



# Meeting Guidelines

The purpose of this document is to provide general guidelines for City Council meetings, and to address common procedural situations.

## **Meeting Broadcasts & Recordings**

The City is under no legal obligation to broadcast its meetings but will make every effort to do so. Regular and Special Meetings of the City Council will be broadcast live on cable access Channel 6 and streamed to the City of Red Wing's website. Recordings of these meetings will be posted on the City's website and will be available for viewing on demand for five years.

Workshops of the City Council may be broadcast live. If they are not, they will be audio recorded, and these meetings will also be available for viewing on demand through the City's website for five years. All other board and commission recordings will be kept of the City's website for two years.

Regular and special meetings will have a virtual attendance option for the public. This is currently offered via Webex.

Technical problems may occur during a meeting which could cause the livestream to the website or the Channel 6 broadcast to go down. If this happens, staff will determine if a recording of the meeting is still successfully being made. If it is, the meeting will continue without interruption. If a recording isn't being made, the Council President will be informed. A determination will be made on how to capture a recording, either using videography or an audio recorder. The meeting will then resume. Afterwards, the recording of the meeting will be available on the City's website as usual.

## **Closed Sessions**

The City Council will follow the Open Meeting Law as outlines in MN Statutes. Statutes allow meetings to be closed for seven reasons. In all cases, the City will consult with the City Attorney regarding closed sessions, the agenda language required for them, and the need to record or not record them. As a general guideline, the following excerpts are provided to help Council and staff understand when closed sessions are allowed, and if recordings are needed. The information below does not supersede or replace guidance from the City Attorney on these matters. The following excerpts are from the [League of MN Cities Information Memo: Meetings of City Councils](#) and describes when closed sessions are allowed and when they are required.

## ***Open Meeting Law Exceptions***

*There are seven exceptions to the open meeting law that authorize the closure of meetings to the public. Under these exceptions some meetings may be closed, and some meetings must be closed. Before a meeting is 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.*

*The commissioner of the Minnesota Department of Administration has advised that a member of the public body (and not its attorney) must make the statement on the record. The open meeting law does not define the phrase “on the record,” but the commissioner has advised that the phrase should be interpreted to mean a verbal statement in open session.*

*The commissioner has also advised that citing the specific statutory authority that permits the closed meeting is the simplest way to satisfy the requirement for stating the specific grounds permitting the meeting to be closed.*

*Both the commissioner and the Minnesota Court of Appeals have concluded that something more specific than a general statement is needed to satisfy the requirement of providing a description of 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.*

## **MEETINGS THAT MAY BE CLOSED**

### **1. Labor Negotiations Under PELRA ([Minn. Stat. § 13D.03.](#))**

*A meeting to consider strategies for labor negotiations, including negotiation strategies or development or discussion of labor-negotiation proposals, may be closed. However, the actual negotiations must be done at an open meeting if a quorum of the Council is present.*

*The following procedure must be used to close a meeting under this exception:*

- The Council must decide to close the meeting by a majority vote at a public meeting and must announce the time and place of the closed 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 record 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.*

### **2. Performance Evaluations ([Minn. Stat. § 13D.05, subd. 3\(a\).](#))**

*A public body may close a meeting to evaluate the performance of an individual who is subject to its authority.*

*The following procedure must be used to close a meeting under 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 to allow the individual to make a 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.*

### **3. Attorney-Client Privilege ([Minn. Stat. § 13D.05, subd. 3\(b\).](#))**

*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 action that may give rise to future litigation.*

*The following procedure must be used to close a meeting under 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.*

#### **4. Purchase or Sale of Property ([Minn. Stat. § 13D.05, subd. 3\(c\).](#))**

*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.*

*The following procedure must be used to close a meeting under this exception:*

- *Before closing the meeting, the council 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.*

#### **5. Security Reports ([Minn. Stat. § 13D.05, subd. 3\(d\).](#))**

*A meeting may be closed to receive security briefings 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.*

*The following procedure must be used to close a meeting under 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.*
- *When describing the subject to be discussed, the Council 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.*

## **MEETINGS THAT MUST BE CLOSED**

### **6. Misconduct Allegations ([Minn. Stat. § 13D.05, subd. 2\(b\)](#) & [Minn. Stat. § 13.43, subd. 2\(4\)](#))**

*A public body must close a meeting for preliminary consideration of allegations or charges against an individual subject to the public body's authority.*

*The commissioner of the Minnesota Department of Administration has advised that a city could not close a meeting under this exception to consider allegations of misconduct against a job applicant who had been extended a conditional offer of employment. (The job applicant was not a city employee). The commissioner reasoned that the city council had no authority to discipline the job applicant or to direct his actions in any way; therefore, he was not "an individual subject to its authority."*

*The commissioner has also advised that a tape recording of a closed meeting for preliminary consideration of misconduct allegations is private personnel data under Minn. Stat. § 13.43, subd. 4, and is accessible to the subject of the data but not to the public. The commissioner noted that at some point in time, some or all of the data on the tape may become public under Minn. Stat. § 13.43, subd. 2.*

*For example, if the employee is disciplined and there is a final disposition, certain personnel data becomes public.*

*The following procedure must be used to close a meeting under 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 a 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.*

### **7. Certain Not-Public Data**

*The general rule is that meetings cannot be closed to discuss data that are not public under the Minnesota Government Data Practices Act. A meeting must be closed, however, if the following not-public 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.*
- *Certain medical records.*

*The following procedure must be used to close a meeting under this exception:*

- *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.*

## **Closed Session Language**

Closed session language commonly used by the City, previously provided by the City Attorney, are listed below.

Approved April 10, 2023

Closed Session Reason	Approved Language
City involved in a lawsuit	<p><b>Motion to go into Closed Session to Discuss the Case City of Red Wing v. XXXX, and the City's Options in the Litigation.</b></p> <p>The Open Meeting Law, Minnesota Statute section 13D.05, subdivision 3(b), states that the City Council may close a meeting pursuant to the attorney-client privilege. During the closed meeting, the City Council will meet with its attorney to discuss potential litigation strategy and evaluate the strengths and weaknesses of the parties' positions. There is a need for absolute confidentiality because the City's position would be compromised if such discussions took place in public. Accordingly, pursuant to the law I have cited, I will hereby entertain a motion that this meeting be closed pursuant to the attorney-client privilege.</p>
City Receiving Legal Advice	<p>The Open Meeting Law, Minnesota Statute section 13D.05, subdivision 3(b), states that the City Council may close a meeting pursuant to the attorney-client privilege.</p>
City Purchasing Property	<p><b>Consider Motion to go into Closed Session to Consider the Purchase of Property.</b></p> <p>The Open Meeting Law, Minnesota Statutes Section 13D.05, subdivision 3(c), allows the City Council to close a meeting to develop and/or consider offers for the purchase of real property. Staff will ask the Council to close the meeting to develop an offer to purchase property at <b>1511 Old West Main Owned by MTRE-Red Wing MN LLC (Bauer Built); PID 55-535-0580 and 55-535-0592.</b></p>
City Selling Property	<p><b>Consider Motion to go into Closed Session to Consider the Sale of Real Property.</b></p> <p>The Open meeting law, Minn. Stat Sec 13D.05, Subdivision 3(C), allows the City Council to close a meeting for the following purpose, among others: To determine the asking price for real or personal property to be sold by the government. Staff will ask the Council to close the meeting for the purpose of considering the sale of the property identified as Parcel ID No. 55.590.0960. During closed session, staff will discuss the possible sale of the identified property and will request direction relating to the Neal Street Ravine and how to proceed with the proposed sale.</p>
Labor Negotiations	<p><b>Consider Motion to go into Closed Session to Discuss Labor Negotiations, Strategies, and Developments, and to Review Labor Negotiations Proposals.</b></p> <p>Pursuant to Minnesota Statutes section 13D.03, the City Council may go into closed session to discuss labor negotiations, strategies, and developments and to review labor negotiation proposals. I will hereby entertain a motion that this meeting be closed to discuss labor negotiations, strategies, and developments and to review labor negotiation proposals related to the City's labor contracts.</p>
Employee Investigation	<p><b>Consider Motion to go into Closed Session Closed Session Pursuant to Minn. Stat. Sec. 13D.05, subd. 2(b): Preliminary Consideration of Allegations Against Individuals Subject to Council's Authority.</b></p> <p>The next item on the agenda is the preliminary consideration of allegations against individuals subject to the Council's authority. The Open Meeting Law, Minnesota Statute section 13D.05, subdivision 2(b), states that the Council shall close a meeting for the preliminary consideration of allegations against an individual subject to its authority. During the closed meeting, the Council will</p>

	discuss the allegations and what, if any, action will be taken as a result of the allegations. Accordingly, pursuant to the law I have cited, I will hereby entertain a motion that this meeting be closed for the preliminary consideration of allegations against individuals subject to the Council's authority.
Employee Evaluation	The purpose of the closed session is to evaluate the performance of XXXX. Pursuant to Minnesota Statutes Section 13D.05, subd 3(a), the Council may go into closed session to evaluate the performance of an individual who is subject to its authority.