

**Monday, February 9, 2015 6:30 PM**  
**CITY OF MINNETONKA BEACH**  
**CITY COUNCIL WORK SESSION**  
**OPEN MEETING LAWS MINUTES**

**Roll Call:** Mayor Rick Skalla, Council Members: Jill Bartel, Paul Kozloski, Jaci Lindstrom, Mike Taylor, Treasurer: Randy Gilster

**Committee or Commission members present:** Andrew Myers, Jody Sperduto, Carmen Carruthers, Jim Haag, Mike Palm

**Staff Present:** City Administrator Susanne Griffin

**Guests:** City Attorney Wally Hilke

City Attorney Wally Hilke reviewed a document dated February 9, 2015 regarding Minnesota Open Meeting Law.

All meetings must be open to the public. Whenever Council, Committees, and Commissions receive information or deliberate as a body, it must be open to the public to be there to witness it. The public must be able to state their views whether it is a public hearing or not.

The definition of a meeting can be tricky. If you attend a party and begin a discussion about a topic related to City Council and a few Council members join the conversation, now it becomes a meeting and it could be in violation of Open Meeting Law. If you are a Council member and feel strongly about an issue and decide to individually contact other Council members to express your views, and you have a serial round robin conversation with enough members to constitute a quorum and it could be in violation of Open Meeting Law. If these situations happen one on one via face-to-face, telephone or email between enough members to make a quorum, it could be in violation of Open Meeting Law. When these conversations happen in groups less than a quorum, it can still be in violation of Open Meeting Law if the intent is to circumvent the Open Meeting Law. An example is forwarding information to a member, and then that is forwarded to another member, and then another member responds to it. Now it is a meeting and needed to be noticed.

If information is being discussed, it is most likely in violation of Open Meeting Law. This includes posting information, blogging, tweeting, etc.

If you are a Council member interested in a Planning Commission topic and you attend the meeting and a couple of other Council members are there too and they comment on the issue, it is now a Council meeting as well as a Planning Commission meeting. It should have been noticed as a joint meeting

If an email is sent to all of Council and nobody comments, it is ok. If the same happens but 2 are commenting back and forth while the others don't comment but watch it happen, that is ok. If someone else then weighs in, now you have a quorum. If it is informational, just send all emails or things of this nature to the City Administrator and she can include it in the next City Council packet. You can have coffee or attend a party and discuss topics of interest but if enough members are talking about the issue, it could violate Open Meeting Law. If it is in a round robin fashion, it could be in violation of Open Meeting Law.

There are real penalties for violations of Open Meeting Law. Generally they are for intentional violations. There can be attorney's fees and the City cannot cover those costs for you. City Administrator Griffin stated the City has insurance coverage for Open Meeting Law violations. Mr. Hilke explained that it only covers the City's costs and it would not indemnify the City officials.

It is easy to avoid it by making it a policy to not talk about business outside of a meeting.

Mr. Hilke then discussed the Government Data Practices Act regarding public and private data. Currently, City Administrator Griffin would receive requests and fulfill requests for data. If there are questions about whether the data is public or private she would consult the City Attorney.

Mr. Hilke discussed Ethics and Gift Law. He stated this is often difficult in a small community. If a neighbor wants to take you to dinner, that is perfectly fine. If they have a pending variance request, you should not go to dinner with them. You should not take anything of value from anyone if they have something pending before Council or if they have told you that they will have something coming up before Council, Commission, or Committee. You can go to a party at their home but you have to be careful socializing and pay your own way. You cannot take anything of value. Mayor Skalla asked if this includes City staff. Mr. Hilke stated yes, and all appointed and elected City officials.

Council Member Kozloski discussed that Council members use their personal or work computers for Council business and if there was any litigation, all of the proprietary business information could be exposed. Mr. Hilke stated that is pretty rare but it could happen. Council Member Kozloski suggested the Council members get tablets to reduce the risk of that as well as eliminate the need to print the packets. Mayor Skalla stated he and City Administrator Griffin have discussed this issue. He thinks separate email addresses is a good start and City Administrator Griffin will continue to check into the email addresses for Council.

A question was asked about the gift law and if it is ok to receive a gift such as a birthday gift if there is no issue that is pending or going to be presented to your committee. Mr. Hilke replied that is ok but there cannot be a connection. Can a committee give a gift to a staff member that is not purchased with City funds? Yes, if it is not City funds, should not be an issue.

Mr. Hilke discussed conflicts of interest. Council members and committee members are generally prohibited from entering into a contract in which one of the members has an interest. If your best friend is asking for a variance, it is probably best to recuse yourself. You want anyone coming before you to feel they got a fair hearing. Another aspect of this is when a member uses personal experience in discussions and decision making for their committee or council. Simply stick to the laws or ordinances you are enforcing and make your decisions based on them so it doesn't appear you are making any decisions based on personal experience.

Mr. Hilke then discussed decision making. There are 2 types of decisions that are made. One is legislative decisions and they are decisions to change policies, ordinances, codes, etc. There is latitude in doing that. You make decisions on lawful factors. The other type of decision making is quasi-judicial. You are taking in evidence and you need to decide based on the evidence presented to you. You have a factual basis supported by the evidence for the decision you make. You have to have a legal standard to apply to the evidence to. You are acting as a judge and you need to be impartial.

**A motion was made by Council Member Lindstrom and seconded by Council Member Taylor to close the work session at 7:00 pm.**

**Respectfully submitted,**

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**Heidi Honey, City Clerk**