influence the official.

Consider the relationships: On one end of the spectrum are family relationships and then some close relationships due to blood, marriage and other intimate relationships.

Then there are friendships, which vary. There is a very different tenor and tone to the friend with whom you regularly engage in activities, maybe travel with, spend time at each other's houses, etc., versus a friend with whom you talk or even have an occasional coffee or meal.

And finally, on the other end of the spectrum are casual acquaintances.

To avoid the appearance of impropriety, the public official should examine these relationships when making a decision that may involve those persons so as not to erode public confidence in government, and the integrity of public servants.

In reality, it is these relationships that engender the most questions, and give rise to the most consternation by officials. When faced with these questions, an individual should seek advice from legal counsel for the organization.

Chapter 17

Decision Making Made Easy

The Six Questions You Need to Ask

1. What does the law say?
 - 1.1. Some quick research may reveal that this isn't much of a decision at all, but that there are legal requirements that must be complied with.
2. Is it consistent with the City's vision/purpose?
 - 2.1. Consult the City's Comprehensive Plan
3. What does the budget say?
 - 3.1. Can the City afford it?
4. What does staff say?
 - 4.1. Do we have the knowledge, ability, and time to follow through with this decision?
5. Whom does this decision benefit?
 - 5.1. Be wary of conflicts of interest, both real and perceived.
6. Does it make sense?
 - 6.1. Stretch that commonsense muscle and spend some time considering the big picture

CITY OF HERMANTOWN
CITY COUNCIL MEETING
December 19, 2022
6:30 p.m.

MEETING CONDUCTED IN PERSON & VIA ZOOM

PLEDGE OF ALLEGIANCE

ROLL CALL: Councilors Geissler, Nelson, Mayor Boucher

CITY STAFF: John Mulder, City Administrator; Jackie Dolentz, City Clerk; Eric Johnson; Community Development Director; Joe Wicklund, Communications Manager; Gunnar Johnson, City Attorney

ABSENT: Councilor Hauschild

VISITORS: 5

ANNOUNCEMENTS

Welcome to Representative Elect Natalie Zeleznikar, we look forward to working with you.

Farewell to Gloria Nelson and Senator Elect Grant Hauschild as this will be their last City Council meeting. Thank you for your years of thoughtful service to the Hermantown Community. We wish you well!

PUBLIC HEARING

COMMUNICATIONS

Communications 22-123 through 22-131 were read and placed on file.

PRESENTATIONS

John Mulder, City Administrator, along with Nick Dragisich, Baker Tilly, presented the results from the recent Organizational Study

PUBLIC DISCUSSION

CONSENT AGENDA

Motion made by Councilor Geissler, seconded by Councilor Nelson, to approve the Consent Agenda which includes the following items:

- A. Approve December 5, 2022 City Council Continuation Minutes
- B. Approve general city warrants from December 1, 2022 through December 15, 2022 in the amount of \$ 440,712.59

Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

MOTIONS

Motion made by Councilor Geissler, seconded by Councilor Nelson, to approve the request of Cathy Wagner (Holte) for burial in the City Cemetery. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

Motion made by Councilor Nelson, seconded by Councilor Geissler, to approve the following Tobacco License Renewal Applications effective January 1, 2023 through December 31, 2023 contingent upon complete applications being received, successful background checks and license fees paid in full. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Motion carried.

| | |
|--------------------------------|-----------------------|
| Adolph Store | 3710 Midway Rd. |
| Stokkes Liquor | 3706 Midway Rd. |
| Chalet Lounge | 4833 Miller Trunk Hwy |
| Pure Pleasure/DIMA Corp | 5193 Miller Trunk Hwy |
| Holiday Stationstores LLC #190 | 4795 Miller Trunk Hwy |
| I Mart Stores | 4221 Haines Rd. |
| Kwik Trip, Inc. #220 | 4978 Miller Trunk Hwy |
| Kwik Trip, Inc. #216 | 4805 Miller Trunk Hwy |
| Kwik Trip, Inc. #572 | 4145 Haines Rd. |
| Korner Store | 4704 Hermantown Rd. |
| Midway Calumet | 5691 Hwy 2 |
| Fleet Farm Fuel | 4181 Loberg Ave. |
| Speedway #4602 | 5601 Miller Trunk Hwy |
| Walmart Stores, Inc. | 4740 Loberg Ave. |
| Turning Leaf | 4120 Richard Ave. |

Motion made by Councilor Geissler, seconded by Councilor Nelson, to approve Massage Establishment License Renewal Applications for the following effective January 1, 2023 through December 31, 2023 contingent upon complete applications being received, successful background checks and license fees paid in full. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

| | |
|--|-----------------------|
| Cookie Kilian Manual Therapy & Massage | 4891 Miller Trunk Hwy |
| Divine Intentions LLC | 4897 Miller Trunk Hwy |
| The Well Co. | 4897 Miller Trunk Hwy |

Motion made by Councilor Nelson, seconded by Councilor Geissler, to approve Massage Therapist License Renewal Applications for the following effective January 1, 2023 through December 31, 2023 contingent upon complete applications being received, successful background checks and license fees paid in full. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

| | |
|-------------------|---------------------|
| Cookie Killian | Killian, Cookie |
| Divine Intentions | Pecchia, Racheal |
| The Well Co. | Dehnhoff, Josephine |
| The Well Co. | Eastvold, Amanda |
| The Well Co. | Finifrock, Hannah |
| The Well Co. | Greyhawk, Chelsie |

| | |
|--------------|--------------------|
| The Well Co. | Hammond, Miala |
| The Well Co. | Harder, Megan |
| The Well Co. | Kedrowski, Abigail |
| The Well Co. | Maebane, Shalanda |
| The Well Co. | Nace, Megan |
| The Well Co. | O'Leary, Aine |
| The Well Co. | Rockenback, Amanda |
| The Well Co. | Rummel, Chad |
| The Well Co. | Waite, Matthew |

ORDINANCES

2022-14 The City Council Of The City Of Hermantown Does Ordain: An Ordinance Adopting Amended And Restated Title 4 Of The City Of Hermantown City Code, Municipal Sales Tax

Motion made by Councilor Geissler, seconded by Councilor Nelson, to adopt Ordinance 2022-14 The City Council Of The City Of Hermantown Does Ordain: An Ordinance Adopting Amended And Restated Title 4 Of The City Of Hermantown City Code, Municipal Sales Tax. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

RESOLUTIONS

2022-142 Resolution Authorizing A Summary Of An Ordinance Adopting Amended And Restated Title 4 Of The Hermantown City Code, Municipal Sales Tax

Motion made by Councilor Nelson, seconded by Councilor Geissler, to adopt Resolution 2022-142 Authorizing A Summary Of An Ordinance Adopting Amended And Restated Title 4 Of The Hermantown City Code, Municipal Sales Tax. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

2022-143 Resolution Imposing An Additional 0.5% Sales And Use Tax For The Community Recreation Initiative

Motion made by Councilor Geissler, seconded by Councilor Nelson, to adopt Resolution 2022-143 Resolution Imposing An Additional 0.5% Sales And Use Tax For The Community Recreation Initiative. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

2022-144 Resolution Reestablishing Unchanged Precincts And Polling Places For The City Of Hermantown In 2023

Motion made by Councilor Nelson, seconded by Councilor Geissler, to adopt Resolution 2022-144 Resolution Reestablishing Unchanged Precincts And Polling Places For The City Of Hermantown In 2023. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

2022-145 Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A Cooperative Agreement Between St. Louis County And The City Of Hermantown For 2023 Crack Chip Sealing CP 0000-655516

Motion made by Councilor Geissler, seconded by Councilor Nelson, to adopt amended Resolution 2022-145 Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A Cooperative Agreement Between St. Louis County And The City Of Hermantown For 2023 Crack Chip Sealing CP 0000-655516. Roll Call: Councilors Geissler, Nelson, Mayor Boucher, aye. Councilor Hauschild, absent. Motion carried.

Motion made by Councilor Nelson, seconded by Geissler, to recess the meeting at 6:52 p.m. Motion carried.

Mayor

ATTEST:

City Clerk

CITY OF HERMANTOWN

CHECKS #69495-69542 & 69447
12/16/2022-12/31/2022

PAYROLL CHECKS

Electronic Checks - #-68518-68563 \$87,951.05

Electronic Checks - #-68465-68512 \$88,283.62

LIABILITY CHECKS

Electronic Checks - #-68513-68517 \$66,610.95

Electronic Checks - #-68417-68422 \$64,725.08

Checks - #69538-69542 \$5,870.10

PAYROLL EXPENSE TOTAL \$313,440.80

ACCOUNTS PAYABLE

Checks - #69495-69537 \$127,279.57

Check - #69447 \$22,000.00

Electronic Payments #-99565-99575 \$41,677.77

ACCOUNTS PAYABLE TOTAL \$190,957.34

TOTAL \$504,398.14

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| Fun d | Account | Department | Vendor Name | Description | Amount | Check # |
|----------|---------|---|---------------------------------------|--------------------------------|-----------|---------|
| 101 | 217450 | Employee Flexplan | WEX HEALTH INC | Claim Reimbursement | 400.00 | -99575 |
| 101 | 431100 | Street Department | WEX HEALTH INC | Monthly Participant /Cobra Fee | 14.79 | -99574 |
| 101 | 419901 | City Hall & Police Building Maintenance | WEX HEALTH INC | Monthly Participant /Cobra Fee | 4.93 | -99574 |
| 601 | 494400 | Water Administration and General | WEX HEALTH INC | Monthly Participant /Cobra Fee | 14.79 | -99574 |
| 101 | 419100 | Community Development | WEX HEALTH INC | Monthly Participant /Cobra Fee | 4.93 | -99574 |
| 101 | 415300 | Administration & Finance | WEX HEALTH INC | Monthly Participant /Cobra Fee | 39.44 | -99574 |
| 101 | 421100 | Police Administration | WEX HEALTH INC | Monthly Participant /Cobra Fee | 98.58 | -99574 |
| 602 | 494900 | Sewer Administration and General | WEX HEALTH INC | Monthly Participant /Cobra Fee | 14.79 | -99574 |
| 101 | 415300 | Administration & Finance | GREATAMERICA FINANCIAL SERVICES | Copier Lease/Konica Dec | 96.00 | -99573 |
| 240 | 433200 | Water Tower | BOLTON & MENK, INC. | Hwy 53 Water Tower Recon | 1,200.00 | -99572 |
| 230 | 214500 | Escrow Deposits Payable | OVEROM LAW, PLLC | P&R Properties Tax Increment M | 2,307.00 | -99571 |
| 101 | 419100 | Community Development | OVEROM LAW, PLLC | Stebner Farms Projects | 98.00 | -99571 |
| 101 | 421100 | Police Administration | OVEROM LAW, PLLC | Police Dept Personnel Matters | 220.00 | -99571 |
| 101 | 416100 | City Attorney | OVEROM LAW, PLLC | Paul Sens Accident Claim | 111.00 | -99571 |
| 101 | 421100 | Police Administration | OVEROM LAW, PLLC | Complaint Against Officer | 33.00 | -99571 |
| 230 | 465100 | HEDA | OVEROM LAW, PLLC | HEDA Agenda Matters | 224.00 | -99571 |
| 601 | 494400 | Water Administration and General | OVEROM LAW, PLLC | Utility Deposit Policy Update | 68.00 | -99571 |
| 412 | 419100 | Community Development | OVEROM LAW, PLLC | 2021 Recreation Facility | 758.84 | -99571 |
| 101 | 416100 | City Attorney | OVEROM LAW, PLLC | Keene Creek Stream Bed Restora | 66.00 | -99571 |
| 101 | 416100 | City Attorney | OVEROM LAW, PLLC | City Councilor Orientation - H | 454.00 | -99571 |
| 416 | 452100 | Parks | OVEROM LAW, PLLC | 2021 Recreation Facility | 758.83 | -99571 |
| 602 | 494900 | Sewer Administration and General | OVEROM LAW, PLLC | Sewer Availability Charge | 55.00 | -99571 |
| 101 | 419100 | Community Development | OVEROM LAW, PLLC | 2022 Sign Ordinance Amendments | 616.00 | -99571 |
| 245 | 456201 | Broadband | OVEROM LAW, PLLC | Broadband Expansion | 42.00 | -99571 |
| 415 | 465200 | Community Development | OVEROM LAW, PLLC | 2021 Recreation Facility | 758.83 | -99571 |
| 475 | 431150 | Street Improvements | OVEROM LAW, PLLC | Richard Avenue-Lindgren Rd MN | 88.00 | -99571 |
| 101 | 416100 | City Attorney | OVEROM LAW, PLLC | Independent Living Facility - | 231.00 | -99571 |
| 101 | 416100 | City Attorney | OVEROM LAW, PLLC | Appointment of City Councilor | 66.00 | -99571 |
| 240 | 432510 | Trunk Sewer Construction | OVEROM LAW, PLLC | Okerstrom Sewer & RD Project N | 220.00 | -99571 |
| 101 | 416100 | City Attorney | OVEROM LAW, PLLC | General Matters/Retainer | 1,900.00 | -99571 |
| 412 | 419100 | Community Development | OVEROM LAW, PLLC | Trail Project | 55.00 | -99571 |
| 101 | 416100 | City Attorney | OVEROM LAW, PLLC | Data Practices Requests | 198.00 | -99571 |
| 415 | 465200 | Community Development | OVEROM LAW, PLLC | Naming Rights Agreement Matter | 560.00 | -99571 |
| 101 | 421100 | Police Administration | EMERGENCY AUTOMOTIVE TECHNOLOGIES INC | Bulb Replacement SQD 19 | 623.75 | -99570 |
| 101 | 422901 | Firehall #1 Maple Grove Road | GOODIN COMPANY INC | VAC Breaker Repair Kit - FH1 | 105.34 | -99569 |
| 240 | 433200 | Water Tower | OSSEO CONSTRUCTION CO. LLC | Water Tower Reconditioning | 28,850.00 | -99568 |
| 101 | 431100 | Street Department | NORTHERN STATES SUPPLY INC | Nuts/Bolts | 8.55 | -99567 |
| 101 | 424100 | Building Inspection | M-R SIGN CO INC | 911 Signs | 313.38 | -99566 |

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| Fun d | Account | Department | Vendor Name | Description | Amount | Check # |
|----------|---------|---|-------------------------------------|-------------------------------|-----------|---------|
| 415 | 465200 | Community Development | KRAUS-ANDERSON CONSTRUCTION COMPANY | HT Initiative Arena - Phase 1 | 22,000.00 | 69447 |
| 101 | 431100 | Street Department | A & S TRUCK AND TRAILER REPAIR | DOT H8 | 100.00 | 69495 |
| 101 | 431100 | Street Department | A & S TRUCK AND TRAILER REPAIR | DOT - Big Trailer | 100.00 | 69495 |
| 101 | 431100 | Street Department | A & S TRUCK AND TRAILER REPAIR | DOT H2 | 100.00 | 69495 |
| 101 | 431100 | Street Department | A W KUETTEL & SONS INC | Hydraulic Pump Box H4 | 1,097.00 | 69496 |
| 101 | 421100 | Police Administration | ADVANCED ELECTRONIC DESIGN INC | Printer Mount/Cables | 541.31 | 69497 |
| 101 | 419100 | Community Development | ARROWHEAD ABSTRACT & TITLE CO. | O-309250 - O&E Saline Prop | 100.00 | 69498 |
| 101 | 419100 | Community Development | ARROWHEAD ABSTRACT & TITLE CO. | O-309263 - O&E Saarela | 75.00 | 69498 |
| 101 | 419100 | Community Development | ARROWHEAD ABSTRACT & TITLE CO. | O-309192 - O&E BMAX Inc | 75.00 | 69498 |
| 101 | 419100 | Community Development | ARROWHEAD ABSTRACT & TITLE CO. | O-309190 - O&E Rudolph | 75.00 | 69498 |
| 101 | 419100 | Community Development | ARROWHEAD ABSTRACT & TITLE CO. | O-309317 - O&E Titan Premier | 75.00 | 69498 |
| 101 | 419100 | Community Development | ARROWHEAD ABSTRACT & TITLE CO. | O-309202 - O&E KTJ 360 LLC | 75.00 | 69498 |
| 101 | 431100 | Street Department | CENTRAL PENSION FUND | Training Per Contract | 47.84 | 69499 |
| 602 | 494500 | Sewer Maintenance | CENTRAL PENSION FUND | Training Per Contract | 47.84 | 69499 |
| 601 | 494300 | Water Distribution | CENTRAL PENSION FUND | Training Per Contract | 47.84 | 69499 |
| 101 | 431901 | City Garage | CINTAS CORPORATION | 1st Aid Cabinets | 190.48 | 69500 |
| 101 | 431100 | Street Department | CINTAS CORPORATION | Uniforms | 45.92 | 69500 |
| 101 | 419901 | City Hall & Police Building Maintenance | CINTAS CORPORATION | Mats at FD/PD | 30.72 | 69500 |
| 101 | 419901 | City Hall & Police Building Maintenance | CINTAS CORPORATION | Mats at CH | 8.88 | 69500 |
| 101 | 431100 | Street Department | CINTAS CORPORATION | Uniforms | 26.93 | 69500 |
| 101 | 431901 | City Garage | CINTAS CORPORATION | Mats at PW | 10.35 | 69500 |
| 101 | 431100 | Street Department | CINTAS CORPORATION | Uniforms | 9.72 | 69500 |
| 101 | 431100 | Street Department | CINTAS CORPORATION | Uniforms | 9.72 | 69500 |
| 101 | 431901 | City Garage | CINTAS CORPORATION | Mats at PW | 10.35 | 69500 |
| 101 | 431901 | City Garage | CINTAS CORPORATION | Supplies | 37.50 | 69500 |
| 101 | 431901 | City Garage | CINTAS CORPORATION | Supplies | 22.50 | 69500 |
| 101 | 431100 | Street Department | CINTAS CORPORATION | Uniforms | 9.72 | 69500 |
| 101 | 431100 | Street Department | CINTAS CORPORATION | Uniforms | 26.93 | 69500 |
| 101 | 431901 | City Garage | CINTAS CORPORATION | Mats at PW | 30.03 | 69500 |
| 101 | 431901 | City Garage | CINTAS CORPORATION | Supplies | 22.50 | 69500 |
| 601 | 494300 | Water Distribution | CITY OF DULUTH COMFORT SYSTEMS | Nov Water Charges | 66,005.18 | 69501 |
| 240 | 433500 | Water Improvements | CORE & MAIN LP | AMI Radio's Conversion | 9,558.00 | 69502 |
| 602 | 494900 | Sewer Administration and General | CUSTOMER ELATION INC | 11/22 - 12/19 Answering | 20.46 | 69503 |
| 601 | 494400 | Water Administration and General | CUSTOMER ELATION INC | 11/22 - 12/19 Answering | 30.69 | 69503 |
| 601 | 494300 | Water Distribution | DUROVEC, CHRISTOPHER | Safety Boots | 62.49 | 69504 |
| 602 | 494500 | Sewer Maintenance | DUROVEC, CHRISTOPHER | Safety Boots | 62.49 | 69504 |
| 101 | 431100 | Street Department | DUROVEC, CHRISTOPHER | Safety Boots | 124.97 | 69504 |
| 601 | 494300 | Water Distribution | FERGUSON WATERWORKS #2516 | Water Break Repair Clamp | 919.96 | 69505 |

| Fun d | Account | Department | Vendor Name | Description | Amount | Check # |
|----------|---------|--|----------------------------------|--------------------------------|----------|---------|
| 402 | 431150 | Street Improvements | FITZGERALD, PAUL AND SARA | Ugstad Rd Easement | 1,385.00 | 69506 |
| 236 | 465300 | Hermantown Wetland | GEI CONSULTANTS, INC. | HWY 53 Business Park | 3,466.47 | 69507 |
| 402 | 431150 | Street Improvements | GEI CONSULTANTS, INC. | Ugstad Rd & Arrowhead Rd Impro | 2,000.00 | 69507 |
| 101 | 214000 | Security Deposits Payable | GROVER, DEREK | Driveway Deposit Refund | 250.00 | 69508 |
| 101 | 431100 | Street Department | HERMANTOWN HYDRAULICS | Hose - H1 | 31.02 | 69509 |
| 101 | 421100 | Police Administration | HERMANTOWN SERVICE CENTER INC | Battery | 165.00 | 69510 |
| 101 | 421100 | Police Administration | HERMANTOWN SERVICE CENTER INC | Spark Plugs - SQD 15 | 344.50 | 69510 |
| 101 | 411300 | Ordinance, Public Notice and Proceedings | HERMANTOWN STAR LLC | 11/21/22 Minutes | 66.00 | 69511 |
| 101 | 414100 | Elections | HILL, JOLYNN | General Election Hours | 96.00 | 69512 |
| 245 | 419100 | Community Development | HOISINGTON KOEGLER GROUP INC. | Comprehensive Plan Update-Nov | 1,750.00 | 69513 |
| 101 | 415300 | Administration & Finance | INNOVATIVE OFFICE SOLUTIONS, LLC | Office Supplies | 577.48 | 69514 |
| 101 | 415300 | Administration & Finance | INNOVATIVE OFFICE SOLUTIONS, LLC | Post-It Flags | 11.80 | 69514 |
| 101 | 411100 | Council | INNOVATIVE OFFICE SOLUTIONS, LLC | Name Plates - HJELLE/LEBLANC | 81.14 | 69514 |
| 101 | 214000 | Security Deposits Payable | IRVING, ROB | Driveway Deposit Refund - 4978 | 250.00 | 69515 |
| 101 | 214000 | Security Deposits Payable | KASKI INC. | Driveway Deposit Refund - 5085 | 250.00 | 69516 |
| 101 | 214000 | Security Deposits Payable | KASKI INC. | Driveway Deposit Refund - 5091 | 250.00 | 69516 |
| 101 | 416100 | City Attorney | KENNEDY & GRAVEN, CHARTERED | HR Issue - PD | 313.50 | 69517 |
| 101 | 431100 | Street Department | MENARD INC | Impact Sockets | 24.96 | 69518 |
| 601 | 494300 | Water Distribution | MENARD INC | Drain Tile Repair - Water Brea | 51.27 | 69518 |
| 101 | 431901 | City Garage | MENARD INC | Light Switch Knob | 1.99 | 69518 |
| 101 | 431901 | City Garage | MENARD INC | Toilet Parts | 41.82 | 69518 |
| 101 | 431901 | City Garage | MENARD INC | Toilet Valve Shutoff | 8.49 | 69518 |
| 601 | 494300 | Water Distribution | MENARD INC | Brass Plug | 19.88 | 69518 |
| 101 | 452100 | Parks | MINARDI LUMBER AND MILLWORK | Lumber for ROseRoad Bull pPen | 374.64 | 69519 |
| 101 | 421100 | Police Administration | NAPA AUTO PARTS | Scraper - SQD 16 | 12.99 | 69520 |
| 101 | 431100 | Street Department | NAPA AUTO PARTS | Hydraulic Oil - H4 | 210.21 | 69520 |
| 101 | 431100 | Street Department | NAPA AUTO PARTS | Battery/Hose/Clamps/Air Filter | 59.06 | 69520 |
| 101 | 421100 | Police Administration | NAPA AUTO PARTS | Windshield Blades | 26.88 | 69520 |
| 601 | 494300 | Water Distribution | NAPA AUTO PARTS | Battery/Hose/Clamps/Air Filter | 153.85 | 69520 |
| 245 | 465100 | HEDA | NORTHSPAN GROUP INC | MISC (Future COVID, BUs. Grant | 1,567.90 | 69521 |
| 101 | 431100 | Street Department | O'REILLY FIRST CALL | Spark Plugs | 5.76 | 69522 |
| 101 | 415300 | Administration & Finance | PROCTOR JOURNAL | Quality Living Ad | 1,450.00 | 69523 |
| 415 | 465200 | Community Development | PROCTOR JOURNAL | AD - Q: What will the sales ta | 345.33 | 69523 |
| 416 | 452100 | Parks | PROCTOR JOURNAL | AD - Q: What will the sales ta | 345.33 | 69523 |
| 412 | 419100 | Community Development | PROCTOR JOURNAL | AD - Q: What will the sales ta | 345.34 | 69523 |
| 101 | 214500 | Escrow Deposits Payable | SANDLIN, MICHAEL | Erosion Control Deposit Refund | 500.00 | 69524 |
| 601 | 494400 | Water Administration and General | SHORT ELLIOTT HENDRICKSON INC | Water System Model Dev | 1,018.80 | 69525 |
| 101 | 214000 | Security Deposits Payable | SKORSETH, CHRISTOPHER | Driveway Deposit Refund-4324 U | 250.00 | 69526 |

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| Fun d | Account | Department | Vendor Name | Description | Amount | Check # |
|----------|---------|----------------------------------|--------------------------------|--------------------------------|-----------|---------|
| 101 | 214000 | Security Deposits Payable | SOUMIS, IAN | Driveway Deposit Refund - 4990 | 250.00 | 69527 |
| 603 | 441100 | Storm Water | ST LOUIS COUNTY AUDITOR | Special Assessments | 73.50 | 69528 |
| 601 | 494400 | Water Administration and General | ST LOUIS COUNTY AUDITOR | Special Assessments | 24.50 | 69528 |
| 101 | 431100 | Street Department | ST LOUIS COUNTY AUDITOR | CP0000-369670 Rd Maint Stripin | 12,720.00 | 69529 |
| 101 | 431100 | Street Department | ST LOUIS COUNTY AUDITOR | CP0000-369670 Rd Maint Stripin | 8,480.00 | 69529 |
| 101 | 421100 | Police Administration | STREICHER'S | Ammo 2022 | 2,229.93 | 69530 |
| 101 | 421100 | Police Administration | SUN CONTROL OF MN | 2022 Tahoe - Window Film/Refle | 625.00 | 69531 |
| 101 | 214500 | Escrow Deposits Payable | TESSIER, BEN | Erosion Control Deposit Refund | 500.00 | 69532 |
| 101 | 421100 | Police Administration | TROY'S BP AMOCO INC | Vehicle Repair/Tires - SQD 14 | 598.57 | 69533 |
| 101 | 421100 | Police Administration | TROY'S BP AMOCO INC | Oil & Filter - SQD 15 | 61.38 | 69533 |
| 101 | 421100 | Police Administration | TROY'S BP AMOCO INC | Oil & Filter - SQD 17 | 90.67 | 69533 |
| 101 | 421100 | Police Administration | TROY'S BP AMOCO INC | Vehicle Repair/Tires - SQD 14 | 775.76 | 69533 |
| 601 | 494400 | Water Administration and General | VALLI INFORMATION SYSTEMS, INC | Nov 2022 Bill Print | 535.05 | 69534 |
| 603 | 441100 | Storm Water | VALLI INFORMATION SYSTEMS, INC | Nov 2022 Bill Print | 535.06 | 69534 |
| 602 | 494900 | Sewer Administration and General | VALLI INFORMATION SYSTEMS, INC | Nov 2022 Bill Print | 535.05 | 69534 |
| 101 | 431901 | City Garage | VIKING INDUSTRIAL CENTER | Gloves | 326.37 | 69535 |
| 230 | 465100 | HEDA | WICKLUND, JOE | Reimburse Hockey Pucks SLC Day | 258.42 | 69536 |
| 230 | 465100 | HEDA | WICKLUND, JOE | Reimburse Chamber Sponsorship | 500.00 | 69536 |
| 230 | 465100 | HEDA | WICKLUND, JOE | Reimburse Chamber Lunch | 60.00 | 69536 |
| 101 | 414100 | Elections | WICKLUND, JOE | Reimburse Election Pens | 20.58 | 69536 |
| 230 | 465100 | HEDA | WICKLUND, JOE | Reimburse Greater MN Cities | 85.00 | 69536 |
| 101 | 421100 | Police Administration | ZENITH AUTO GLASS | Windshield Repair - SQD 21 | 59.00 | 69537 |

Totals: 136 records printed

190,957.34

Resolution No. 2023-01

**RESOLUTION APPOINTING COUNCIL MEMBER JOHN GEISSLER
AS THE ACTING MAYOR**

WHEREAS, Minnesota Statute § 412.02, subd. 2b. requires a resolution to appoint and acting mayor; and

WHEREAS, the City Council for the City of Hermantown would like to appoint a City Council Member to act as mayor when needed; and

WHEREAS, the appointed City Council member shall perform the duties of the Mayor during any disability or absence of the Mayor from the City; and

WHEREAS, the appointed City Council member shall perform these duties until the Mayor returns to office or until a successor has been appointed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown that Councilor John Geissler be appointed as the Acting Mayor when the situation arises that requires him to do so.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted January 3, 2023.

Resolution No. 2023-02

**RESOLUTION APPOINTING COUNCIL EX OFFICIO MEMBERS TO VARIOUS BOARDS,
COMMISSIONS AND OTHER APPOINTMENTS FOR 2023**

WHEREAS, Hermantown City Code §§ 230.01.3.1 and 230.02.3.1 requires a resolution by City Council to appointment membership to the Park Board and Utility Commission; and

WHEREAS, the City of Hermantown has several Board and Commissions in addition to the Park Board and Utility Commission.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown that the following City Council members be appointed as Ex Officio Members to the following Boards, Commissions, Groups and Task Forces for 2023:

| | |
|---------------------------------------|-------------------------|
| Airport Zoning Board | Councilor / Mayor _____ |
| Broadband Task Force | Councilor / Mayor _____ |
| Board of Appeals & Adjustments | Councilor / Mayor _____ |
| Comprehensive Planning Advisory Group | Councilor / Mayor _____ |
| Fire Department | Councilor / Mayor _____ |
| Park Board | Councilor / Mayor _____ |
| Planning & Zoning Commission | Councilor / Mayor _____ |
| Utility Commission | Councilor / Mayor _____ |

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted January 3, 2023.

Resolution No. 2023-03

RESOLUTION AUTHORIZING AND DIRECTING MAYOR WAYNE BOUCHER AND CITY ADMINISTRATOR JOHN MULDER TO SIGN CHECKS AND DRAFTS FOR THE CITY OF HERMANTOWN WITH ALTERNATES ACTING MAYOR JOHN GEISSLER AND DIRECTOR OF FINANCE & ADMINISTRATION KEVIN ORME

WHEREAS, the City Council for the City of Hermantown authorizes individuals to sign checks and draft for the City of Hermantown.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown that the following individuals are authorized to sign checks and drafts for the City of Hermantown:

Main:

Wayne Boucher, Mayor

John Mulder, City Administrator

Alternates when needed:

John Geissler, Acting Mayor

Kevin Orme, Director of Finance & Administration

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted January 3, 2023.

TO: Mayor & City Council
FROM: John Mulder, City Administrator
DATE: December 28, 2022
SUBJECT: Council Vacancy



Meeting Date: 01/03/2023

Agenda Item: 13-A

Resolution: 2023-04

REQUESTED ACTION

Accept the resignation of Grant Hauschild, and declare a vacancy on the City Council.

BACKGROUND

With Grant Hauschild's election to the MN Senate, and subsequent resignation, the City Council should declare a vacancy on the City Council and then determine how it wants to fill the unexpired term for 2023 and 2024. Because there is less than half of the term remaining, the City Council can appoint someone to that position.

The City Council has used different methods in the past. The Council could take applications and appoint from those who express interest, or they could appoint the person with the next highest vote count from the election.

SOURCE OF FUNDS (if applicable)

ATTACHMENTS

Resolution

Resolution No. 2023-04

RESOLUTION ACCEPTING RESIGNATION AND DECLARING A VACANCY

WHEREAS, the Hermantown City Council has received the written resignation of Grant Hauschild, effective on January 3, 2023 at 12:00 p.m.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota:

1. The City Council accepts Grant Hauschild's resignation described above.
2. The City Council declares that a vacancy exists on the Council effective as of 12:00 p.m. on January 3, 2023.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____, and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted January 3, 2023

TO: Mayor & City Council
FROM: Kevin Orme, Finance Director



DATE: December 19, 2022

Meeting Date: 01/03/2023

SUBJECT: Bond Reimbursement
Compliance

Agenda Item: 13-A

Resolution 2023-05

REQUESTED ACTION

Approve Procedure Relating to Compliance with Reimbursement Bond Regulations under the Internal Revenue Service Code

BACKGROUND

The City currently plans on issuing new bonds, Series 2023A for the 2023 Road Improvement Plan. In addition, the Hermantown Road Bridge is scheduled in the next year or two to be replaced. There is a blanket resolution that allows us to reimburse ourselves prior expenditures out of the proceeds of subsequently issued bonds. Hermantown previously passed this resolution (Resolution 2010-115, Resolution 2018-35, Resolution 2020-34, and Resolution 2021-27). Our municipal bond advisors, Ehlers, recommend we pass this resolution again for any 2023 new bond issues.

SOURCE OF FUNDS (if applicable)

ATTACHMENTS

Resolution

Resolution No. 2023-05

**RESOLUTION ESTABLISHING PROCEDURES RELATING TO
COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS
UNDER THE INTERNAL REVENUE CODE**

BE IT RESOLVED by the City Council (the "Council") of the City of Hermantown, Minnesota (the "City"), as follows:

1. Recitals.

(a) The Internal Revenue Service has issued Treasury Regulations, Section 1.150-2 (as the same may be amended or supplemented, the "Regulations"), dealing with "reimbursement bond" proceeds, being proceeds of the City's bonds used to reimburse the City for any project expenditure paid by the City prior to the time of the issuance of those bonds.

(b) The Regulations generally require that the City make a declaration of intent to reimburse itself for such prior expenditures out of the proceeds of subsequently issued bonds, that such declaration be made not later than 60 days after the expenditure is actually paid, and that the bonding occur and the written reimbursement allocation be made from the proceeds of such bonds within 18 months after the later of (1) the date of payment of the expenditure or (2) the date the project is placed in service (but in no event more than 3 years after actual payment).

(c) The City heretofore implemented procedures for compliance with the predecessor versions of the Regulations and desires to amend and supplement those procedures to ensure compliance with the Regulations.

(d) The City's bond counsel has advised the City that the Regulations do not apply, and hence the provisions of this Resolution are intended to have no application to payments of City project costs first made by the City out of the proceeds of bonds issued prior to the date of such payments.

2. Official Intent Declaration. The Regulations, in the situations in which they apply, require the City to have declared an official intent (the "Declaration") to reimburse itself for previously paid project expenditures out of the proceeds of subsequently issued bonds. The Council hereby authorizes the City Finance Director to make the City's Declarations or to delegate from time to time that responsibility to other appropriate City employees. Each Declaration shall comply with the requirements of the Regulations, including without limitation the following:

(a) Each Declaration shall be made not later than 60 days after payment of the applicable project cost and shall state that the City reasonably expects to reimburse itself for the expenditure out of the proceeds of a bond issue or similar borrowing. Each Declaration may be made substantially in the form of the Exhibit A which is attached to and made a part of this Resolution, or in any other format which may at the time comply with the Regulations.

(b) Each Declaration shall (1) contain a reasonably accurate description of the "project," as defined in the Regulations (which may include the property or program to be financed, as applicable), to which the expenditure relates and (2) state the maximum principal amount of bonding expected to be issued for that project.

(c) Care shall be taken so that the City, or its authorized representatives under this Resolution, not make Declarations in cases where the City does not reasonably expect to issue reimbursement bonds to finance the subject project costs, and the City officials are hereby authorized to consult with bond counsel to the City concerning the requirements of the Regulations and their application in particular circumstances.

(d) The Council shall be advised from time to time on the desirability and timing of the issuance of reimbursement bonds relating to project expenditures for which the City has made Declarations.

3. Reimbursement Allocations. The designated City officials shall also be responsible for making the "reimbursement allocations" described in the Regulations, being generally written allocations that evidence the City's use of the applicable bond proceeds to reimburse the original expenditures.

4. Effect. This Resolution shall amend and supplement all prior resolutions and/or procedures adopted by the City for compliance with the Regulations (or their predecessor versions), and, henceforth, in the event of any inconsistency, the provisions of this Resolution shall apply and govern.

ADOPTED on January 3, 2023, by the City Council of the City of Hermantown, Minnesota.

EXHIBIT A

Declaration of Official Intent

The undersigned, being the duly appointed and acting City Finance Director of the City of Hermantown, Minnesota (the "City"), pursuant to and for purposes of compliance with Treasury Regulations, Section 1.150-2 (the "Regulations"), under the Internal Revenue Code of 1986, as amended, hereby states and certifies on behalf of the City as follows:

1. The undersigned has been and is on the date hereof duly authorized by the City Council to make and execute this Declaration of Official Intent (the "Declaration") for and on behalf of the City.

2. This Declaration relates to the following project(s), property(s) or programs (the "Projects") and the costs thereof to be financed:

Hermantown Road Bridge and Richard / Lindgren Improvements

3. The City reasonably expects to reimburse itself for the payment of certain costs of the Project out of the proceeds of a bond issue or similar borrowing (the "Bonds") to be issued by the City after the date of payment of such costs. As of the date hereof, the City reasonably expects that \$2,500,000.00 is the maximum principal amount of the Bonds which will be issued to finance these Projects.

4. Each expenditure to be reimbursed from the Bonds is or will be a capital expenditure or a cost of issuance, or any of the other types of expenditures described in Section 1.150-2(d)(3) of the Regulations.

5. As of the date hereof, the statements and expectations contained in this Declaration are believed to be reasonable and accurate.

Date: January 3, 2023

City Director of Finance & Administration
City of Hermantown, Minnesota

CERTIFICATION

The undersigned, being the duly qualified and acting City Clerk of the City of Hermantown, Minnesota, hereby certifies the following:

The foregoing is a true and correct copy of a Resolution on file and of official, publicly available record in the offices of the City, which Resolution relates to procedures of the City for compliance with certain IRS Regulations on reimbursement bonds. Said Resolution was duly adopted by the governing body of the City (the "Council") at a regular or special meeting of the Council held on January 3, 2023. Said meeting was duly called, regularly held, open to the public, and held at the place at which meetings of the Council are regularly held. Councilor _____ moved the adoption of the Resolution, which motion was seconded by Councilor _____. A vote being taken on the motion, the following members of the Council voted in favor of the motion to adopt the Resolution:

and the following voted against the same:

Whereupon said Resolution was declared duly passed and adopted. The Resolution is in full force and effect and no action has been taken by the Council which would in any way alter or amend the Resolution.

WITNESS MY HAND officially as the City Clerk of the City of Hermantown, Minnesota, this ____ day of _____, 20__.

City Clerk
City of Hermantown, Minnesota

Resolution No. 2023-06

RESOLUTION APPROVING WAGE RATES FOR PART TIME EMPLOYEES IN 2023

WHEREAS, the City of Hermantown has several part-time employees; and

WHEREAS, these employees are not covered by a labor agreement; and

WHEREAS, the City Administrator recommends a pay increase of 3.25% consistent with the wage increase of other non-represented employees; and

WHEREAS, the wage rates listed below are effective January 1, 2023 through December 31, 2023.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota, as follows:

| | Position | Hours | Schedule | 2022 Rate | 2023 Rate |
|--|-----------------|--------------|-----------------|------------------|------------------|
| Custodian | 1 | 520+ | Avg. 15 hrs/wk | \$17.24 | \$17.80 |
| | | | | | |
| PW Seasonal Help | 2 | 500 | Varies | \$12.78 | \$13.19 |
| | | | | | |
| PW Seasonal Help | 2 | 500 | Varies | \$14.93 | \$15.41 |
| | | | | | |
| If previously employed by the City of Hermantown for more than 5 years | | | | | |
| | | | | | |
| | 1 | 500 | Varies | \$16.54 | \$17.08 |

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and upon a vote being taken thereon, the following voted in favor of:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted January 3, 2023.