AGENDA
SIOUX FALLS VISUAL ARTS COMMISSION
July 17, 2018
9:00 a.m.
Carnegie Town Hall 235 W 10th Street, Sioux Falls SD 57104
(Staff Liaison: Russ Sorenson: 367-8888)

ITEM 1. CALL TO ORDER & QUORUM DETERMINATION

ITEM 2. WELCOME & INTRODUCTIONS

ITEM 3. APPROVAL OF REGULAR AGENDA

ITEM 4. REVIEW & ACTION on the VAC’s Meeting Minutes for April 11, 2018 and April 17, 2018; (No May or June meetings, due to lack of quorum).

ITEM 5. REVIEW & ACTION on Proposed Amendments to VAC Bylaws

ITEM 6. PUBLIC INPUT ON NON-AGENDA ITEMS (Chairperson)
(5 minute comment period per individual)

ITEM 7. SIOUX FALLS ARTS COUNCIL UPDATES - (Sandra Pay, Sioux Falls Arts Council representative)
   a) Cultural Plan Implementation
   b) Other?

ITEM 8. VISUAL ARTS COMMISSION PROJECT UPDATES
   a) PUBLIC ART INTEGRATION – Strategic Planning Session Update by Subcommittee – (Commissioners Ivy Oland, Zach DeBoer, James Z)
   b) WEBSITE UPDATES – Completed

ITEM 9. OTHER BUSINESS

ITEM 10. ANNOUNCEMENTS
   a) NEXT MEETINGS –
      o Working Session Meeting - Wednesday, August 8, 2018, 5:30 – 7:30 pm, Downtown Library, 200 N Main Ave.
      o Regular Meeting - Tuesday, August 21, 2018 at 9:00 a.m., Carnegie Town Hall, 235 W 10th St.

ITEM 11. ADJOURNMENT

MEETING ASSISTANCE: UPON REQUEST, ACCOMMODATIONS FOR MEETINGS WILL BE PROVIDED FOR PERSONS WITH DISABILITIES. PLEASE CONTACT THE HUMAN RELATIONS OFFICE, FIRST FLOOR, CITY HALL, 224 WEST 9TH STREET, SIOUX FALLS, SD AT (605)367-8745 (VOICE) OR (605)367-7039 (TDD) AT LEAST 48 HOURS BEFORE THE MEETING EVENT.

HANDOUTS – July 17, 2018 Meeting
   o July 17, 2018 Agenda
   o April 11 and April 17, 2018 Meeting Minutes
   o SFAC Updates
   o Public Art Integration
Visual Arts Commission (VAC)
Work Session XI – Wednesday April 11, 2018 – 5:30 pm to 7:30 pm
Note Location: Sioux Falls Design Center, located at 108 W 10th Street.

DRAFT Meeting Minutes

MEMBERS PRESENT: Kellen Boice; Ivy Oland; James Zajicek;

MEMBERS ABSENT: Larry Crane; Zach DeBoer - excused; Larry Ling; Sandra Pay - excused;

OTHERS PRESENT: Russ Sorenson, VAC Staff Liaison (City Planning Office)

Work Session XI Agenda Topic: Public Art Integration in Sioux Falls
I. Call to Order & Quorum Determination
   Ivy Oland, VAC Chairperson, called the meeting to order at 5:37 p.m. There was no quorum.

II. Welcome & Introductions
   There were no guests in attendance and all the Commissioners were acquainted.

III. Review and Approval of Work Session Meeting Minutes:
   a) January 31, 2018 Work Session; No action taken due to lack of quorum.

IV. What are the Work Session Ground Rules?
   a) Governance for Work Sessions – Select a Facilitator
   b) Verify Work Session Meeting Schedule – Dates, Times, Locations
   c) VAC consensus or vote
   d) Documenting VAC Ideas
   e) Public vs. Non-Public Involvement
   f) LISTEN RESPECT RESOLVE OPENESS
   No action taken due to lack of quorum.

V. Determine VAC Focus
   a) Work Session XI Agenda Development
   b) City of Brookings Public Art Integration - Research Findings & Discussion (Larry and Ivy)
   c) Public Art Integration (PAI) Summary - VAC Member Collaborations
      Due to the lack of a quorum, no formal actions were taken by the Commissioners. However, the small group continued their work drafting a Google document entitled, “Public Art Integration (PAI) - VAC Member Collaborations” 2018.
   d) Continue Exploration of the five (5) pillars of an art integration strategy. Those pillars include: Policy; Administration; Funding; Master Planning; and Art Inventory and Management). The question items are noted below.
      POLICY (Zach DeBoer)
      o How do the right people get involved? And When?
      o What kind of projects does this apply to?
      o Who does it benefit?
      o When is budget submitted, reviewed, and approved?
      o What qualifies as public art?
      o Identify needs and opportunities?
      o What qualifies as a public art need or opportunity?
      o What are the goals for the public art collection?

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ADMINISTRATION and MANAGEMENT (Ivy Oland)
- Who oversees distribution of funds?
- How does public know about this resource?
- Who makes selections/decisions (artists)?
- Who are the stakeholders and their roles and responsibilities?
- What does the management structure look like?
- Does VAC (or appointed person) manage monies, or do we rely on other departments?

FUNDING (Larry Crane)
- What is the percentage?
- Is there a way to do public/private funding?
- How is/does the fund become self-sustaining?
- Budget – when, who, how approved?
- Can we find an example of CIP projects from other communities where other department(s) manage the funds?
- Who administers funding?

MASTER PLANNING (Kellen Boice)
- What are we doing annually – in terms of work plan, budget?
- Identifying needs & opportunities?

MAINTENANCE & CONSERVATION (Aleta Branson)
- Art Inventory and Maintenance Plans?

VI. Public Input
No public comments received.

VII. Homework Assignments
a) Continue Literature Review and Research Findings About Public Art Integration
b) Continue Review of City Ordinance about VAC Authority, Duties, and Responsibilities
c) Adopted Cultural Plan - See GOAL 6 – Cultural Facilities and Public Art Sections 6.1- 6.3
d) Each member to provide definition of Public Art Integration
e) VAC Dropbox – design element examples for proposed downtown mixed use parking ramp
f) Review Forum Questions about public art integration

VIII. Announcements
No announcements

IX. Next VAC Meetings
a) VAC Regular Meeting: Tuesday, May 15, 2018, 9:00 am, Carnegie Town Hall
b) Future VAC Work Session XII: TBD
Commissioners determined their next Working Session Meeting be scheduled for Wednesday, May 16, 2018
5:30 – 7:30 pm, to be held at the Downtown Library, Meeting Room B, at 200 N Dakota Avenue, Sioux Falls

X. Adjournment
DRAFT MEETING MINUTES
SIoux FALLS VISUAL ARTS COMMISSION
April 17, 2018
9:00 a.m.
City Hall, First Floor Commission Room 224 W 9th Street Sioux Falls SD

(Staff Liaison: Russ Sorenson: 367-8888)

MEMBERS PRESENT: Ivy Oland (Chairperson); Zach DeBoer; Larry Ling; Sandra Pay; James Zajicek;
MEMBERS ABSENT: Kellen Boice - excused; Larry Crane;
OTHERS PRESENT: Jessica Sexe, City of Sioux Falls Sustainability Coordinator (Public Works); Russ Sorenson, VAC Staff Liaison (City Planning Office)

ITEM 1. CALL TO ORDER & QUORUM DETERMINATION
Commission Chairperson, Ivy Oland, called the meeting to order at 9:03 a.m.

ITEM 2. WELCOME & INTRODUCTIONS
Chairperson, Ivy Oland, welcomed the Visual Arts Commissioners (VAC) and guest.

ITEM 3. APPROVAL OF REGULAR AGENDA – March 20, 2018 meeting
Chairperson, Ivy Oland, asked if there were any changes to the agenda. Commissioner Zach DeBoer made a motion to approve the regular agenda as presented. Commissioner Larry Ling seconded the motion. There were no public comments received. The motion to approve the regular agenda passed unanimously.

ITEM 4. RECOGNITION of SERVICE – Commissioner Larry Ling
Ivy Oland, Commission Chairperson, presented Commissioner Larry Ling, with a framed certificate plaque for his six years of service on the Visual Arts Commission. Commissioners, as well as Russ Sorenson, Staff Liaison, voiced their sincere appreciation to Larry for his dedicated volunteer service. Larry expressed his gratitude to the Commission.

ITEM 5. REVIEW & ACTION on the VAC’s Meeting Minutes for March 20, 2018 Regular Meeting
Chairperson, Ivy Oland, requested a motion to approve the March 20, 2018 meeting minutes. Commissioner Sandra Pay made a motion to approve the meeting minutes as presented. Commissioner Zach DeBoer seconded the motion. There were no public comments received. The motion to approve the March 20, 2018 meeting minutes passed unanimously.

ITEM 6. REVIEW & DISCUSSION ABOUT THE 2018 CITY STORM INLET ART PROJECT
Presenter: Jessica Sexe, Sustainability Coordinator,
Jessica Sexe – Sustainability Coordinator, explained the City of Sioux Falls’ storm sewer system is an important public utility and plays a vital role in public safety by quickly eliminating water before it can accumulate and cause flooding. However, water that moves through the storm sewer system is discharged directly into the Big Sioux River with no treatment. To help raise awareness of the effect this has on water quality, beginning in 2016, the City of Sioux Falls partnered with local businesses, organizations, and individuals to paint murals on ten storm water inlets downtown. The purpose of this project was to draw attention to the storm sewer system and to educate the public that storm water is not treated.

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In 2017, paintings on city storm sewer covers again made the public and observers more conscious of preventing potential pollutants such as litter, debris, and hazardous chemicals from entering the storm sewer system. This art project will continue in 2018 and add five more inlets throughout Sioux Falls, including neighborhoods and school campuses, to the program. Artists will be asked to propose an inlet location. Location will be contingent on City approval.

Jessica Sexe presented and explained a Draft Call for Art to the Commissioners. The purpose of the artist’s design should focus on water quality issues related to waterways or storm drains. The design should warn against undesirable waste in the storm drain including litter, pet waste, oil, chemicals, and yard waste. Or, the design can communicate how the storm drain leads to the Big Sioux River.

Submitted artist designs must be completed and in color. Artists may submit multiple entries. Only one entry per artist will be selected. Designs should include the entire top portion of the inlet lid. Manhole covers may also be painted. However, painting on the adjacent the sidewalk, or any area outside of the inlet lid into the top portion of the design, or inside of the inlet will not be allowed. Also, painting the inside of the inlet will not be allowed. Artists are asked to not include any copyright characters or designs in their design and all designs should be original. Selected artists will be provided paints for the designs which have been generously donated by Norberg Paints. Photos of the selected and completed storm drains will be posted to the City’s website and social media accounts. Selected artists will receive a $200 compensation for their design and painting.

2018 Timeline:
April 18, 2018: Project announcement
May 14, 2018 5:00 p.m.: Submission deadline
May 22, 2018: Design selection
June 4-8, 2018: Storm inlet painting (*) weather permitting

Jessica Sexe requested the Commissioners assist with jurying the design submittals using the selective design criteria of: 1) Appropriateness; 2) Relevance; 3) Site Plan; 4) Visibility / impact; and 5) determine whether or not the artist can competently execute the design.

Commissioners generally expressed their enthusiastic support for this project and willingness to serve as a jury panel in selecting final designs. Russ Sorenson expressed his willingness to continue working with Jessica Sexe so that design submittals can be juried and selected by the Commission at their May 22, 2018 regular meeting.

No further input from the public was received.

No further action was taken by the Commission on this agenda item.

ITEM 7. SIOUX FALLS ARTS COUNCIL UPDATES - (Sandra Pay, Sioux Falls Arts Council representative)

a. Cultural Plan Implementation – no comments
b. Other?
   Commissioner Sandra Pay provided an update to the Commissioners about the Sioux Falls Arts Council. She emphasized the new President for the Sioux Falls Arts Council Board of Directors is Mr. Alex Hagen, and the leadership transition is going well.

Sandra also highlighted the Sioux Falls Arts Council is one of several sponsors for the upcoming South Dakota State Arts Conference to be held on Friday May 4th and Saturday May 5th at the Downtown Holiday Inn City Centre. It is the first state arts conference in five years. Keynote speakers include Randy Cohen, Vice President for Research and Policy for Americans for the Arts, and Jane Chu, Chairperson of the National Endowment for the Arts. Other presenters include: Janet Brown – “Arts for a Changing Time”; Brian Bonde – “Nuts and Bolts of Fundraising”; Dr. Craig Howe – “Native Land / Native Projects”, Dale Lamphere – “Major Projects”; Zach DeBoer – “Artists as Entrepreneurs”; and Katrina Lehr-McKinney – “Define, Articulate, Live, Share”
ITEM 8. VISUAL ARTS COMMISSION PROJECT UPDATES
   a. PUBLIC ART INTEGRATION – Strategic Planning Session Update by Subcommittee – (Commissioners Ivy Oland, Zach DeBoer, Larry Crane)

   Chairperson, Ivy Oland, provided an update from the April 11th Working Session Meeting. Three Commissioners were present. Due to the lack of a quorum, no formal actions were taken by the Commissioners. The small group continued their work drafting a Google document entitled, “Public Art Integration (PAI) - VAC Member Collaborations” 2018.

   Commissioners determined their next Working Session Meeting scheduled for Wednesday, May 16, 2018 5:30 – 7:30 pm, would be held at the Downtown Library, Meeting Room B, at 200 N Dakota Avenue, Sioux Falls.

   b. VAC WEBSITE UPDATES – Completed.

   Russ Sorensen commented the VAC’s website has been updated. Commissioners expressed their appreciation to Russ for provided additional information on their website page.

ITEM 9. OTHER BUSINESS

There was no other business presented or discussed by the Commission.

ITEM 10. ANNOUNCEMENTS
   a) South Dakota Arts Conference – May 4-5, 2018 @ Downtown Holiday Inn Centre
      https://artssouthdakota.org/state-arts-conference/

   b) NEXT VAC MEETINGS –
      o Regular Meeting - Tuesday, May 15, 2018 at 9:00 a.m., Carnegie Town Hall, 235 W 10th Street

      o Working Session Meeting - Wednesday, May 16, 2018 5:30 – 7:30 pm, Downtown Library Meeting Room B, 200 N Dakota Avenue, Sioux Falls

ITEM 11. ADJOURNMENT

With no further business, the Commissioners adjourned the meeting at approximately 9:40 a.m.

HANDBOUTS – April 17, 2018 Meeting
   o April 17, 2018 Agenda
   o Meeting Minutes: March 20, 2018 Regular Meeting
   o 2018 City Storm Inlet Art Project
   o SFAC Updates
   o Public Art Integration
BYLAWS OF THE VISUAL ARTS COMMISSION

February 20, 2018
July 17, 2018
Bylaws of the
Visual Arts Commission

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Article I. Constitution

Provisions for establishment of the Visual Arts Commission (hereinafter Commission), are provided in Ordinance No. 72-00 as adopted by the Sioux Falls City Commission on August 14, 2000, as incorporated under the laws of the State of South Dakota.

Sec. 154.050. Created.

A visual arts commission is hereby established.

(1992 Code, § 32-50) (Ord. No. 72-00, Passed, 8-14-2000)

The Commission serves as an advisory Board to the City Council.

Article II. Membership and Appointment

Section 1. Members must be registered voters of the city. Commission members are appointed by the Mayor from the Sioux Falls community. The Visual Arts Commission shall consist of seven members appointed by the Mayor with the advice and consent of the City Council. The Commission shall consist of a maximum of seven members who serve three-year terms for a maximum of two terms. Membership shall be a diverse mixture of citizens including: a member of the Board of Directors of the Sioux Falls Arts Council at the time of appointment and a practicing visual artist. An appointed person may continue to serve the Board for up to an additional four months after the expiration of his/her term of office until a replacement is appointed and approved. If any person is appointed to serve an unexpired term and serves less than one-half of that remaining unexpired term, then that person would be eligible to serve an additional two consecutive full terms of office.

Section 2. Each member appointed shall receive orientation materials regarding, at a minimum, the form of City government, the City Conflicts of Interest ordinance, the state open meeting laws, and the basic rules of parliamentary procedure.

Section 3. Any member may withdraw from the Commission by giving written notice to the Mayor or the chairperson of the Commission. Any vacancy in the membership of the Commission shall be filled in the same manner as for appointment.

Section 4. Any vacancy on the Commission shall be filled for the unexpired term of the member vacating the Commission in the same manner as is required for the regular appointment.

Article III. Officers and Their Duties

Section 1. The officers of the Commission shall consist of a chairperson, a vice-chairperson, chairperson-pro-tem, and recording secretary.
Section 2. Chairperson—The chairperson supervises the conduct of the Commission’s business and activities; serves, ex officio, on all committees; presides at meetings; signs all acts or orders necessary to carry out the will of the Commission; and may act as the representative of the Commission to outside persons and other organized Boards as necessary.

Section 3. Vice-Chairperson—The vice-chairperson has the full powers of the chairperson in his or her absence. In the absence of the chairperson, however, the vice-chair cannot change rules and does not serve as an ex officio member of committees.

Section 4. Chairperson-pro-tem—When both the chairperson and vice-chairperson are absent from a hearing or meeting, the remainder of the members of the Commission shall elect a chairperson-pro-tem from among their own number by majority vote.

Section 5. Recording Secretary—The recording secretary serves as clerk for the Commission and carries out the official correspondence of the Commission. The recording secretary may be the same individual as the official City staff liaison.

Section 6. Committees may be appointed by the chairperson as voted by the Commission, as needed. Upon receipt of a written request, the chairperson may appoint an emergency committee without a vote of the Commission to write a letter of advocacy or prepare a recommendation.

Article IV. Election of Officers and Appointments

Section 1. The chairperson, vice-chairperson, and recording secretary of the Commission shall be elected annually by Commission members at a meeting during the first calendar quarter of each year, and be installed and assume their duties immediately.

Section 2. No officer shall be elected for more than two consecutive years. After the lapse of one year, he or she may be elected again to the same office.

Section 3. All appointed committees shall be appointed by the chairperson upon motion of the Commission. Their duties shall be specified in the motion. Their activities are limited to the purpose for which they were created, and after performing, their service ceases to exist.

Article V. Staff of the Commission and Their Duties

Section 1. City Planning staff shall serve as the liaison between the Mayor, the City, and the Commission. Planning staff advises the Commission, Mayor, and City Council on matters related to visual arts, and assists the Commission in the exercise of their duties. Planning staff shall have the privilege to address the Commission during regular meetings.
Section 2. Legal Counsel—The City Attorney or designee shall serve as legal counsel to the Commission, prepares memoranda of law as requested by the Commission, and reviews drafts of ordinances, resolutions, and bylaws and their amendments.

Article VI. Meetings

Section 1. The Commission shall schedule at least four meetings a year, with one during each calendar quarter. The chairperson of the Commission may cancel or postpone a meeting. Meeting dates for the following year shall be set on the last meeting date of each calendar year.

Section 2. The members of the Commission shall be notified at least five days in advance of the time and place of regular and meetings.

Section 3. Special meetings of the Commission may be called at any time by the chairperson or two members.

Whenever a special meeting is called, a notice in writing signed by the chairperson, or vice-chairperson requesting the meeting shall be prepared by and filed with the City Clerk and served upon each member of the Commission either in person, by facsimile, or by email. The notice shall state the date, hour, and location of the meeting and the purpose for which such meeting is called. No business shall be transacted at the meeting except such as is stated in the notice.

No special meeting shall be held until at least 24 hours after the call is issued.

Section 4. All regular and special meetings of the Commission shall be open to the public.

Section 5. Unless otherwise specified, Roberts Rules of Order, Revised, shall guide the proceedings at meetings of the Commission.

Article VII. Order of a Regular Meeting or Public Hearing

1. Call to order and determination of quorum.

2. Welcome and Introductions.

3. Approval of regular agenda.

4. Public input on non-agenda items. (Chairperson)

   (5-minute comment period per individual)

4-5. Items of the present agenda presented.

5-6. Other business.

67. Announcements.
Adjournment.

Article VIII. Form and Character of Motions

The form and character of motions shall conform to those offered within Robert’s Rules of Order, Revised.

Article IX. Quorum and Voting Requirements

Section 1. A quorum of the Commission may consist of four of the seven appointed members.

In situations where a quorum may not exist, a quorum may consist of a simple majority of those presently appointed members [in situations where vacancies have not been filled].

In order for the Commission to conduct business or take any official action, a quorum consisting of the majority of the voting members of the Commission shall be present. When a quorum is not present, no official action, except for closing of the meeting, may take place. The members of the Commission may discuss matters of interest, but can take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next regular or special meeting.

Section 2. A majority of the members present shall be required to pass a motion.

Section 3. Abstention from voting shall not be counted in the determination of a motion but shall be recorded.

Section 4. In the event of a tie vote among the other Commission members, the chairperson shall vote.

Article X. Instruments and Documents

Section 1. The official instruments of the Commission are the record of notice, the agenda, and the minutes of hearings and meetings.

Section 2. All notices, agendas, requests, agency or consultant letters or reports, citizen petitions, maps, photographs, staff reports, minutes of hearings and meetings shall constitute the documents of the Commission and shall be indexed as a matter of public record and be maintained in the City Planning office.

Section 3. A printed agenda shall be prepared in advance of all meetings. The agenda shall consist of the time and place of the meeting and specific descriptions of the topics to be discussed.
Section 4. A set of minutes shall be kept and filed with the City Clerk. Minutes shall contain a record of attendance, actions taken, numerical results of votes taken, and specific descriptions of items discussed.

Section 5. All records, files, publications, correspondence, and other materials available to the public for reading, copying, and other purposes are governed by the Freedom of Information Act.

Article XI. Letters of Advocacy

Section 1. Upon receipt of a written request, the chairperson of the Commission may appoint an emergency committee to write a letter of advocacy or determination for a project or proposal in need of immediate action.

Section 2. The committee shall consist of two to three Commission members, appointed by the chairperson, with staff and the chairperson serving as ex officio members.

Section 3. The letter of advocacy or determination will be signed by the chairperson of the Commission. If there is a conflict of interest, the chairperson shall designate the vice-chairperson or recording secretary to sign the letter.

Section 4. The topic will be placed on the next meeting agenda, and a copy of the letter shall be presented to the Commission.

Article XII. Conduct of the Members

Section 1. Members of the Commission shall make every attempt to attend all meetings and shall take such time as necessary to prepare themselves for hearings and meetings.

Section 2. Any Commission member absent from two consecutive regular meetings or any three regular meetings within a calendar year, without being excused by the chairperson, will be contacted by the chairperson to discuss the absences and possible resignation.

Section 3. A Commission member with a conflict of interest in an item before the Commission shall declare that a conflict of interest exists and withdraw from participation. Such participation includes any presentation, discussion or voting, in the regular or special meeting, or working session on that item.
Article XIII. Conduct of Persons Before the Commission

Section 1. During all public meetings and working sessions, members of the public shall be given equitable opportunity to speak. Comments should be addressed to the item before the Commission.

Section 2. At the beginning of each public meeting, and as necessary during the meeting, the hearing rules shall be presented to the public. These rules are therefore presented publicly and enforced by the chairperson for each agenda item.

Section 3. During all regular and special meetings and working sessions of the Commission, the public may be present but shall remain silent unless specifically invited by the chairperson to provide comment.

Section 4. Where a comment is irrelevant, inflammatory, or prejudicial, the chairperson may instruct the Commission to “disregard” the comment, which nevertheless remains in the public record.

Section 5. During all Commission proceedings, members of the public have the obligation to remain in order. Any conduct which interferes with the equitable right of another to provide comment or which interferes with the proper execution of Commission affairs may be ruled by the chairperson as “out-of-order” and the offending person directed to remain silent. Once having been so directed, if a person persists in disruptive conduct, the chairperson may entertain a motion to “eject” from the Commission meeting or session. Where the person fails to comply with the successful motion to eject, the chairperson may then call proper authority to physically remove the individual from the chamber for the duration of the meeting or deliberation on that item.

Article XIV. Amendment

Section 1. These bylaws may be amended or new bylaws adopted at any regular or special meeting of the Commission.

Section 2. An amendment or new bylaw requires a two-thirds vote of the members present and voting.

Section 3. The amended or new bylaws shall go into effect after a period of 30 days has elapsed.
Date: June 14, 2018
To: All City of Sioux Falls Boards and Commissions
From: Diane Best, Assistant City Attorney
Subject: 2018 Change to the South Dakota Open Meetings Law

This Memo is being sent to all City boards, commissions, and committees reporting to the Mayor or Departments (for convenience all are referred to as “Boards” in this Memo). Various Boards that make decisions on behalf of the City are required by state law to comply with the South Dakota Open Meetings Law (Attachment 1). Many other Boards follow this law even if they are advisory only and not technically required to do so. The approach in this Memo provides for consistency and informs the public about City business.

Effective July 1, 2018, a portion of the Open Meetings Law will change. Attached is 2018 legislation which has now been signed by the Governor. The relevant change is underlined and reads as follows: The chair of the public body shall reserve at every official meeting by the public body a period for public comment, limited at the chair’s discretion, but not so limited as to provide for no public comment.

This 2018 change provides for public comment on business pending before Boards. The law is broad and could also be interpreted as requiring public comment on any matter involving the Board involved (even items not currently pending before the Board). It does not require Boards to take public comment on matters that are not germane to the function of the particular Board involved. Below are some pointers.

1. A period must be listed on the agenda for “Public Comment” for each meeting. The Public Comment period can be at the beginning or end of the meeting or after each agenda item.

2. Unless the agenda provides for Public Comment on all agenda items, a general Public Comment period should be provided at some point in the meeting.

3. To the extent the agenda provides for Public Comment on some specific agenda items, it is permissible to limit the general Public Comment period to other items concerning the Board involved.

4. Public Comment can be limited to topics and time periods. For example, a general Public Comment period might be limited to 15 minutes with no longer than 3 minutes for each person (or such time periods as the Chair finds appropriate). The Public Comment period can be limited so that it pertains to the function of the particular Board involved or even to the items listed in the agenda. Other than limiting the general topic, a public body must
refrain from attempting to control the content of speech, such as barring certain types of language or viewpoints. On rare occasions, Boards may wish to stop inappropriate or boisterous speech or conduct, but should do so only if it disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting.

5. Even if a member of the public comments on new matters not on the agenda and urges action, it is not appropriate for Boards to discuss new items (even for a few minutes) or vote on them. If a Board were to discuss or take action on such new items without advance notice, other members of the public would be foreclosed from receiving notice and observing or comment on such items. Depending on the Board, doing so would be a violation of the Open Meetings Law. The new items can be placed on an agenda for the next meeting.

6. Under these new changes to the Open Meetings Law, the Chair is required to determine the Public Comment policy and explain what will be allowed at the meeting. The Board can develop guidelines. Boards with bylaws should review them to determine whether changes are necessary to provide for discretion by the Chair and to create guidelines. Changes should be reviewed by the City Attorney's Office for compliance with the Open Meetings Law.

7. Nothing in this Memo is intended to require Public Comment in executive session or require disclosure of confidential matters discussed in executive session.

8. Try to schedule the Public Comment period in a way that is consistent and provides an opportunity for meaningful input.

If you have questions, please contact the Assistant City Attorney assigned to your Board.
Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A: Task forces and committees that exercise " Sovereign Power " and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. S.D. 1:2-1-1. Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only may not be subject to the open meetings law, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. S.D. 1:2-1-1.8.
Q: WHAT IS SOUTH DAKOTA’S OPEN MEETINGS LAW?
A: South Dakota’s open meetings law embodies the principle that the public is entitled to the greatest possible information about public affairs and is intended to encourage public participation in government. SDCL 1-25-1 requires that official meetings of public bodies must be public and notice is to be given of such meetings 24 hours in advance of the meeting. The statute defines an “official meeting” as one where a quorum of the public body is present and at which official business of the body is discussed or decided, or where public policy is formulated. Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAW APPLY TO?
A: The open meetings law applies to all public bodies “of the state or its political subdivisions” that exercise “sovereign power derived from state law.” SDCL 1-25-1. This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to actually exercise sovereign power. Although no court decisions have been issued on the subject, this probably does not include bodies that are not created by statute, ordinance, or resolution, or that serve only in an advisory capacity. The state Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?
A: Yes. The open meetings law allows meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. In addition, for teleconferences where less than a quorum is present at the location open to the public, arrangements must also be made for the public to listen by telephone or Internet (except for portions of meetings properly closed for executive sessions). The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting. All votes shall be taken by roll call.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?
A: SDCL 1-25-1.1 requires that all public bodies except the state and each state board, commission, or department as provided in § 1-25-1.3, prominently post a notice and copy of the proposed agenda at the public body’s principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the public body has its own website, the notice must be posted on the public body’s website upon dissemination of the notice. For special or rescheduled meetings, public bodies must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by e-mail, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually. SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State, and each state board, commission, or department to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include the day the agenda is posted, or any weekend or legal holiday). Each state board, commission, or department is also required to give notice of a public meeting by posting its proposed agenda on http://boardsandcommissions.sd.gov.

Q: WHO ARE LOCAL NEWS MEDIA?
A: There is no definition of "local news media" in SDCL ch. 1-25. "News media" is defined in SDCL 1-31-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that "local news media" is all news media – broadcast and print – that regularly carry news to the community.

Q: CAN PUBLIC MEETINGS BE RECORDED?
A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings as long as the recording is reasonable, obvious, and not disruptive.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS PROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETINGS LAW OCCUR?
A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a $500 fine or both or (b) a reprimand by the Open Meetings Commission (“OMC”). The same penalties apply if the agenda for the meeting is not properly posted or other open meeting violations occur. Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void. It could even result in personal liability for members of the governing body involved, depending upon the action taken.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION (“OMC”)?
A: Persons alleging vioations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed, notarized complaint is made under oath, and any necessary investigation is conducted, the State’s Attorney may (a) prosecute the case as a misdemeanor, (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State’s Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General’s Office at 800-777-3215 or call to an assistant of the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General, http://oag.sd.gov.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?
A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session (i.e., “pursuant to SDCL 1-25-2(3)”). Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the meeting might state “motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter,” or “motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel.”

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken. Board members could be held personally liable for the results of an official vote taken illegally during an executive session. For example, a contract approved only during an executive session could be found void and the board members could be required to repay any public funds spent under the contract.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LATER THAN 24 HOURS BEFORE A MEETING?
A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning that body’s anticipated business. Typically the public body adopts the final agenda upon convening the meeting. At this time, the governing body may add or delete agenda items and may also change the order of business. In 2012, the South Dakota Supreme Court affirmed a South Dakota Circuit Court decision which held that a preliminary agenda may be amended when the board takes action to formally adopt the meeting agenda. See Molin v. Grant-Deuel School Dist. 29-3 Order Directing Issuance of Judgment of Affirmance, So. Dak. Sup. Ct. # 28326, October 5, 2012. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide 24 hours notice of all agenda items so as to be fair to the public and to avoid dispute. For special or rescheduled meetings, public bodies are to comply to the extent circumstance permits. In other words, posting less than 24 hours in advance may be permissible in emergencies.