



Kanabec County Board of Commissioners

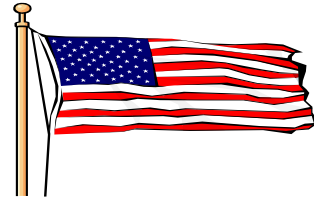
Regular Meeting Agenda The Meeting of August 17, 2021

- Due to COVID-19 safety protocol, this meeting will be in-person and via WebEx (video/phone conference)
- The public may join the meeting via WebEx or in-person at the meeting room.
- If attending the meeting in-person, the total number of persons (including commissioners) may be limited and social distancing/safety protocol will be in effect.

To be held via WebEx telephone call or video meeting:

Telephone call-in number for public access: 1-408-418-9388

Access Code: 146 834 4725



Video Meeting link:

<https://kanabeccounty.webex.com/kanabeccounty/j.php?MTID=m979364ae9d34401dc3f17f1748d2e30a>

Meeting number: 146 834 4725

Password: Qpanni3Aw72

To be held at:

**Kanabec County Courthouse
Basement Training Rooms 3 & 4
18 North Vine Street
Mora, MN 55051**

Please use the Maple Ave Entrance. Stairs and an elevator to the basement level are accessible through the entrance lobby.

Scheduled Appointments: Times are approximate and time allotted to each subject will vary. Appointment times may be changed at the discretion of the board.

- 9:00am a. Pledge of Allegiance
b. Agenda approval

- 9:05am Recess county board to a time immediately following the FSB.

Family Services Board

- 9:30am PUBLIC HEARING- REGARDING A PROPOSED CHANGE TO ORDINANCE 27;
REGARDING ALCOHOL SERVING TIME

- 10:00am Heidi Steinmetz, EDA Director- Request to Create a Broadband Committee and
Department Update

- 10:15am Kim Christenson, HR Specialist- Job Description Re-evaluation Result for Deputy
Tax Assessor II

10:30am Public Comment Telephone call-in number for public access: 1-408-418-9388

Access Code: 146 834 4725

- 10:45am Barbara McFadden, County Attorney- Resolution for Crime Victim/Witness Position Grant

- 10:55am Lisa Blowers, I.S. Director- Department Update and Additional Position Request for 2022

- 11:10am Brian Smith, Sheriff- New Position Request for 2022

The audience is invited to join the board in pledging allegiance:

*I pledge allegiance to the flag
of the United States of America,
and to the Republic for which it stands:
one nation under God, indivisible
with Liberty and Justice for all*

Other business to be conducted as time is available:

1. Minutes
2. Paid Bills
3. Regular Bills
 - a. Revenue Fund
 - b. Road & Bridge Fund
4. Gambling Requests
 - a. True Directions
 - b. Vasaloppet USA
 - c. Knife Lake Sportsman's Club
5. Creation of an Unrestricted, Assigned Fund for Unemployment Compensation
6. Legal Aid Kiosk Memorandum of Understanding
7. Future Agenda Items
8. Discuss any other matters that may come before the County Board

RECESS UNTIL BUDGET WORK SESSION 8/24/21

Kanabec County Family Services

905 East Forest Avenue, Suite 150
Mora, MN 55051
Phone: 320-679-6350
Fax: 320-679-6351

Kanabec County Family Services Board

Agenda

August 17, 2021

9:05 a.m.

- 1. Agenda Approval** **Pg. 1**
- 2. Kristen Struss - On-Call Foster Care presentation**
- 3. Director's Report** **Pg. 2**
 - Staffing – nothing to report
 - Recommendations from KCHHSAC for 2022 budget
 - See attached recommendation **Pg. 3**
 - Updates
 - Housing Moratorium ending Aug 13
 - Enhanced SNAP benefits ending in another month
 - Enhanced Unemployment will be ending in Sept
 - Ongoing Number of Children in Placement
- 4. Child Safety and Permanency and MFIP/DWP Self Support Index Performance Report and Kanabec PIP Closure letter**
 - See attached report and letter **Pg. 4-19**
- 5. Agreements for Outpatient Chemical Dependency Treatment**
 - Action requested
 - See attached Agreements and resolution **Pg. 20-36**
- 6. 2nd Quarter 2021 Report**
 - See attached report **Pg. 37-48**
- 7. Welfare Fund Report**
 - See attached report **Pg. 49**
- 8. Financial Report**
 - See attached report **Pg. 50-51**
- 9. Abstract Approval**
 - See attached abstract and board vendor paid list **Pg. 52-55**
- 10. Other Business**
- 11. Adjourn**

Family Service Director's Report

August, 2021

Staffing

Nothing to report at this time.

Recommendations from KCHHSAC for 2022 budget

Attached is the recommendation by the Advisory Committee on the budget as required by Minnesota Statute.

-See attached

Updates

- Housing Moratorium ending Aug 13

- Enhanced SNAP benefits ending in another month

- Enhanced Unemployment will be ending in September

* all dates are subject to change. We have seen no increase in client contact or service requests yet from these conclusions.

Ongoing Update on Number of Children in Placement

Last month we had 19 children in our care in out of home placements. We have 19 children in care this month compared to 11 last year for the same month.



Kanabec County Health & Human Services Advisory Committee

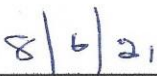
TO: Kanabec County Human Services Board

This is to certify that on July 22, 2021, pursuant to Minnesota Statutes 2020, Section 402.03, the Kanabec County Health and Human Services Advisory Committee reviewed the proposed 2022 Kanabec County Family Services budget. The committee voted in support of the proposed budget.

The committee discussed the need to have a budget line identifying outreach initiatives, including issuing publications to elected officials at all levels in Kanabec County in order to inform them of Kanabec County Family Services programs. It is recommended to the Kanabec County Human Services Board that such a budget line be included in future budget presentations to the committee.



Steve Hansberry, KCHHSAC Chair



Date



Minnesota Department of Human Services
Elmer L. Andersen Building
Commissioner Jodi Harpstead
Post Office Box 64998
St. Paul, Minnesota 55164-0998

July 15, 2021

Mr. Chuck Hurd
Director Family Services
Kanabec County
905 Forest Ave. E, Suite 150
Mora, MN 55051

Re: PIP Closure Letter – No Action Required

Dear Mr. Hurd:

This letter serves as your official notice of the closure of Kanabec County's Performance Improvement Plan (PIP) for the measure, *Percent of Children with a Substantiated Maltreatment Report Who do not Experience a Repeat Substantiated Maltreatment Report within 12 Months*. We recognize improvement efforts require planning, time, and dedication. Thank you for your ongoing commitment to the people of Minnesota.

As authorized by the Minnesota Legislature (Minn. Stat. 402A.1-50), the Human Services Performance Management system is required to assess county performance related to outcomes for people served. The most recent Performance Management report, Child Safety and Permanency and MFIP/DWP Self-Support Index – July 2021, includes updated performance metrics for the measure below. Because your county's performance is now above the minimum threshold, your Performance Improvement Plan (PIP) for this measure is complete.

Measure	Performance at PIP Start	Current Performance	Threshold
Percent of Children with a Substantiated Maltreatment Report Who do not Experience a Repeat Substantiated Maltreatment Report within 12 Months.	88.6%	97.1%	90.9%

Congratulations on the good work! You will continue to receive annual reports on this measure. If you have any questions, please contact the Human Services Performance Management team at (651) 431-5780 or by email at DHS.HSPM@state.mn.us.



Jodi Harpstead
Commissioner



Gary Mortensen
Manager, Human Services Performance Management

Kanabec County Performance Report

Child Safety and Permanency and MFIP/DWP Self-Support Index July 2021

Reporting Periods

Child Safety and Permanency: Jan. 1, 2020 – Dec. 31, 2020

MFIP/DWP Self-Support Index: April 2020 – March 2021



For more information contact:

Minnesota Department of Human Services

Human Services Performance Management System

DHS.HSPM@state.mn.us | (651) 431-5780

Child Safety and Permanency and MFIP/DWP Self-Support Index Performance Report

About this Report

The purpose of this report is to share county performance data on the Child Safety and Permanency and Minnesota Family Investment Program/Diversionary Work Program (MFIP/DWP) Self-Support Index measures as they relate to the Human Services Performance Management system (referred to hereafter as the Performance Management system).

This report contains data on four measures including:

- Jan. 1, 2020 – Dec. 31, 2020 performance for Child Safety and Permanency measures,
- annualized April 2020 to March 2021 performance for the MFIP/DWP Self-Support Index measure,
- performance data trends for recent years, and
- a performance comparison to other counties in the same Minnesota Association of County Social Services Administrators (MACSSA) region.

This report compares county performance to the thresholds established for the Performance Management system. The Performance Management system defines a threshold as the minimum level of acceptable performance, below which counties will need to complete a Performance Improvement Plan (PIP) as defined in statute. For counties below the threshold, an official PIP notification—with instructions for accessing PIP forms, PIP completion directions, and available technical assistance—will be sent in addition to this report.

Counties with Small Denominators

Child Safety and Permanency - When a county has a denominator less than 20, the Performance Management team will look at overall performance across the three Child Safety and Permanency measures to determine if a PIP is needed. In this instance, a county will not be subject to a PIP if the threshold has been met on two of the three measures.

Self-Support Index - The Minnesota Family Investment Program/Diversionary Work Program Self-Support Index measure does not exclude counties with small denominators.

Additional Information

Supplemental and background information about the Performance Management System can be found on CountyLink:
www.dhs.state.mn.us/HSPM.

About the Racial and Ethnic Groups Performance Data

Performance Data by Racial and Ethnic Groups

This report provides performance data for counties by racial and ethnic groups where there were 30 or more people of a group included in the denominator. The race and ethnicity is that of the case applicant; other household members may have a different race and/or ethnicity that is not reported here.

Child Safety and Permanency

Child Safety and Permanency measures report Hispanic or Latino ethnicity separately from race. People are counted once by Hispanic ethnicity and again with their reported race, so groups added together may exceed the total number of cases.

Self-Support Index

This report contains state-level performance data by racial and ethnic group for the Self-Support Index.

Purpose

The racial and ethnic data included in this report is for informational and planning purposes. We encourage you to review this data to identify opportunities for improvement. As the Performance Management reports evolve, we intend to add additional demographic data to help counties better understand their performance and improve outcomes for all Minnesotans. The racial and ethnic group data included in this report does not give a complete picture of county performance, the communities being served, nor systemic inequities. The Performance Management system is not currently using this data to assess a county's need for PIPs.

No Data Available

Counties with low numbers (fewer than 30) for all but one racial or ethnic group do not have a graph of performance by racial and ethnic group available in this report.

Details for Child Safety and Permanency Measures

Ongoing Performance Reports for CSP Measures

The Child Safety and Permanency and Charts and Analysis teams at DHS recommend using the public-facing dashboards (<https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/child-protection-foster-care-adoption/child-welfare-data-dashboard/>) to check your county's ongoing performance for CSP measures. The dashboards are refreshed monthly and feature a tab for 2021 Progress/Performance information. (The SSIS Charting and Analysis reports are out-of-date following recent measure changes.)

Where to Find Measures included in the Performance Management Report on the CSP Dashboard:

	Child Repeat Maltreatment	Permanency	Relative Placement
Performance Management System Measures	Of all children who were victims of a substantiated maltreatment report during a 12-month reporting period, the percent who were not victims of another substantiated maltreatment report within 12 months of their initial report.	Of all children who enter foster care in a 12-month period, the percent who are discharged to permanency within 12 months of entering foster care. (Includes discharges from foster care to reunification with the child's parents or primary caregivers, living with a relative, guardianship, or adoption.)	Of all days that children spent in family foster care settings during a 12-month reporting period, the percentage of days spent with a relative.
Location on Child Safety and Protection Dashboards	Federal Performance Measures Dashboard Performance Measure: (1) Maltreatment Reoccurrence <i>Note: Performance Management measures the inverse outcome. To find your percentage for Performance Management, subtract the CSP dashboard performance data from 100.</i>	Federal Performance Measures Dashboard Performance Measure: (4) Permanency: 12 Months	State Performance Measures Dashboard Performance Measure: (3) Relative Care

2021 threshold for Relative Care measure: 35.7%

The 2021 threshold for the measure, *percent of days children in family foster care spent with a relative* will continue to align with the DHS CSP division threshold for this measure of 35.7%.

Timelines for Child Repeat Maltreatment and Permanency Measures

Understanding the 12-month timeline for Child Repeat Maltreatment.

The Child Repeat Maltreatment measure requires two complete years of data to report performance. The measure uses the first finding from a calendar year, plus a twelve month look forward into the reporting year for reoccurrence. The data featured in this report is for data year 2020 (base year of 2019 with a look forward into 2020). Note, both events related to the measure could take place in the base year.

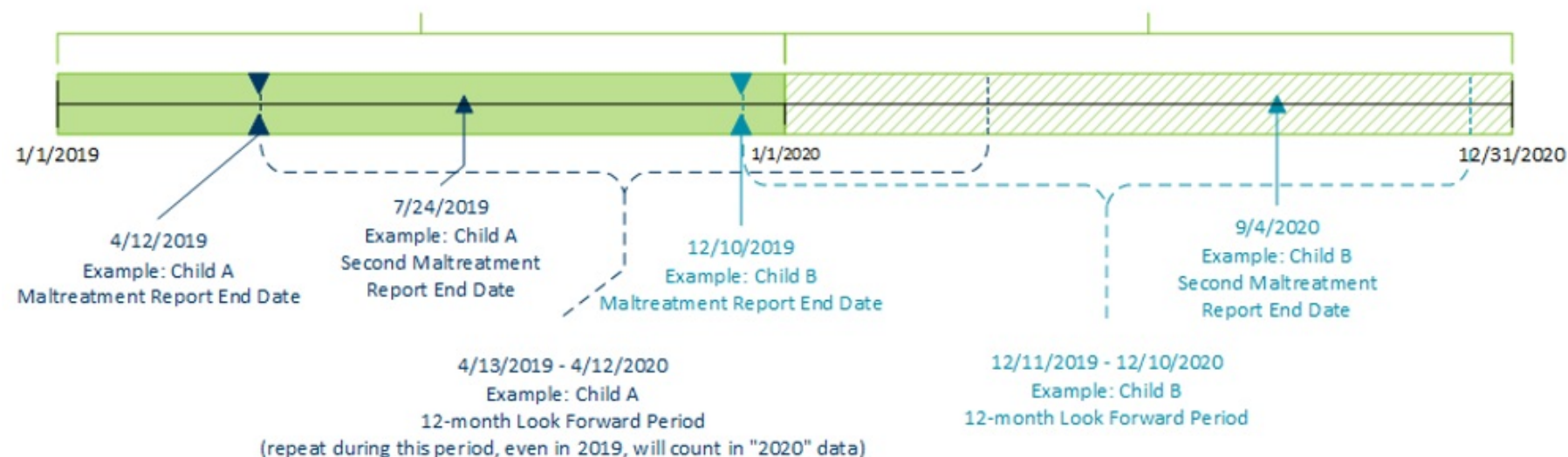
Maltreatment Examples:

Looking at cases with a child maltreatment report end date that occurred in the year prior to the year under review. When reviewing the data for 2020, we will look for maltreatment end dates in 2019.

The 12-month look forward will look for recurrence with a child maltreatment end date that is both greater than 14 days after the first identified child maltreatment report end date and less than 366 days after the first identified child maltreatment report end date.

January 2019 - December 2019

January 2020 - December 2020



About the Measure

Outcome: Children are safe and secure

Percent of children with a substantiated maltreatment report who do not experience a repeat substantiated maltreatment report within 12 months.

What is this measure?

Of all children who were victims of a substantiated maltreatment report during a 12-month reporting period, the percent who were not victims of another substantiated maltreatment report within 12 months of their initial report.

Why is this measure important?

County social services should increase the likelihood that children are safe from abuse and neglect. When a maltreatment determination is made, there is a heightened responsibility of the county to mitigate the threat of future harm to children. A repeat maltreatment determination indicates that the risk for the child has not been fully mitigated.

What affects performance on this measure?

- Service factors that may influence this measure are the availability of the service array within the community; funding sources for services; support for the agency service plan by public partners, partnerships with schools, law enforcement, courts and county attorneys; the culture of the agency; and clear support and guidance from the Department of Human Services (DHS).
- Staff factors that may influence this measure are the maturity, experience, and training of staff; the availability of experienced supervisors with sufficient time/workloads to mentor staff; adequate staffing capacity; turnover; and sufficient cultural responsiveness for diverse populations.
- Participant factors that may impact this measure are poverty; chemical use; economic stability; cultural perception of minimally adequate parenting as compared to ideal parenting; and the availability of safety net support for the parents from family, friends, and the community.
- Environmental or external factors that may impact this measure are community understanding of cultural differences in child rearing, the diversity of new immigrant populations, existing cultural biases, and the availability of transportation and available housing.

Kanabec County Performance

Outcome: Children are safe and secure.

Percent of children with a substantiated maltreatment report who do not experience a repeat substantiated maltreatment report within 12 months.

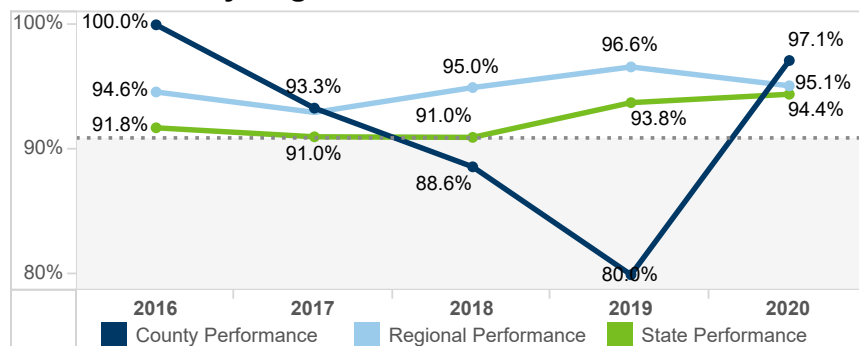
County Performance by Year

	2016	2017	2018	2019	2020
County Performance	100.0%	93.3%	88.6%	80.0%	97.1%
Denominator	22	15	44	35	35

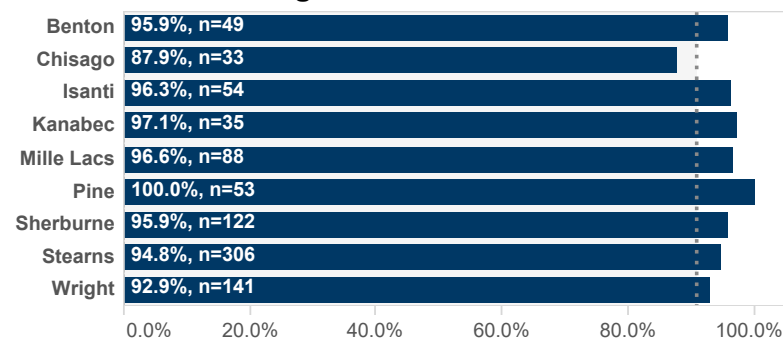
Kanabec County PIP Decision

No PIP Required – Performance is equal to or above the threshold of 90.9%.

County/Region/State Performance Trends



Current Regional Performance



No Data Available

Counties with low numbers (fewer than 30) for all but one racial or ethnic group do not have a graph of performance by racial and ethnic group available in this report. Additional information may be available upon request, please contact DHS.HSPM@state.mn.us for additional information.

*The dotted line on each graph indicates the measure threshold of 90.9%.

About the Measure

Outcome: Children have stability in their living situation

Percent of children discharged from out-of-home placement to permanency in less than 12 months.

What is this measure?

Of all children who enter foster care in a 12-month period, the percent who are discharged to permanency within 12 months of entering foster care. (Includes discharges from foster care to reunification with the child's parents or primary caregivers, living with a relative, guardianship, or adoption.)

Why is this measure important?

For children removed from their birth family, the timely establishment of permanency is an important indicator of county efforts to ensure children have permanent families.

What affects performance on this measure?

- Service factors that may influence this measure are the availability of the service array within the community; funding sources for services; support for the agency service plan by public partners, partnerships with schools, law enforcement, courts, and county attorneys; the culture of the agency; clear support and guidance from DHS; and the willingness of courts and county attorneys to engage in planning for families rather than waiting for perfection.
- Staff factors that may influence this measure are the maturity, experience, and training of staff; the availability of experienced supervisors with sufficient time/workloads to mentor staff; adequate staffing capacity; turnover; and sufficient cultural responsiveness for diverse populations.
- Participant factors that may influence this measure are a family history of maltreatment; poverty; chemical use; economic stability; cultural perceptions of minimally adequate parenting as compared to ideal parenting; safety net support for the parents from family, friends, and the community; the availability of affordable housing options; and accessible transportation.
- Environmental or external factors that may influence this measure are economic conditions that support low income families, "blame and punish" societal attitude toward parents who have failed, and the economy.

Kanabec County Performance

Outcome: Children have stability in their living situation

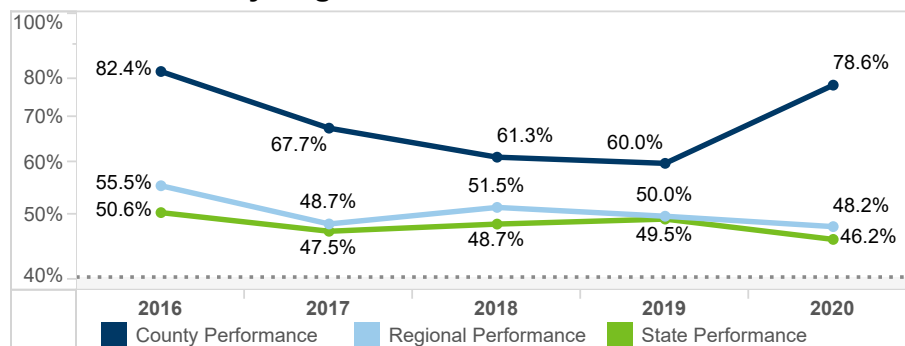
Percent of children discharged from out-of-home placement to permanency in less than 12 months.

County Performance by Year

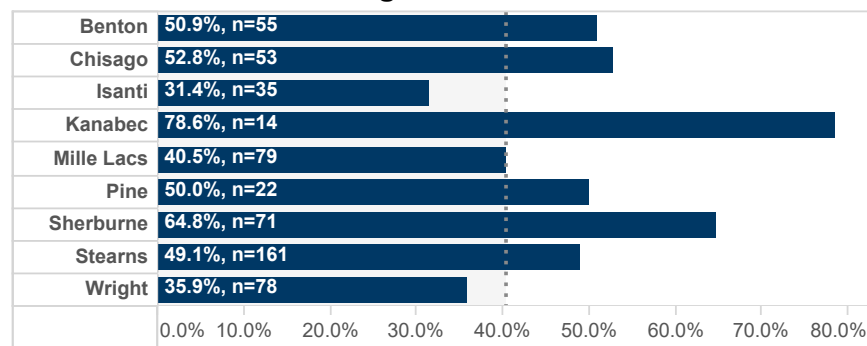
	2016	2017	2018	2019	2020
County Performance	82.4%	67.7%	61.3%	60.0%	78.6%
Denominator	17	31	31	15	14

Kanabec County PIP Decision
No PIP Required – Performance is equal to or above the threshold of 40.5%.

County/Region/State Performance Trends



Current Regional Performance



No Data Available

Counties with low numbers (fewer than 30) for all but one racial or ethnic group do not have a graph of performance by racial and ethnic group available in this report. Additional information may be available upon request, please contact DHS.HSPM@state.mn.us for additional information.

**The dotted line on each graph indicates the measure threshold of 40.5%.*

About the Measure

**Outcome: Children have the opportunity
to develop to their fullest potential**

Percent of days children in family foster care spent with a relative.

What is this measure?

Of all days that children spent in family foster care settings during a 12-month reporting period, the percentage of days spent with a relative.

Why is this measure important?

Relationships with relatives are a source of continuity for children whose lives have been disrupted by abuse or neglect. There is an emphasis on establishing and supporting important relationships in children's lives through placement with relatives.

What affects performance on this measure?

- Service factors that may influence this measure are the cultural appreciation of the importance of relatives as compared to professional parenting; systems to help identify and find family members; economic support for relative caretakers; accommodations in licensing standards for relatives; the culture of the agency; clear support and guidance from DHS; and the conflict between relative placement and the stability of remaining in the same neighborhood and school.
- Staff factors that may influence this measure are the maturity, experience, and training of staff; the availability of experienced supervisors with sufficient time/workloads to mentor staff; adequate staffing capacity; turnover; and the ability of staff to engage relatives in the government process.
- Participant factors that may influence this measure are a family history of maltreatment; disqualifying factors; hostile family relationships; distrust of the system; poverty; chemical use; economic stability; and the availability of safety net support for the parents from family, friends, and the community.
- Environmental or external factors that may influence this measure are timeliness of locating relatives; cultural norms that blame parents; community understanding of cultural differences in child rearing; the diversity of new immigrant populations; existing cultural biases; and the availability of transportation and available housing.

Kanabec County Performance

**Outcome: Children have the opportunity
to develop to their fullest potential.**

Percent of days children in family foster care spent with a relative.

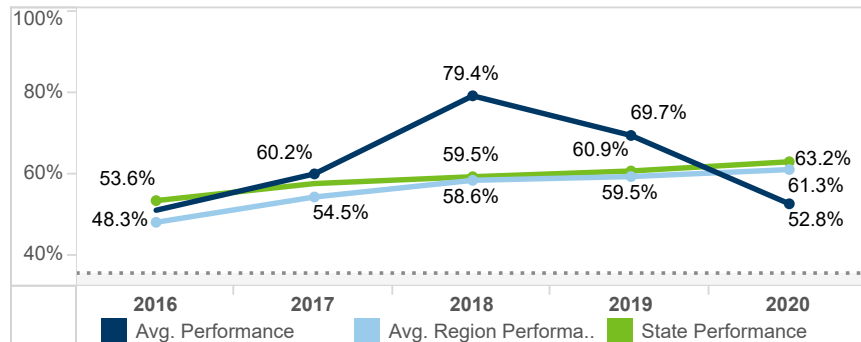
County Performance by Year

	2016	2017	2018	2019	2020
Avg. Performance	51.2%	60.2%	79.4%	69.7%	52.8%
Number of Cases	36	40	33	23	19

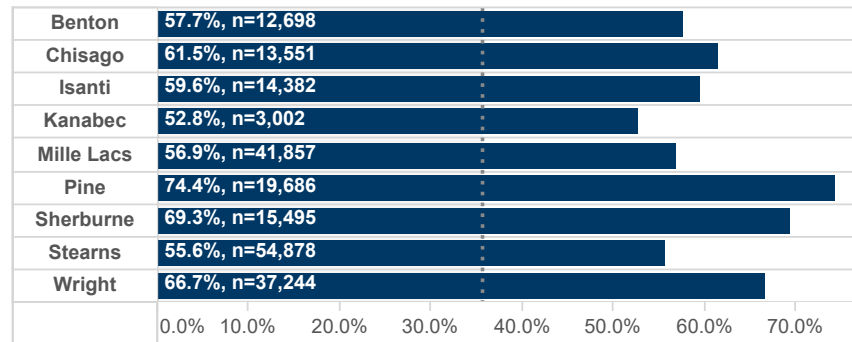
Kanabec County PIP Decision

**No PIP Required – Performance is equal to or above the
threshold of 35.7%.**

County/Region/State Performance Trends



Current Regional Performance



No Data Available

Counties with low numbers (fewer than 30) for all but one racial or ethnic group do not have a graph of performance by racial and ethnic group available in this report. Additional information may be available upon request, please contact DHS.HSPM@state.mn.us for additional information.

**The dotted line on each graph indicates the measure threshold of 35.7%.*

Minnesota Family Investment Program/Diversionsary Work Program Self-Support Index.

What is this measure?

The MFIP/DWP Self-Support Index (S-SI) is the percent of adults eligible for MFIP or DWP that are off cash assistance or are on and working at least 30 hours per week three years after a baseline quarter. The Range of Expected Performance (REP) is a target range individual to each county or tribe that controls for variables beyond the control of the county, including caseload characteristics and economic variables.

Why is this measure important?

Providing support that allows families the opportunity to attain and maintain employment is an essential role of county government. Counties, service providers and tribes contribute to and support employment through providing employment services and coordinating other resources such as housing, child care, and transportation that support a person's ability to get and keep a job.

What affects performance on this measure?

- Service factors that may affect this measure include the quality of the employment plan, communication between county financial workers and employment service agencies, lack of interface between the DHS and Department of Employment and Economic Development's (DEED) administrative databases, availability and convenience of work supports such as child care assistance and transportation; work activity requirements of the federal Work Participation Rate (WPR) performance measure; recruitment of employers and relationships with employers; and complexity of program rules for both the participant and the staff.
- Staff factors that may affect this measure include staff education, training, and experience; caseload size, understanding of program policies; turnover; and time needed for program documentation.
- Participant and environmental/external factors that may affect this measure are controlled for in the formula used to calculate each county's unique REP for the Self-Support Index.

The Self-Support Index Updated in 2020

The three-year Self-Support Index (S-SI) is an outcome measure that tracks all adults receiving Minnesota Family Investment Program (MFIP) or Diversionary Work Program (DWP) cash assistance in a quarter, and calculates what percentage have left cash assistance or are working at least 30 hours a week during the quarter three years later. The measure focuses on what happens for people rather than program requirements.

S-SI Improvements

Updates to the S-SI have improved the accuracy of the range of expected performance. After meeting with county, tribal and employment services staff to get input on factors that should be included in the methodology and testing different variables, four new variables concerning time on MFIP were added to the model in 2020. The bootstrapping/estimation method to account for similarities between agencies was also changed to improve accuracy.

The updated variables are:

- Counted months on MFIP,
- Average MFIP spell length,
- An indicator for whether the MFIP spell for the baseline quarter began within the previous 12 months, and
- An indicator for whether the youngest child in the family was older than 14, because the family would become ineligible when the youngest child turns 18.

How does this impact you?

In 2020, we closed all Performance Management PIPs for the measure and provided baseline data. This year's report includes data and PIP requirements for the updated model.

Want to know more?

Visit CountyLink to learn more about the Self-Support Index and recent changes:

http://contrib.dhs.mn.gov/main/groups/county_access/documents/pub/DHS-321961.pdf

Kanabec County Performance

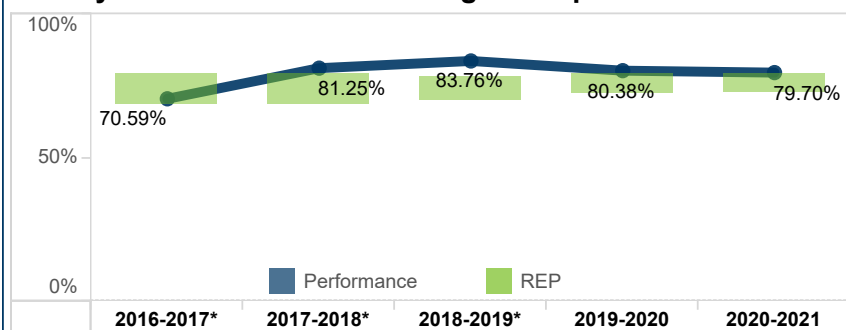
Outcome: People are economically secure.

Minnesota Family Investment Program/Diversionsary Work Program Self-support Index.

Kanabec County PIP Decision

No PIP Required - Performance is above the Range of Expected Performance for 2020/2021.

County Performance versus Range of Expected Performance



*The range of expected performance before 2019-2020 was calculated using an old version of the regression model. The model was updated for the 2020 report.

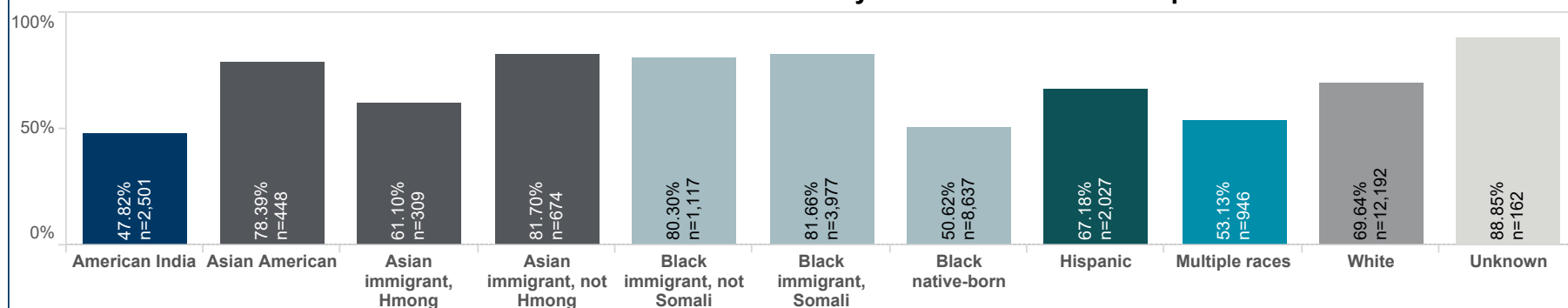
Regional Performance

County	Performance	REP-Lower	REP-Upper
Benton County	63.05%	61.66%	69.16%
Chisago County	86.32%	73.40%	81.92%
Isanti County	79.27%	73.60%	80.44%
Kanabec County	79.70%	72.95%	79.56%
Mille Lacs County	69.94%	64.17%	75.04%
Pine County	76.31%	73.53%	79.08%
Sherburne County	65.27%	66.27%	71.93%
Stearns County	70.08%	64.75%	72.21%
Wright County	68.93%	66.33%	74.24%

Performance Compared to Range of Expected Performance

■ Above ■ Below ■ Within

2020-2021 Statewide Performance by Racial and Ethnic Group



PURCHASE OF SERVICES CONTRACT

The County of Kanabec, dba Kanabec County Family Services, at 905 Forest Avenue East, Suite 150, Mora, MN 55051 (hereinafter “the County”) and, Recovering Hope Treatment Center 2031 Rowland Rd, Mora, MN 55051 (hereinafter “the Contractor”) enter into this Agreement for the period from August 1, 2021 to December 31, 2022.

WITNESSETH

WHEREAS, Minnesota Statutes, Chapter 254B establishes the Consolidated Chemical Dependency Treatment Fund to enable counties to provide chemical dependency treatment services to eligible clients;

WHEREAS, the County of Kanabec has designated the Contractor to provide chemical dependency treatment services pursuant to Minnesota Statutes, Chapter 245B, which outlines its duties, obligations, and responsibilities in this regard;

WHEREAS, the Contractor is an organization which has applied to be licensed under Minnesota Department of Human Services Rules 9530.4100-9530.4410, as required by Minnesota Statutes 245A.01-245A16, to provide Chemical Dependency Treatment services which are eligible for funding by the Consolidated Chemical Dependency Treatment Fund;

WHEREAS, the County, pursuant to Minnesota Statutes, Section 373.01, 373.02, 254B, and 256M.60 wishes to purchase such program services from the Contractor;

WHEREAS, the Contractor represents that it is duly qualified and willing to perform such services under Minnesota Rules, DHS License number 1047832, 1067221, 1064836, 1078348, and 1081190; and

WHEREAS, the County and the Contractor, according to Minnesota Rules, Part 9550.0040, Subparts 7 and 8, understand that this agreement serves such purpose as to place Consolidated Chemical Dependency Treatment Fund eligible clients and inebriate clients with the Contractor.

NOW THEREFORE, in consideration of the mutual understandings and agreements set forth, the County and Contractor agree as follows:

I. Contractor’s Duties.

- A. As specified in the Minnesota Biennial Children & Community Services Act and the Kanabec County Biennial Agreement, the County agrees to purchase and the Contractor agrees to furnish the following: Outpatient Treatment Services for alcoholic and chemically dependent persons ages 12 through 19.
- B. The Contractor agrees to provide upon request:
 - 1. An explicit description of the services to be provided;

PURCHASE OF SERVICES CONTRACT

2. An exposition of the staffing including job descriptions and professional qualifications of personnel;
 3. An organizational chart;
 4. The licensed program capacity;
 5. Program content;
 6. Program budget; and
 7. Copies of license.
- C. The Contractor shall, in writing within 10 days, notify the County whenever it is unable to, or going to be unable to, provide the required quality or quantity of Purchased Services. Upon such notification, County shall determine whether such inability will require modification or cancellation of said contract.
- D. The Contractor shall participate in the Drug and Alcohol Abuse Normative Evaluation System (DAANES) or a comparable client information system, which meets the criteria and reporting requirements of Minnesota Rules, Part 9530.7030.

II. **Cost and Delivery of Purchased Services.**

- A. The unit costs for providing services to clients eligible for Consolidated Chemical Dependency Treatment Fund reimbursement under Minnesota Rules, Parts 9530.7000 to 9530.7020 shall be:

Outpatient Treatment \$35.03 per hour

- B. The unit costs for providing the following services for clients of Kanabec County eligible for Assessment, Screening, Case Support, and Placement are as follows:

Chemical Use Problem Assessment/Screening	\$150.00 per assessment
Chemical Use/Dependency Assessments	\$150.00 per assessment
Case Support	\$35.53 per hour
Placement Only	\$35.53 per occurrence

- C. Rates in effect may be subject to increase at the discretion of the MN Department of Human Services. The Contractor will be paid according to the increase set by MN DHS.
- D. The County does not employ a sufficient number of qualified assessors and the only qualified assessors available in the County have a direct shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. A County designee providing assessments under a variance granted under Subpart 5 shall not place clients in treatment. The County designee shall gather information required under Part 9530.6620 and provide the local agency with the documentation required under Part 9530.6615, Subpart 4, items A to D. The local agency must make all placement decisions for clients assessed by a County designee under a variance.

PURCHASE OF SERVICES CONTRACT

- E. The Contractor certifies that payment claims for Purchased Services will be in accordance with the rates of payment amounts authorized by the County or by the County or reservation of financial responsibility, on the Client Placement Authorization – CD Fund Form. The Contractor agrees to submit all charges in a form and manner acceptable to the Consolidated Chemical Dependency Treatment Fund invoice processing system for those services.
- F. Purchased services will be provided at 2031 Rowland Rd., Mora, MN 55051.

III. **Eligibility for Services.** The parties understand and agree that the eligibility of the client to receive the Purchased Services is to be determined in accordance with eligibility criteria established by Minnesota Statutes, Section 254B.04 and Minnesota Rules, Parts 9530.7015 to 9530.7020 for Consolidated Chemical Dependency Treatment Fund Services. The parties understand and agree that the County, or the County or reservation of financial responsibility, shall determine preliminary and final client eligibility in accordance with the assessment criteria of Minnesota Rules, Pars 9530.6600 to 9530.6655 and the eligibility criteria of Minnesota Rules, Parts 9530.7000 to 9530.7020 for Consolidate Chemical Dependency Treatment Fund Services. The parties understand and agree that when the County, or a County or reservation of financial responsibility refers a Consolidated Chemical Dependency Treatment Fund eligible clients to the Contractor for placement, the County, or County or reservation of financial responsibility shall complete a Client Placement Authorization –CD Fund form, the Department of Human Services will process and forward to the Contractor an Invoice-Chemical Dependency Fund Form, which shall be used by the Contractor when requesting payment for services provided to a client under the Consolidated Chemical Dependency Treatment Fund.

- A. It is understood and agreed by the parties that for Consolidated Chemical Dependency Treatment eligible clients, clients ad responsible relatives shall have fees charged and collected in accordance with the policies and procedures adopted by the Commissioner of Human Services in accordance with the provisions of Minnesota Statutes, Section 254B.06.
- B. The Contractor shall not charge any program or service fee to Consolidated Chemical Dependency Treatment eligible clients, nor shall the Contractor seek reimbursement for services from a client's responsible relatives or third-party payment sources.
- C. The County shall notify the Contractor, at the time of placement, of the units of service to be provided and of the dates of service. If, prior to the expiration of the service period, the County has determined that the client is no longer eligible to receive purchased services or that services are no longer needed or appropriate, the County shall notify the Contractor within 5 days of the determination. The County shall notify the client of proposed termination of services in writing at least 10 days prior to the proposed action, and of the client's right to appeal this proposed County action.
- D. The Contractor shall notify the County and the client in writing whenever the Contractor proposes to discharge or terminate service(s) to a client. The notice must be sent at least 5 days prior to the proposed date of discharge or termination of service(s).

PURCHASE OF SERVICES CONTRACT

The Contractor shall not discharge or terminate services to a client prior to the proposed date unless delay would seriously endanger the health, safety, or well-being of other clients.

- E. The Contractor shall establish written procedures for discharging a client, or terminating services to a client, in accordance with Minnesota Rules, Part 9530.6300 or 9530.3600.

IV. Payment for Purchased Services.

- A. Submission of Invoices: The Contractor shall, within fifteen (15) working days following the last day of each calendar month, submit an invoice – Chemical Dependency Treatment Fund form, for each Consolidated Chemical Dependency Treatment Fund client for chemical dependency services purchased to the Department of Human Services. The invoice shall show: 1) the period of service; 2) a description of the services provided; 3) the rate, number of units, and amount for each service purchased; 4) gross charges; and 5) net charges.
- B. Authorization of Payment: For Chemical Dependency Treatment Fund eligible clients the Department of Human Services will review the invoice. The parties understand that, if the period of service, rate per unit of service, or number of units of service provided was not authorized by the County, or if the gross charges on the invoice exceed the maximum amount authorized by the County, the Department of Human Services shall modify the charges to be paid by the Consolidated Chemical Dependency Treatment Fund.
- C. Payment – Chemical Dependency Fund Eligible Clients: The Department of Human Services shall review the Invoice-Chemical Dependency Fund Form and make payment to the Contractor for reimbursement – eligible services payable under the Consolidated Chemical Dependency Treatment Fund. The parties understand that, pursuant to Minnesota Statutes, Section 245B.06, Subdivision 3, the Commissioner of Human Services shall pay eligible vendors for placements made by local agencies according to Minnesota Statutes, Section 245B.03 or by tribal designated agencies according to Minnesota Statutes, Section 245B.09.

V. Audit and Record Disclosures. The Contractor shall:

- A. Send the following financial, statistical and social services reports to the County: 1) Quarterly program/service reports on individual clients, 2) A summary of each individual client's progress within thirty (30) days of discharge from service.
- B. Participate in the DAANES or comparable client information system and comply with the reporting requirements of Minnesota Rules, Part 9530.7030.

PURCHASE OF SERVICES CONTRACT

- C. Allow personnel of the County, the Minnesota Department of Human Services, and the Department of Health and Human Services, access to the Contractor's facility and records at reasonable hours to exercise their responsibility to monitor purchased services and copy such materials as necessary.
- D. Maintain all records pertaining to the contract at 2031 Rowland Rd., Mora, MN 55051 for four (4) years for audit purposes.
- E. Cooperate with the monitoring procedures of the Minnesota Department of Human Services established pursuant to Minnesota Statutes, Chapter 254A.
- F. Comply with Minnesota Department of Human Services Bulletin #87-51C, dated December 28, 1987 relating to maximizing available Federal funds for medical assistance recipients as follows:
 - 1) Enroll as a medical assistance, chemical dependency treatment provider.
 - 2) Obtain a physician recommendation for treatment for all medical assistance recipients.
 - 3) Maintain in each recipient's file a statement from a qualified physician recommending the level of service provided.
- G. The County reserves the right to monitor the Contractor's performance under this contract by observation of direct service provision to clients and/or survey of agencies or individuals purchasing or receiving services.

- VI. **Safeguard of Client Information.** The use of disclosure by any party of information concerning an eligible client in violation of any rule or confidentiality provided for in Laws of Minnesota, Chapter 13, or for any purpose not directly connected with the County's or Contractor's responsibility with respect to the Purchased Services hereunder is prohibited except on written consent of such eligible client, the client's attorney or the client's responsible parent or guardian, in conformance with these laws and regulations. The person designated as responsible for the dissemination of data on individuals is the program director.

All data collected, created, received, maintained, or disseminated for any purposes in the course of the Contractor's performance of this Agreement is governed by the MN Government Data Practices Act, Minnesota Statutes Chapter 13 or any other applicable State Statutes, any State Rules adopted to implement the Act, as well as Federal regulations on Data Privacy, including the Health Insurance Portability and Accountability Act (HIPAA).

The Contractor agrees to abide strictly by these statutes, rules and regulations.

- VII. **Equal Employment Opportunity and Civil Rights and Non-discrimination.** When applicable, the Contractor agrees to comply with Title VI of the Civil Rights Act of 1964 regarding meaningful access to services for people with Limited English Proficiency

PURCHASE OF SERVICES CONTRACT

(LEP), Title VII (42 USC 2000e); including Executive Order No. 11246, and Title VI (42 USC 2000d); and the Rehabilitation Act of 1973, as amended by Section 504; (When applicable) Contractor certifies that it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, Section 363.073 (1982). This section shall not apply if the grant is for less than \$50,000 and the Contractor has employed twenty or less full-time employees during the previous 12 months.

VIII. **Fair Hearing and Grievance Procedures.** The County agrees to provide for a fair hearing and grievance procedure in conformity with Minnesota Rules, Parts 9530.665 and 9550.0092, and Minnesota Statutes, Section 256.045.

IX. **Bonding, Indemnity, Insurance, and Audit Clause.**

A. Bonding: The Contractor shall obtain and maintain at all times, during the term of this agreement, a fidelity bond covering the activity of its personnel authorized to receive or distribute monies. Such bond shall be in the amount of \$50,000.

B. Indemnity: The Contractor agrees that it will at all times indemnify and hold harmless the County from any and all liability, loss, damages, costs or expenses which may be claimed against the County or Contractor. 1) By reason of any service client's suffering personal injury, death, or property loss or damages either while participating in or receiving from the Contractor the care and services to be furnished by the Contractor under this Agreement, or while on premises owned, leased, or operated by the Contractor, or while being transported to or from said premises in any vehicle owned, operated, chartered, or otherwise contracted for by the Contractor or his assigns; or 2) By reason of any service client's causing injury to, or damage to, the property of another person during any time when the Contractor or his assigns, or employee thereof has undertaken or is furnishing the care and service called for under this Agreement

C. Insurance:

1. The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from the Contractor's operations under the Agreement, whether such operations be by the Contractor, or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts any one of them may be liable.

2. Contractor shall secure the following coverage and comply with all provisions noted. Certificate of Insurance shall be issued evidencing such coverage to the County.

a. **General Liability Insurance:**

Commercial General Liability Insurance (ISO CGL form)

PURCHASE OF SERVICES CONTRACT

Minimum Limits:

\$1,000,000 – each occurrence limits:

\$3,000,000 - general aggregate

\$2,000,000 – products/completed operations total limit

\$1,000,000 – personal injury and advertising liability

The policy is to be written on an occurrence basis. Certificates of Insurance must indicate if the policy is issued on a claims-made or Occurrence basis, and if coverage is provided for X, C, U hazards if Applicable. The policy will cover contractual liability, Kanabec County, its Officials and employees shall be added as additional insured with a cross liability/cross suits clause for the protection of the County.

b. Worker's Compensation and Employer's Liability: Per Minnesota Statute.

X. **Conditions of the Parties' Obligations.**

- A. This Agreement may be canceled by either party at any time upon 30 day notice, in writing, delivered by mail or in person.
- B. Before the termination date specified in Section I of this Agreement, the County may evaluate the performance of the Contractor in regard to the terms of this Agreement to determine whether such performance merits renewal of Agreement.
- C. Any alterations, variation, modifications, or waivers of provisions of this Agreement shall be valid only when they have been reduced in writing, duly signed, and attached to the original of this Agreement.
- D. No claim for services furnished by the Contractor, not specifically provided in the Agreement, will be allowed by the County, nor shall the Contractor do any work or furnish any material not covered by the Agreement, unless this is approved in writing by the County. Such approval shall be considered to be a modification of the Agreement.
- E. In the event that there is a revision of Federal regulations, which might make this Agreement ineligible for Federal financial participation, all parties will review the Agreement and renegotiate those items necessary to bring the Agreement into compliance with the new Federal regulations.
- F. It is understood and agreed that in the event the reimbursement to the Agency from local, state and federal sources is not obtained or continued at a level sufficient to allow for the purchase of the indicated quantity of purchased services, or if program and service needs change that necessitate the reallocation of funds to other areas, then the terms of this contract shall be renegotiated or the maximum County dollars reduced proportionately to the available funding remaining for these services.

PURCHASE OF SERVICES CONTRACT

- XI. **Subcontracting** The Contractor shall not enter into subcontracts for any of the goods or services contemplated under this Agreement without written approval of the County. All subcontracts shall be subject to the requirements of this contract. The Contractor shall be responsible for the performance of any subcontractor.
- XII. **Third Party Beneficiary.** The Commissioner of the Minnesota Department of Human Services is named as a third party beneficiary to this Agreement.
- XIII. **Compliance with Other Regulations.** The Contractor further agrees to comply with Minnesota Statutes Section 148A.03, Subd. 3 (Liability of an Employer).
- XIV. **Entire Agreement.** It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the Contractor and any county social services agency relating to the subject matter hereof.

COUNTY OF KANABEC

RECOVERING HOPE TREATMENT CENTER

Date: _____

Date: _____

Kanabec County Board of Commissioners
M. Kath Ellis, Chair

Program Director

ATTEST:

APPROVED AS TO FORM AND EXECUTION:

Date: _____

Date: _____

Kanabec County Coordinator

Kanabec County Attorney

PURCHASE OF SERVICES CONTRACT

The County of Kanabec, dba Kanabec County Family Services, at 905 Forest Avenue East, Suite 150, Mora, MN 55051 (hereinafter “the County”) and, Teen Focus Recovery doing business at 475 South Dana Avenue, Rush City, MN 55069 and 209 East Maple Avenue, Mora, MN 55051 (hereinafter “the Contractor”) enter into this Agreement for the period from August 1, 2021 to December 31, 2022.

WITNESSETH

WHEREAS, Minnesota Statutes, Chapter 254B establishes the Consolidated Chemical Dependency Treatment Fund to enable counties to provide chemical dependency treatment services to eligible clients;

WHEREAS, the County of Kanabec has designated the Contractor to provide chemical dependency treatment services pursuant to Minnesota Statutes, Chapter 245B, which outlines its duties, obligations, and responsibilities in this regard;

WHEREAS, the Contractor is an organization which has applied to be licensed under Minnesota Department of Human Services Rules 9530.4100-9530.4410, as required by Minnesota Statutes 245A.01-245A.16, to provide Chemical Dependency Treatment services which are eligible for funding by the Consolidated Chemical Dependency Treatment Fund;

WHEREAS, the County, pursuant to Minnesota Statutes, Section 373.01, 373.02, 254B, and 256M.60 wishes to purchase such program services from the Contractor;

WHEREAS, the Contractor represents that it is duly qualified and willing to perform such services under Minnesota Rules, DHS License number 1047832, 1067221, 1064836, 1078348, and 1081190; and

WHEREAS, the County and the Contractor, according to Minnesota Rules, Part 9550.0040, Subparts 7 and 8, understand that this agreement serves such purpose as to place Consolidated Chemical Dependency Treatment Fund eligible clients and inebriate clients with the Contractor.

NOW THEREFORE, in consideration of the mutual understandings and agreements set forth, the County and Contractor agree as follows:

I. Contractor’s Duties.

A. As specified in the Minnesota Biennial Children & Community Services Act and the Kanabec County Biennial Agreement, the County agrees to purchase and the Contractor agrees to furnish the following: Outpatient Treatment Services for alcoholic and chemically dependent persons ages 12 through 19.

B. The Contractor agrees to provide upon request:

PURCHASE OF SERVICES CONTRACT

1. An explicit description of the services to be provided;
 2. An exposition of the staffing including job descriptions and professional qualifications of personnel;
 3. An organizational chart;
 4. The licensed program capacity;
 5. Program content;
 6. Program budget; and
 7. Copies of license.
- C. The Contractor shall, in writing within 10 days, notify the County whenever it is unable to, or going to be unable to, provide the required quality or quantity of Purchased Services. Upon such notification, County shall determine whether such inability will require modification or cancellation of said contract.
- D. The Contractor shall participate in the Drug and Alcohol Abuse Normative Evaluation System (DAANES) or a comparable client information system, which meets the criteria and reporting requirements of Minnesota Rules, Part 9530.7030.

II. Cost and Delivery of Purchased Services.

- A. The unit costs for providing services to clients eligible for Consolidated Chemical Dependency Treatment Fund reimbursement under Minnesota Rules, Parts 9530.7000 to 9530.7020 shall be:

Outpatient Treatment	\$35.03	per hour
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- B. The unit costs for providing the following services for clients of Kanabec County eligible for Assessment, Screening, Case Support, and Placement are as follows:

Chemical Use Problem Assessment/Screening	\$150.00 per assessment
Chemical Use/Dependency Assessments	\$150.00 per assessment
Case Support	\$35.53 per hour
Placement Only	\$35.53 per occurrence

- C. Rates in effect may be subject to increase at the discretion of the MN Department of Human Services. The Contractor will be paid according to the increase set by MN DHS.
- D. The County does not employ a sufficient number of qualified assessors and the only qualified assessors available in the County have a direct shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. A County designee providing assessments under a variance granted under Subpart 5 shall not place clients in treatment. The County designee shall gather information required under Part 9530.6620 and provide the local agency with the documentation

PURCHASE OF SERVICES CONTRACT

- required under Part 9530.6615, Subpart 4, items A to D. The local agency must make all placement decisions for clients assessed by a County designee under a variance.
- E. The Contractor certifies that payment claims for Purchased Services will be in accordance with the rates of payment amounts authorized by the County or by the County or reservation of financial responsibility, on the Client Placement Authorization – CD Fund Form. The Contractor agrees to submit all charges in a form and manner acceptable to the Consolidated Chemical Dependency Treatment Fund invoice processing system for those services.
- F. Purchased services will be provided at Teen Focus Recovery 209 E. Maple Avenue, Mora, MN 55051 and 209 E. Maple Ave, Mora, MN 55051475

III. **Eligibility for Services.** The parties understand and agree that the eligibility of the client to receive the Purchased Services is to be determined in accordance with eligibility criteria established by Minnesota Statutes, Section 254B.04 and Minnesota Rules, Parts 9530.7015 to 9530.7020 for Consolidated Chemical Dependency Treatment Fund Services. The parties understand and agree that the County, or the County or reservation of financial responsibility, shall determine preliminary and final client eligibility in accordance with the assessment criteria of Minnesota Rules, Pars 9530.6600 to 9530.6655 and the eligibility criteria of Minnesota Rules, Parts 9530.7000 to 9530.7020 for Consolidate Chemical Dependency Treatment Fund Services. The parties understand and agree that when the County, or a County or reservation of financial responsibility refers a Consolidated Chemical Dependency Treatment Fund eligible clients to the Contractor for placement, the County, or County or reservation of financial responsibility shall complete a Client Placement Authorization –CD Fund form, the Department of Human Services will process and forward to the Contractor an Invoice-Chemical Dependency Fund Form, which shall be used by the Contractor when requesting payment for services provided to a client under the Consolidated Chemical Dependency Treatment Fund.

- A. It is understood and agreed by the parties that for Consolidated Chemical Dependency Treatment eligible clients, clients ad responsible relatives shall have fees charged and collected in accordance with the policies and procedures adopted by the Commissioner of Human Services in accordance with the provisions of Minnesota Statutes, Section 254B.06.
- B. The Contractor shall not charge any program or service fee to Consolidated Chemical Dependency Treatment eligible clients, nor shall the Contractor seek reimbursement for services from a client’s responsible relatives or third-party payment sources.
- C. The County shall notify the Contractor, at the time of placement, of the units of service to be provided and of the dates of service. If, prior to the expiration of the service period, the County has determined that the client is no longer eligible to receive purchased services or that services are no longer needed or appropriate, the County shall notify the Contractor within 5 days of the determination. The County shall notify the client of proposed termination of services in writing at least 10 days prior to the proposed action, and of the client’s right to appeal this proposed County action.

PURCHASE OF SERVICES CONTRACT

- D. The Contractor shall notify the County and the client in writing whenever the Contractor proposes to discharge or terminate service(s) to a client. The notice must be sent at least 5 days prior to the proposed date of discharge or termination of service(s). The Contractor shall not discharge or terminate services to a client prior to the proposed date unless delay would seriously endanger the health, safety, or well-being of other clients.
- E. The Contractor shall establish written procedures for discharging a client, or terminating services to a client, in accordance with Minnesota Rules, Part 9530.6300 or 9530.3600.

IV. **Payment for Purchased Services.**

- A. Submission of Invoices: The Contractor shall, within fifteen (15) working days following the last day of each calendar month, submit and invoice – Chemical Dependency Treatment Fund form, for each Consolidated Chemical Dependency Treatment Fund client for chemical dependency services purchased to the Department of Human Services. The invoice shall show: 1) the period of service; 2) a description of the services provided; 3) the rate, number of units, and amount for each service purchased; 4) gross charges; and 5) net charges.
- B. Authorization of Payment: For Chemical Dependency Treatment Fund eligible clients the Department of Human Services will review the invoice. The parties understand that, if the period of service, rate per unit of service, or number of units of service provided was not authorized by the County, or if the gross charges on the invoice exceed the maximum amount authorized by the County, the Department of Human Services shall modify the charges to be paid by the Consolidated Chemical Dependency Treatment Fund.
- C. Payment – Chemical Dependency Fund Eligible Clients: The Department of Human Services shall review the Invoice-Chemical Dependency Fund Form and make payment to the Contractor for reimbursement – eligible services payable under the Consolidated Chemical Dependency Treatment Fund. The parties understand that, pursuant to Minnesota Statutes, Section 245B.06, Subdivision 3, the Commissioner of Human Services shall pay eligible vendors for placements made by local agencies according to Minnesota Statutes, Section 245B.03 or by tribal designated agencies according to Minnesota Statutes, Section 245B.09.

V. **Audit and Record Disclosures.** The Contractor shall:

- A. Send the following financial, statistical and social services reports to the County: 1) Quarterly program/service reports on individual clients, 2) A summary of each individual client's progress within thirty (30) days of discharge from service.

PURCHASE OF SERVICES CONTRACT

- B. Participate in the DAANES or comparable client information system and comply with the reporting requirements of Minnesota Rules, Par 9530.7030.
- C. Allow personnel of the County, the Minnesota Department of Human Services, and the Department of Health and Human Services, access to the Contractor's facility and records at reasonable hours to exercise their responsibility to monitor purchased services and copy such materials as necessary.
- D. Maintain all records pertaining to the contract at 475 South Dana Avenue, Rush City, MN 55069 for four (4) years for audit purposes.
- E. Cooperate with the monitoring procedures of the Minnesota Department of Human Services established pursuant to Minnesota Statutes, Chapter 254A.
- F. Comply with Minnesota Department of Human Services Bulletin #87-51C, dated December 28, 1987 relating to maximizing available Federal funds for medical assistance recipients as follows:
 - 1) Enroll as a medical assistance, chemical dependency treatment provider.
 - 2) Obtain a physician recommendation for treatment for all medical assistance recipients.
 - 3) Maintain in each recipient's file a statement from a qualified physician recommending the level of service provided.
- G. The County reserves the right to monitor the Contractor's performance under this contract by observation of direct service provision to clients and/or survey of agencies or individuals purchasing or receiving services.

VI. **Safeguard of Client Information.** The use of disclosure by any party of information concerning an eligible client in violation of any rule or confidentiality provided for in Laws of Minnesota, Chapter 13, or for any purpose not directly connected with the County's or Contractor's responsibility with respect to the Purchased Services hereunder is prohibited except on written consent of such eligible client, the client's attorney or the client's responsible parent or guardian, in conformance with these laws and regulations. The person designated as responsible for the dissemination of data on individuals is the program director.

All data collected, created, received, maintained, or disseminated for any purposes in the course of the Contractor's performance of this Agreement is governed by the MN Government Data Practices Act, Minnesota Statutes Chapter 13 or any other applicable State Statutes, any State Rules adopted to implement the Act, as well as Federal regulations on Data Privacy, including the Health Insurance Portability and Accountability Act (HIPAA).

The Contractor agrees to abide strictly by these statutes, rules and regulations.

PURCHASE OF SERVICES CONTRACT

- VII. **Equal Employment Opportunity and Civil Rights and Non-discrimination.** When applicable, the Contractor agrees to comply with Title VI of the Civil Rights Act of 1964 regarding meaningful access to services for people with Limited English Proficiency (LEP), Title VII (42 USC 2000e); including Executive Order No. 11246, and Title VI (42 USC 2000d); and the Rehabilitation Act of 1973, as amended by Section 504; (When applicable) Contractor certifies that it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, Section 363.073 (1982). This section shall not apply if the grant is for less than \$50,000 and the Contractor has employed twenty or less full-time employees during the previous 12 months.
- VIII. **Fair Hearing and Grievance Procedures.** The County agrees to provide for a fair hearing and grievance procedure in conformity with Minnesota Rules, Parts 9530.665 and 9550.0092, and Minnesota Statutes, Section 256.045.
- IX. **Bonding, Indemnity, Insurance, and Audit Clause.**
- A. Bonding: The Contractor shall obtain and maintain at all times, during the term of this agreement, a fidelity bond covering the activity of its personnel authorized to receive or distribute monies. Such bond shall be in the amount of \$50,000.
- B. Indemnity: The Contractor agrees that it will at all times indemnify and hold harmless the County from any and all liability, loss, damages, costs or expenses which may be claimed against the County or Contractor. 1) By reason of any service client's suffering personal injury, death, or property loss or damages either while participating in or receiving from the Contractor the care and services to be furnished by the Contractor under this Agreement, or while on premises owned, leased, or operated by the Contractor, or while being transported to or from said premises in any vehicle owned, operated, chartered, or otherwise contracted for by the Contractor or his assigns; or 2) By reason of any service client's causing injury to, or damage to, the property of another person during any time when the Contractor or his assigns, or employee thereof has undertaken or is furnishing the care and service called for under this Agreement
- C. Insurance:
1. The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from the Contractor's operations under the Agreement, whether such operations be by the Contractor, or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts any one of them may be liable.
 2. Contractor shall secure the following coverage and comply with all provisions noted. Certificate of Insurance shall be issued evidencing such coverage to the County.
 - a. **General Liability Insurance:**

PURCHASE OF SERVICES CONTRACT

Commercial General Liability Insurance (ISO CGL form)

Minimum Limits:

\$1,000,000 – each occurrence limits:

\$3,000,000 - general aggregate

\$2,000,000 – products/completed operations total limit

\$1,000,000 – personal injury and advertising liability

The policy is to be written on an occurrence basis. Certificates of Insurance must indicate if the policy is issued on a claims-made or Occurrence basis, and if coverage is provided for X, C, U hazards if Applicable. The policy will cover contractual liability, Kanabec County, its Officials and employees shall be added as additional insured with a cross liability/cross suits clause for the protection of the County.

b. Worker's Compensation and Employer's Liability: Per Minnesota Statute.

X. **Conditions of the Parties' Obligations.**

- A. This Agreement may be canceled by either party at any time upon 30 day notice, in writing, delivered by mail or in person.
- B. Before the termination date specified in Section I of this Agreement, the County may evaluate the performance of the Contractor in regard to the terms of this Agreement to determine whether such performance merits renewal of Agreement.
- C. Any alterations, variation, modifications, or waivers of provisions of this Agreement shall be valid only when they have been reduced in writing, duly signed, and attached to the original of this Agreement.
- D. No claim for services furnished by the Contractor, not specifically provided in the Agreement, will be allowed by the County, nor shall the Contractor do any work or furnish any material not covered by the Agreement, unless this is approved in writing by the County. Such approval shall be considered to be a modification of the Agreement.
- E. In the event that there is a revision of Federal regulations, which might make this Agreement ineligible for Federal financial participation, all parties will review the Agreement and renegotiate those items necessary to bring the Agreement into compliance with the new Federal regulations.
- F. It is understood and agreed that in the event the reimbursement to the Agency from local, state and federal sources is not obtained or continued at a level sufficient to allow for the purchase of the indicated quantity of purchased services, or if program and

PURCHASE OF SERVICES CONTRACT

service needs change that necessitate the reallocation of funds to other areas, then the terms of this contract shall be renegotiated or the maximum County dollars reduced proportionately to the available funding remaining for these services.

- XI. **Subcontracting** The Contractor shall not enter into subcontracts for any of the goods or services contemplated under this Agreement without written approval of the County. All subcontracts shall be subject to the requirements of this contract. The Contractor shall be responsible for the performance of any subcontractor.
- XII. **Third Party Beneficiary.** The Commissioner of the Minnesota Department of Human Services is named as a third party beneficiary to this Agreement.
- XIII. **Compliance with Other Regulations.** The Contractor further agrees to comply with Minnesota Statutes Section 148A.03, Subd. 3 (Liability of an Employer).
- XIV. **Entire Agreement.** It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the Contractor and any county social services agency relating to the subject matter hereof.

COUNTY OF KANABEC

TEEN FOCUS RECOVERY

Date: _____

Date: _____

Kanabec County Board of Commissioners
M. Kath Ellis, Chair

Program Director

ATTEST:

APPROVED AS TO FORM AND EXECUTION:

Date: _____

Date: _____

Kanabec County Coordinator

Kanabec County Attorney

Resolution # FS 8/17/21

**Recovering Hope and Teen Focus Recovery for Chemical Dependency
Treatment Services Agreement resolution**

WHEREAS, Minnesota Statutes Chapter 254B establishes the Consolidated Chemical Dependency Treatment Fund to enable counties to provide chemical dependency treatment services to eligible clients, and

WHEREAS, Kanabec County Family Services has designated Recovering Hope and Teen Focus Recovery, local agencies, to provide chemical dependency treatment services pursuant to Minnesota Statutes, Chapter 254B, and

WHEREAS, Recovering Hope and Teen Focus Recovery are licensed to provide chemical dependency treatment services and are willing to provide said services, and

WHEREAS, these contracts have been presented to the Kanabec County Family Services Board.

THEREFORE BE IT RESOLVED the Family Services Board approves the agreements for chemical dependency treatment services with Recovering Hope and Teen Focus Recovery for the time period August 1, 2021 through December 31, 2022 at the rates approved by DHS and stated in the Agreements.

**Kanabec County Family Services
2nd Quarter 2021 Report**

FINANCIAL ASSISTANCE

Preparer: Tim Dahlberg

A. Major Highlights

- Telework has been working well. Our team has been staying up-to-date on casework. Along with I.S., we've been able to effectively work through potential technical issues.
- Our Case Aide and Front Desk staff have continued to do well in taking care of items that are time sensitive and need to be handled physically.

B. Challenges/Concerns

- COVID-19 has had various impacts on our program requirements as well as our community at large. We've continued and need to continue to stay up-to-date on program changes.

C. Looking Ahead

- We look forward to policies reverting back to a normal status prior to COVID. We are now aware that waivers for some programs will cease effective 9/1/2021. We will be preparing for those changes.

Program Totals as of 6/30/21		
Program	Active Cases	# of Persons Active
MN Family Investment Program (MFIP)	89	220
Diversionsary Work Program (DWP)	0	0
General Assistance	100	100
MN Supplemental Assistance (MSA)	77	78
Housing Supports (Formerly GRH)	77	77
Food Support (SNAP)	765	1246
Medical Assistance and/or Medicare Savings Programs (MAXIS)	835	866
Medical Assistance (METS) *as of 7/6/21	1768	3471
MinnesotaCare (County Serviced) * as of 7/6/21	99	139

CHILD SUPPORT

Preparer: Tammy Owens and Tim Dahlberg

A. Major Highlights

- The team continues to meet nearly every morning virtually. This has helped us stay connected as a team.
- Telework continues to be working well. We've been able to maintain effective performance levels without disruption.

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- Tammy and Tim attended a federal domestic violence training which provided insight into the issues survivors of domestic violence face. This is a highly applicable subject area, especially in the realm of good cause.

B. Challenges/Concerns

- COVID-19 and the related effects are a concern for us
 - Continued limitations on the enforcement remedies that can be taken for nonpayment of support obligations when the ability is there.
- The local changes to scheduling and case management within our judicial system did occur in April 2021. So far, a significant change we've seen is with how we interact with families in regards to the process of establishing parentage which has to address custody and parenting time. We've taken on a more mediation type of role in some of these cases.

C. Looking Ahead

- We continue to work through the changes to our work that have happened due to COVID-19.
- Suppressions of our enforcement remedies are soon to be lifted. This will allow us to take stronger action, if necessary, in ensuring payment of child support.

ACCOUNTING UNIT

Reporter: Cheryl Jenkins

A. Major Highlights

- All Fiscal staff are working to ensure that accounting changes due to COVID-19 across all systems are correct and updated timely.
- All quarterly reports were completed by their due dates.
- All annual reports were completed by their due dates.
- The annual audit has begun.
- Work began on the 2022 Family Services Budget.

B. Challenges and Concerns

- We are still tracking the IV-E Children's Residential Facility payments that are currently not reimbursed.
- We will be reviewing the Substance Use Disorder for IMD calculations to ensure that the total amount due is credited accurately.
- We are still keeping an eye on our fund balance. It remains on the low side. We continue to brainstorm ways to enhance our revenues.
- Ensuring that all changes to all systems are accurate and up to date given the many changes that happen with COVID-19.

C. Looking Ahead

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- Fiscal staff is tracking any COVID-19 related items.
- Changes that will need to be made to the systems when the waiver modifications end.
- Wrapping up the annual audit.

ADMINISTRATIVE STATISTICS

AREA	1/1/2021 to 3/31/2021	4/1/2021 to 6/30/2021	7/1/2021 to 9/30/2021	10/1/2021 to 12/31/2021	Year to Date Data	2021 Approved Budget
Revenues - Income Maintenance						
State Sources	52,128	54,257			106,385	195,332
Federal Sources	246,123	242,574			488,697	1,109,608
Other Sources	87,007	119,582			206,589	127,350
Fund Balance-Planned Use					-	
Total	385,258	416,413	-	-	801,671	1,432,290
Expenditures - Income Maintenance						
Public Aid	137,061	129,109			266,170	490,100
Personal Services	305,239	308,908			614,147	1,307,169
Services & Charges	83,552	33,771			117,323	199,057
Direct Materials	454	604			1,058	4,650
Other Expenses					-	
Total	526,306	472,392	-	-	998,698	2,000,976
Revenues - Social Services						
State Sources	96,780	210,413			307,193	883,353
Federal Sources	305,881	344,554			650,435	1,157,579
Fees for Services	53,295	60,416			113,711	118,000
Other Sources	66,810	119,008			185,818	369,650
Fund Balance-Planned Use					-	
Total	522,766	734,391	-	-	1,257,157	2,528,582

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Expenditures - Social Services

Public Aid	402,819	391,777			794,596	1,686,130
Personal Services	515,491	525,114			1,040,605	2,281,033
Services & Charges	60,281	34,241			94,522	245,455
Direct Materials	710	1,115			1,825	6,100
Other Expenses					-	
Total	979,301	952,247	-	-	1,931,548	4,218,718

Revenues - IM & SS

State Sources	148,908	264,670	-	-	413,578	1,078,685
Federal Sources	552,004	587,128	-	-	1,139,132	2,267,187
Fees for Services	53,295	60,416	-	-	113,711	118,000
Other Sources	153,817	238,590	-	-	392,407	497,000
Fund Balance-Planned Use						
Total	908,024	1,150,804	-	-	2,058,828	3,960,872

Expenditures - IM & SS

Public Aid	539,880	520,886	-	-	1,060,766	2,176,230
Personal Services	820,730	834,022	-	-	1,654,752	3,588,202
Services & Charges	143,833	68,012	-	-	211,845	444,512
Direct Materials	1,164	1,719	-	-	2,883	10,750
Other Expenses						
Total	1,505,607	1,424,639	-	-	2,930,246	6,219,694

CHILD PROTECTION

A. Major Highlights:

- Child Welfare cases continue to rise mainly for educational support services.
- Staff has continued to assist at community COVID vaccine clinics.

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- Staff continues to work from home and this has proven to be successful in providing children and families quality service even as cases have increased.
- Kids Groups have resumed in June. They have been hiking, swimming and fishing and have more trips planned throughout the summer months.

B. Trainings:

- All staff have completed the annual agency required trainings
- Staff participated in webinar trainings:
 - Child Protection Practice with Families Experiencing Domestic Violence
 - Time Sheet Training
 - Adoption Process/Kinship Workflow
 - Adoption Medicine – Helping Children Thrive
 - Suicide Safe Care
 - Micro-Intervention for Service Providers

C. Challenges/Concerns:

- Truancy cases and attendance continued to increase through the end of the school year. At the end of the school year some of these cases were able to be closed.
- Limited resources and waiting lists present a challenge to address the needs of clients.
- Limitations to services due to COVID.
- Chronic chemical use/abuse in the county and its exposure to children.
- Recent changes to court hearings and the new PICK schedules. Concerns with meeting timelines and flow of the hearings for the families. Along with hearings remaining virtual which reduces the opportunities to meet with families and discuss their understanding of the court process.

D. COVID-19 Pandemic

- This continues to be a concern and has significantly changed the way we are able to interact with families safely. There are still limitations of services and restrictions because of COVID and recent concerns that some areas in Minnesota are seeing more cases.

E. Looking Ahead:

- Family Based Summer Groups are happening this summer in compliance with COVID guidelines in smaller group settings.
- Fall will bring back the school supply drive and requests from families for school supplies.

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- Structure of back to school and the options the students will be given to return in relation to last year's increase in truancy and educational neglect cases.

<u>Children's Services Statistics</u>	July 2020 – September 2020	October 2020- December 2020	January 2021- March 2021	April 2021 – June 2021
Child Protection (CP)/Child Welfare (CW) CP/CW intakes				
○ Opened for assessment	37	42	36	34
○ Screened out (CP only)	58	58	55	36
• Assessments & investigations	40	40	43	28
• Case management	41	41	109	108
• Open CHIPS court files (per child)	22	22	24	28
• Open Adoption Cases	0	0	3	3
• Completed Adoptions	0	0	0	0
Parent Support Outreach Program (PSOP)				
• PSOP intakes	4	4	2	4
• Opened for case management	0	0	0	0
Children's Mental Health (CMH) CMH intakes				
○ Opened for case management	7	7	11	3
○ Screened out	0	0	0	1
• Case management (per child)	39	39	46	27
❖ Out of Home Placements				
• Children's services placements	26	26	26	27
• Trial home visits	1	1	0	0
• Pre-adoptive/Pre-kinship home	4	4	1	1
• Extended foster care (Age 18-21)	1	1	1	1
• Probation placements	0	0	1	2

Children's Mental Health

A. Major Highlights:

- Three youth continued in voluntary placement
- COVID 19 changes impacting this whole quarter

B. Trainings:

- Alissa and Linda training highlights include De-Escalate: How to Calm an Angry Person in 90 Seconds or Less, Part 1 suicide safe care, Part 2

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suicide safe care for zero suicide, Youth At- Risk of Homelessness series, Practical Strategies for Engaging Young People, How to Manage Depression.

C. Challenges/Concerns:

- We are still struggling to get required assessment instruments (Child and Adolescent Service Intensity Instrument and Strengths and Difficulties Questionnaire) from therapists.
- Changes in contacts as COVID 19 continues to impact the delivery of case management services.
- While in school learning is now widely available this transition has been difficult on clients. Additionally, many chose to continue online learning with varying degrees of success. Many struggles with school attendance.
- 6 new intakes/requests for service this quarter, that makes 19 for 2021 we had 26 in all 2020.

D. Looking Ahead:

- Family First Prevention Services Act will change many aspects of our out of home placement processes. This takes effect 9/30/2021.
- Trends of increased needs of clients and higher numbers of service requests will likely continue to impact our work over the next quarter.
- Anticipated changes in work flow due to COVID 19 workplace restrictions being lifted.
- COVID 19 related waivers appear to be ending soon. This will make face to face contacts mandatory again. Increase in travel time and mileage.

ADULT MENTAL HEALTH

Reporters: Cassie Dahlberg, Kurt Seidel, Denise Danelius

A. Major Highlights:

- The ongoing ability for clients to access their team of community providers virtually has been very helpful. It has allowed clients with transportation issues to access care and services with greater ease and has allowed providers to serve more individuals.

B. Training Attended:

- One staff attended free virtual training regarding administration of neuroleptic medication provided by the state Ombudsman's Office.

C. Challenges and Concerns:

- Clients continue to struggle with needs for housing support and affordable housing. There continues to be a wait list for clients who are being referred out for Adult Rehabilitative Mental Health Supports.

D. Trends:

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- Co-occurring diagnoses of chemical use disorders along with mental illness continue to be an issue for residents of our community.

E. Looking Ahead:

- The team will continue to work diligently with each client in identifying and addressing their specific needs and goals.

COMMUNITY SUPPORT PROGRAM

Reporter: Rhonda Bergstadt

A. Major Highlights

- Jobs, they are available everywhere. We have people working that have not been able to find employment before this time.
- I am seeing most people in person. Attempting to spend time outside to decrease illness as well as increased exercise.

B. Training Attended

- I continue to complete research and training as needed to offer the best and most effective treatment to those I serve.

C. Challenges and Concerns

- Increased mental health symptoms with the stressors of employment.
- Increased depression and paranoia if interviewed and not hired for a position.

D. Looking Ahead

- Stressors are reminding all of us to stay in the moment. One day at a time.

E. Trends

- Fear of illness and pending doom of the last year continues to trigger mental health symptoms for most. We continue to hold groups outdoors and empower our people to overcome these stressors.

DD CASE MANAGEMENT

Reporter: Kelly Mitchell, Chelsey Bottelson

A. Major Highlights

- Clients back to work at Day Programs
- Changes to the waiver system.
- All Clients eligible for the Covid Vaccine

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- Clients able to get back to some in-person therapy services versus just telemedicine or phone.

B. Training Attended

- Staff attending online Convene trainings regarding various job related topics as well as completing professional reading and research.

C. Challenges and Concerns

- Work changes have started to cause issues with Group Residential Housing (GRH). Clients need to report income changes when they are no longer working, or when they do return to work.
- Vocational Rehab and employment services are having a hard time finding places to conduct employment training due to COVID-19.
- There continues to be a need for SILS and PCAs in the area. There has been a wait list for individuals waiting for those services.
- Day programs having trouble getting new client's started due to not being able to find staff to hire.

D. Looking Ahead

- Looking forward to getting back to in person meetings once the governor's emergency order is ended.
- Changes to the waiver system, waiver reimagine, and employment services. Case managers will need to stay up to date on changes, trainings, and the impact they have on clients.

E. Trends

- Families seem to be moving around more. There has been an increase in transfer cases both incoming and outgoing.
- Increase in referrals to EIDBI (autism) programs.
- Need for respite.
- Decline in DD waiver referrals.

K. C. FAMILY SERVICES - LICENSING

Reporters: Tonya Burk, Danielle Linkert, Ashlee Lovaas

A. Major Highlights

	Family Child Care	Child Foster Care	Adult Foster Care
New Licenses	1	3	2
Relicensing	8	2	0
Off Year Visits	3		
Change of Premise	1	0	0

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Pending Applications	2	5	0
Correction Orders	2	0	0
Negative Actions			
Extensions			
Investigations			
Closed Licenses	0	2	0
Orientation provided for (number of persons)	2	4	2
Total Number of Providers in Kanabec County	26	14-CFC 1-CRS	8-AFC 13-CRS

B. Training Attended

- 5/25/2021-5/27/2021 “How Does a Complaint Become a Licensing Action”- Danielle

C. Challenges and Concerns

- Peacetime Emergency still in effect. Background Studies/Fingerprinting still ‘on hold’
- Emergency Placements increase
- Working on additional recruitment of Child Foster Care

D. Looking Ahead

- Child Foster Care Orientation on 7/28/2021 in person.
- Increase in applicants that are non-relative for Child Foster Care
- Face to Face/In home visits starting up, possibly September

E. Trends

- COVID background studies
- Hybrid in person/virtual for home visits for licensing

AGING SERVICES CARE COODINATION

Reporter: Krista Eye and Aliina Knickerbocker

A. Major Highlights

- Transitioning back into the homes of clients to better assess the needs for health and safety.

B. Training Attended

- Work on MNCHOICE training through DHS Trainlink. Complete annual MMIS training safe handling of protected information MN.

C. Challenges and Concerns

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- With moving forward to in home visits, this transition may take time for some of our clients. They have been careful about going out and having interactions and this will be a change to adapt to.

D. Trends:

- We hope to see more interactions and family gatherings for our elderly clients, and a decrease in loneliness and isolation.

E. Looking Ahead

- It will be great for us to implement the true model of care for SCHA and have face to face interactions in the homes of our clients. This model of care gives us the opportunity to assess the needs of our clients. It also allows us to get to know our clients on a more personal level and gain much needed trust in this critical part of their lives.

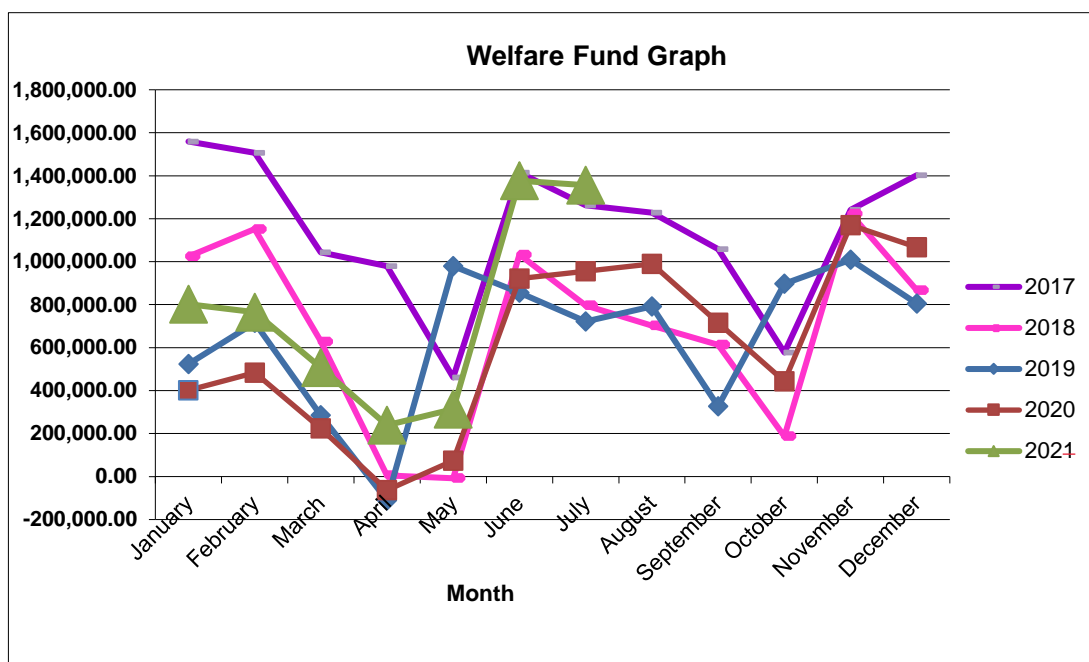
Program Area – Adult Services	01/01/2021 To 03/31/2021	04/01/2021 To 06/30/2021	07/01/2021 To 09/30/2021	10/01/2021 To 12/31/2021	Year To Date Data
702 Social Services					
MNChoices					
# New Assessments	5	14			
# Reassessments	55	72			
SCHA Community Well – New Enrollees					
# New Enrollees	8	14			
Total Members Served	107	118			
CADI Waiver					
# clients on waiver	89	89			
# adults	70	70			
# children	19	19			
# clients in residential setting	26	23			
# receiving employment services	19	23			
Relocation Services					
# receiving RSC	0	0			
710 Licensing					
Family Child Care					
# homes active	25	26			
# newly licensed	1	1			
# relicensed	2	8			
Child Foster Care					
# homes active	14	15			
# newly licensed	1	3			
# relicensed	2	2			
Adult Foster Care/Comm Resid Setting					
# homes active	19	21			

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# newly licensed	1	2			
# relicensed	2	0			
730 Chemical Dependency					
# Rule 25 assessments	0	3			
# Detox paid	3	4			

Program Area – Adult Services	01/01/2021 To 03/31/2021	04/01/2021 To 06/30/2021	07/01/2021 To 09/30/2021	10/01/2021 To 12/31/2021	Year To Date Data
740 Mental Health – Adults					
Residential					
# persons in CBHHS	0	1			
# inpatient setting	8	6			
# IRTS setting	4	0			
# in residential setting	14	11			
Community Supports					
# CSP clients	20	21			
# Adult services	0	0			
Case Management					
# Rule 79 clients	47	50			
# general case management clients	0	0			
Court					
# pre-petition screenings	7	5			
# judicial hearings	18	8			
750 Developmental Disabilities					
# DD clients – adult	64	68			
# DD clients – child	31	33			
# clients on waiver	72	71			
# SILS clients	8	8			
# clients in residential setting	30	32			
# clients in ICF-DD	1	1			
# clients in nursing home	1	1			
# receiving employment support	24	29			
# receiving Family Support Grant	0	0			
760 Adult Services					
# Adult Protection reports	23	23			
# Adult Protection cases	5	5			
# Court Visitor cases	2	0			
# CSG Cases	3	4			
Overall Number of Workgroups	549	547			

	2017	2018	2019	2020	2021
January	1,559,203.05	1,024,705.97	523,556.70	401,131.39	802,602.99
February	1,507,019.98	1,151,821.98	715,738.74	483,781.08	764,375.81
March	1,044,116.93	629,190.77	285,341.21	225,078.17	507,711.89
April	979,174.37	5,607.36	-109,902.43	-63,141.11	239,129.82
May	461,452.14	-7,853.46	979,247.26	73,382.15	313,993.85
June	1,413,892.29	1,032,778.15	855,820.47	920,867.09	1,376,518.14
July	1,262,151.35	796,820.09	721,467.48	955,700.06	1,355,779.92
August	1,228,621.03	703,093.77	791,435.79	990,235.56	
September	1,058,187.52	613,301.63	326,963.03	716,408.79	
October	577,905.27	187,807.92	897,606.65	443,084.51	
November	1,241,274.27	1,222,983.64	1,008,939.34	1,170,024.75	
December	1,402,699.93	867,114.62	804,618.63	1,067,709.00	
Totals	13,735,698.13	8,227,372.44	7,800,832.87	7,384,261.44	5,360,112.42
Averages	1,144,641.51	685,614.37	650,069.41	615,355.12	765,730.35
6 month Avg.	1,128,473.23	731,853.61	758,505.15	890,527.11	759,584.91
Rolling 12 month Avg	1,144,641.51	685,614.37	650,069.41	615,355.12	812,297.92



Kanabec County Family Services - Board Financial Report							Through July 2021			
	Total year to date/			8.33%	16.67%	25.00%	33.33%	41.67%	50.00%	58.33%
Department	Budget	% of budget	Total	January	February	March	April	May	June	July
Income Main. Service										
Exp	689,139.00	61.66%	424,916.14	51,854.59	63,387.07	80,380.32	51,877.25	54,027.63	51,235.29	72,153.99
Rev	385,501.00	45.27%	174,502.14	10,047.98	56,794.47	10,047.98	9,841.60	59,709.01	9,841.60	18,219.50
Tax	295,906.00	52.01%	153,893.48	4,747.06					149,146.42	
State Shared Rev			12,718.29							12,718.29
Recoveries										
Exp	19,100.00	61.83%	11,808.72	3,262.28	0.00	1,917.78	1,505.83	1,945.70	0.00	3,177.13
Rev	19,100.00	66.39%	12,679.73	1,941.31	818.09	1,469.78	2,180.99	2,727.44	2,158.51	1,383.61
Tax	24,847.00	52.04%	12,929.66	405.92					12,523.74	
State Shared Rev			1,067.95							1,067.95
Burials										
Exp	25,000.00	43.17%	10,791.26	0.00	863.01	1,800.00	5,400.00	0.00	832.00	1,896.25
Rev			0.00							
Tax			0.00							
Child Support										
Exp	359,777.00	57.52%	206,952.40	26,967.91	23,235.11	40,119.83	23,276.07	30,879.16	23,261.31	39,213.01
Rev	412,000.00	53.42%	220,087.93	29,456.92	55,770.28	15,789.49	25,068.67	45,964.81	15,245.00	32,792.76
Tax										
MA Services										
Exp	483,900.00	59.90%	289,847.54	37,587.78	21,091.85	70,538.34	48,621.27	52,283.14	27,984.09	31,741.07
Rev	418,000.00	89.65%	374,717.80	59,053.49	31,205.13	73,017.31	29,650.19	50,174.73	119,238.91	12,378.04
Tax	64,151.00	52.02%	33,371.39	1,037.36					32,334.03	
State Shared Rev			2,757.25							2,757.25
Child Care										
Exp	230,950.00	36.97%	85,381.85	31,466.06	8,840.21	14,748.44	6,901.63	7,805.52	9,107.12	6,512.87
Rev	229,768.00	67.54%	155,181.26	858.00	745.00	77,369.00	585.00	74,117.26	739.00	768.00
Tax	1,129.00	52.09%	588.05	18.79					569.26	
State Shared Rev			48.54							48.54
Fraud										
Exp	75,704.00	58.57%	44,337.23	5,930.22	5,953.80	5,865.82	6,436.80	5,865.81	5,942.53	8,342.25
Rev			0.00		0.00	0.00	0.00	0.00	0.00	0.00
Tax	73,863.00	52.00%	38,409.87	1,180.19					37,229.68	
State Shared Rev			3,174.72							3,174.72
Adult Services										
Exp	3,500.00	68.00%	2,380.00	33.30	0.00	2,346.70	0.00	0.00	0.00	0.00
Rev	8,817.00	83.72%	7,381.32	16.67	0.00	33.34	16.67	16.67	16.67	7,281.30
Tax										
Dev. Disability										
Exp	91,389.00	40.74%	37,231.61	4,988.66	4,527.59	4,891.63	6,583.89	5,072.69	4,575.23	6,591.92
Rev	73,941.00	28.13%	20,799.00	0.00	10,606.00	0.00	0.00	10,193.00	0.00	0.00
Tax	16,941.00	52.56%	8,903.50	364.58					8,538.92	
State Shared Rev			728.15							728.15

Mental Health										
Exp	1,216,129.00	63.81%	775,997.61	93,026.89	117,059.81	101,367.94	119,009.34	106,998.11	102,292.38	136,243.14
Rev	693,784.00	76.10%	527,940.76	15,137.98	49,929.36	60,463.85	80,836.27	86,654.55	160,406.48	74,512.27
Tax	509,364.00	52.12%	265,490.48	8,753.69					256,736.79	
State Shared Rev			21,892.94							21,892.94
Chemical Dependency										
Exp	117,000.00	28.08%	32,848.74	1,620.00	0.00	2,000.00	3,221.06	9,049.12	1,950.00	15,008.56
Rev	51,000.00	40.89%	20,854.10	747.25	9,369.46	0.00	0.00	4,808.00	0.00	5,929.39
Tax	64,376.00	50.40%	32,447.89	0.00					32,447.89	
State Shared Rev										2,766.96
Child Services										
Exp	567,262.00	55.36%	314,038.00	34,279.23	31,007.16	70,623.34	33,885.81	36,506.28	57,560.39	50,175.79
Rev	341,681.00	57.04%	194,900.99	9,327.07	41,967.49	10,063.28	11,010.79	39,587.93	19,088.81	63,855.62
Tax	220,009.00	52.65%	115,842.10	4,950.02					110,892.08	
State Shared Rev			9,456.20							9,456.20
Social Services										
Exp	1,278,208.00	56.40%	720,857.04	95,243.93	94,909.96	92,572.30	94,967.91	96,107.29	98,883.14	148,172.51
Rev	1,061,420.00	70.68%	750,168.40	50,849.88	115,773.01	54,655.76	48,133.99	133,888.52	46,115.99	300,751.25
Tax	211,426.00	51.94%	109,820.60	3,254.91					106,565.69	
State Shared Rev			9,087.27							9,087.27
Income Main. Admin										
Exp	88,074.00	56.43%	49,700.77	6,530.06	6,527.64	6,439.62	6,676.63	7,348.64	6,394.63	9,783.55
Rev	52,372.00	46.58%	24,396.64	1,235.14	8,716.90	1,235.14	1,456.56	8,035.68	2,465.56	1,251.66
Tax	34,786.00	51.87%	18,044.43	511.19					17,533.24	
State Shared Rev			1,495.12							1,495.12
Social Services Admin.										
Exp	301,984.00	53.02%	160,123.17	22,485.54	23,816.23	23,972.50	22,073.56	21,509.27	16,835.68	29,430.39
Rev	65,000.00	43.31%	28,150.00	0.00	14,854.00	0.00	0.00	13,296.00	0.00	0.00
Tax	231,078.00	52.05%	120,274.50	3,803.66					116,470.84	
State Shared Rev			9,931.92							9,931.92
FS Admin										
Exp	672,578.00	60.03%	403,750.44	69,803.74	54,781.56	44,941.17	50,571.59	49,153.52	52,224.61	82,274.25
Rev	148,488.00	47.12%	69,961.22	3,716.88	21,224.63	3,716.88	3,645.84	30,242.31	3,645.84	3,768.84
Tax	510,946.00	52.08%	266,092.00	8,558.24					257,533.76	
State Shared Rev			21,960.91							21,960.91
Agency Totals										
Exp	6,219,694.00	57.41%	3,570,962.52	485,080.19	456,001.00	564,525.73	481,008.64	484,551.88	459,078.40	640,716.68
Rev	3,960,872.00	65.18%	2,581,721.29	182,388.57	417,773.82	307,861.81	212,426.57	559,415.91	378,962.37	522,892.24
Tax	2,258,822.00	52.07%	1,176,107.95	37,585.61	0.00	0.00	0.00	0.00	1,138,522.34	0.00
State Shared Rev			97,086.22	0.00	0.00	0.00	0.00	0.00	0.00	97,086.22
Total Revenue	6,219,694.00	61.98%	3,757,829.24	219,974.18	417,773.82	307,861.81	212,426.57	559,415.91	1,517,484.71	619,978.46

Board Approval Report

SSIS pymt. batch #: 107855865

Paid Cnty Vendor	Total Payments		Total Amount
ANOKA COUNTY NON SECURE, 000010476	2		3,578.00
Svc Description	Svc Code	Payments	Amount
Correctional Facilities	185	1	3,458.00
Health-Related Services	118	1	120.00
Bliss/Jenny, 000010784	2		6,505.00
Svc Description	Svc Code	Payments	Amount
Adult Outpatient Psychotherapy	452	2	6,505.00
Central Minnesota Jobs & Training, 000015800	1		7,802.92
Svc Description	Svc Code	Payments	Amount
Statewide MFIP Employment Services	237	1	7,802.92
Hy-Tech Automotive, 000012910	1		398.58
Svc Description	Svc Code	Payments	Amount
Adolescent Life Skills Training	146	1	398.58
Ignaszewski/Karissa, 000012959	2		10,125.00
Svc Description	Svc Code	Payments	Amount
Adult Outpatient Psychotherapy	452	2	10,125.00
MN DHS-SOS, 000011816	8		15,610.75
Svc Description	Svc Code	Payments	Amount
State-Operated Inpatient	472	8	15,610.75
Nexus-Gerard Family Healing , LLC, 000012394	3		18,273.92
Svc Description	Svc Code	Payments	Amount
Children's Residential Treatment	483	3	18,273.92
North Homes Inc., 000015171	2		6,265.08
Svc Description	Svc Code	Payments	Amount
Children's Residential Treatment	483	2	6,265.08
Northwestern Minnesota Juvenile Center, 000015203	1		8,215.00
Svc Description	Svc Code	Payments	Amount
Correctional Facilities	185	1	8,215.00
Options Residential, 000015334	1		1,340.13
Svc Description	Svc Code	Payments	Amount
Child Family Foster Care	181	1	1,340.13
PHASE, Inc., 000015579	2		978.20
Svc Description	Svc Code	Payments	Amount
Day Training and Habilitation	566	1	658.20
Transportation	516	1	320.00
Richardson MD/Paul T, 000016136	2		3,045.00
Svc Description	Svc Code	Payments	Amount
Adult Outpatient Psychotherapy	452	2	3,045.00
RSI, 000016246	2		460.49
Svc Description	Svc Code	Payments	Amount
Semi-Independent Living Services (SILS)	534	2	460.49
Village Ranch, Inc., 000017414	6		7,423.57
Svc Description	Svc Code	Payments	Amount
Child Family Foster Care	181	6	7,423.57
Volunteers Of America, 000017460	4		2,708.84
Svc Description	Svc Code	Payments	Amount

Board Approval Report

Paid Cnty Vendor			Total Payments	Total Amount	
Semi-Independent Living Services (SILS)			534	4	2,708.84
			Report Totals:	39	92,730.48

I hereby certify that the above amounts have been approved and allowed by the county Welfare Board for payment to the claimant as in each instance stated that said county Welfare Board authorizes and instructs the county Auditor and county Treasurer of said county to pay the same.

Signature

Title

Date

Vendor Name	Amount
Health Insurance Reimbursement	\$ 148.50
Jen Anderson	\$ 392.56
Health Insurance Reimbursement	\$ 442.60
Medical Mileage	\$ 11.13
Health Insurance Reimbursement	\$ 582.04
Health Insurance Reimbursement	\$ 148.50
Rhonda Bergstadt	\$ 248.08
Chelsey Bottelson	\$ 220.31
Health Insurance Reimbursement	\$ 251.14
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 148.50
Medical Mileage	\$ 36.74
Health Insurance Reimbursement	\$ 148.50
DHS	\$ 63,339.62
Health Insurance Reimbursement	\$ 549.32
DNA (Child Support Blood Test)	\$ 81.00
Health Insurance Reimbursement	\$ 690.40
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 148.50
Medical Mileage	\$ 52.80
Medical Mileage	\$ 29.48
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 173.00
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 462.92
Health Insurance Reimbursement	\$ 148.50
Linda Hosley	\$ 34.72
Innovative Office Solutions	\$ 756.36
Health Insurance Reimbursement	\$ 168.30
Health Insurance Reimbursement	\$ 148.50
Kanabec County Attorney	\$ 6,685.20
Kanabec County Aud Treas	\$ 5,124.67
Kanabec Counrty Comm Health	\$ 71,954.58
Tamara Kelash	\$ 171.92
Medical Mileage	\$ 263.20
Aliina Olson	\$ 14.12
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 148.50
Medical Mileage	\$ 80.08
Health Insurance Reimbursement	\$ 410.52
Ashlee Lovaas	\$ 41.44
Medical Mileage	\$ 29.78
Alissa McDermeit	\$ 267.12
Health Insurance Reimbursement	\$ 148.50
Minnesota Counties Intergovernmental	\$ 110.00
Kelly Mitchell	\$ 171.92
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 148.50
Health Insurance Reimbursement	\$ 148.50

Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	148.50	
Premier Biotech Labs LLC	\$	126.45	
Procentive	\$	1,390.00	
Medical Mileage	\$	39.29	
Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	571.48	
Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	203.92	
Health Insurance Reimbursement	\$	660.00	
Health Insurance Reimbursement	\$	1,377.69	
Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	135.92	
Health Insurance Reimbursement	\$	148.50	
Sue's Bus Service (Medical Transportation)	\$	11,583.00	
Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	306.28	
The Inn on Lake Superior (Staff Development)	\$	1,189.44	
Timber Trails	\$	22,000.12	
Health Insurance Reimbursement	\$	148.50	
Pamela Vojvodich	\$	3.36	
Katie Vork	\$	430.08	
Health Insurance Reimbursement	\$	421.85	
Health Insurance Reimbursement	\$	148.50	
Health Insurance Reimbursement	\$	458.48	
Health Insurance Reimbursement	\$	319.94	
Health Insurance Reimbursement	\$	319.94	
Medical Mileage	\$	60.08	
Sharon Wright	\$	112.00	
Denise Danelius	\$	93.52	
TOTAL IFS DOLLARS	\$	200,104.91	83 Total IFS Vendors
TOTA SSIS DOLLARS	\$	92,730.48	15 Total SSIS Vendors
GRAND TOTAL	\$	292,835.39	98 Total Vendors

9:30am PUBLIC HEARING

June 15, 2021

REQUEST FOR BOARD ACTION

a. Subject: PUBLIC HEARING- REGARDING A PROPOSED CHANGE TO ORDINANCE 27; REGARDING ALCOHOL SERVING TIME	b. Origination: Community Business Owners
c. Estimated time: 30 minutes	d. Presenter(s):

e. Board action requested:

**KANABEC COUNTY BOARD OF COMMISSIONERS
NOTICE OF PUBLIC HEARING
REGARDING A PROPOSED CHANGE TO ORDINANCE 27;
REGARDING ALCOHOL SERVING TIME.**

NOTICE IS HEREBY GIVEN that the Board of Commissioners of Kanabec, Minnesota, will conduct a public hearing regarding adoption of a change to the legal time for serving alcohol on Sundays to 8:00a.m. Text of the proposed ordinance can be accessed on the county's website at www.kanabecounty.org or by visiting the Coordinator's Office. This hearing will take place as part of the regular County Board meeting beginning at 9:30a.m. on August 17, 2021. All interested persons may appear and be heard at the public hearing, either orally or by bringing written comments to be read during the hearing; written comments may also be filed with the Coordinator's Office at 18 N. Vine Street Mora, MN prior to the meeting.

For further information, contact the office of the Kanabec County Coordinator at 679-6440 or coordinator@co.kanabec.mn.us

f. Background:

Supporting Documents: None **Attached:** ☒

Date received in County Coordinators Office: 7/20/21

Coordinators Comments: As of 8/12/21, no written comments regarding this proposed ordinance change had been received by the Coordinator's Office.

ORDINANCE NO. 27

KANABEC COUNTY LIQUOR ORDINANCE

An Ordinance providing for hours when intoxicating liquor cannot be consumed on premises licensed to sell intoxicating liquor; for hours during which no person other than employees of a licensee can remain in any premises licensed to sell intoxicating liquor; for authority of law enforcement officials to enter premises to check for violations; for penalties for licensees who allow persons to remain on licensed premises during any time prohibited by this ordinance; providing for penalty for failure to allow a law enforcement official to enter a licensed premises to check for violations; and providing repeal of a prior ordinance and a prior resolution dealing with the same subject.

THE COUNTY BOARD OF KANABEC COUNTY ORDAINS:

1.0 DEFINITIONS. The following words and phrases when used in the ordinance, unless the context clearly indicates otherwise, shall have the meanings herein ascribed to them.

1.01 “County” shall mean County of Kanabec.

1.02 “Final decision” shall mean any decision made by the County after a hearing under Section 9.0, or any determination made by the County Auditor that is not challenged at a hearing under Section 9.0 within 10 days of the mailing of the notice required by Section 9.01.

1.03 “Intoxicating Liquor” as defined in Minn. Stat. § 340A.101, Subd. 14.

1.04 “License” shall mean those licenses issued by the County of Kanabec to allow for the sale of intoxicating liquor by a licensee on the premises available to the licensee for the sale of intoxicating liquor.

1.05 “Licensee” shall mean any person who is issued a license by the County of Kanabec to allow for the sale of intoxicating liquor by the person on the premises licensed by the County of Kanabec.

1.06 “Person” shall mean an individual, partnership or corporation.

1.07 “Premises” is the premises described in the approved license application, subject to the provisions in Minn. Stat. §340A.410, subd 7. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, “licensed premises” means the entire golf course except for areas where motor vehicles are regularly parked or operated.

1.08 “Off-Sale” shall mean the sale of intoxicating liquor in original packages for consumption off the licensed premises only.

1.09 “On-Sale” shall mean the sale of intoxicating liquor for consumption on the licensed premises only.

1.10 “Club” as defined in Minnesota Statute 340A.101, Subd. 7

2.0 APPLICATION PROCESS

2.01 An application for a license under this ordinance shall be made on the forms prescribed by the County and the State of Minnesota

2.02 Before issuing any license under this ordinance, the Board of Commissioners shall consider, among other things, the following:

- (a) the application;
- (b) township approval;
- (c) the written recommendations from the Kanabec County Sheriff and Kanabec County Attorney;
- (d) the character and reputation of the person making the application;
- (e) the nature of the business being or to be conducted;
- (f) the physical set up of the premises;
- (g) the propriety of the location of the premises;
- (h) compliance with County ordinances and state law including, but not limited to: parking, zoning, sanitation, food service facilities, provisions for security against theft or misuse of products, subdivision regulations, building, fire, electrical and plumbing codes;
- (i) any files of the County regarding the person making the application and/or premises.

2.03 A licensee must require that all of its employees or agents who serve alcoholic beverages at the establishment successfully complete an annual program of responsible beverage server training. The County shall provide a list of dates, locations and times of County-approved responsible beverage server training programs. Certificates of attendance indicating proof of such training shall be maintained on the premises of the licensed establishment and a copy provided to the County at the time of application for renewal of license. Any renewal application not containing the certificates of training attendance shall be incomplete. Attendance at the training session does not alleviate applicants from civil and/or criminal penalties for a violation of this chapter.

3.0 FEES – NEW LICENSEES AND RENEWALS

3.01 The license fees for the licenses issued under this ordinance shall be those as set by resolution of the Kanabec County Board of Commissioners. Any resolution of the Board regarding license fees must comply with the provisions of Minn. Stat. §340A.408 (2005), and any amendment or recodification thereto.

3.02 Licenses are annual and expire June 30th of each year. License fees are non-refundable.

3.03 Renewal fees are due with the license renewal application. No license shall be issued until license fees are paid in full.

3.04 Any licensee paying license fees by business or personal check that is returned due to insufficient funds or a closed account, will not be issued their license until payment by certified cashiers check or cash is received by the Kanabec County Auditor's office.

3.05 The Kanabec County Auditor's office reserves the right to require license renewal fees be paid by certified cashier's check or cash in subsequent years should a licensee violate section 3.04.

3.06 No license for the sale of intoxicating liquor will be issued to anyone for sales to be made on premises upon which delinquent property taxes exist.

4.0 HOURS OF SALE OF ON-SALE INTOXICATING LIQUOR

4.01 No sale of intoxicating liquor for consumption on the licensed premises may be made:

(a) between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

(b) between 1:00 a.m. and 10:00 am on Sundays;.

4.02 No licensee licensed to sell intoxicating liquor shall permit any person to consume intoxicating liquor in the licensed premises later than 1/2 hour after this ordinance allows for the sale of intoxicating liquor.

4.03 No licensee shall permit any consumer or person whomever, except employees of the licensee, to remain on the licensed premises later than 1/2 hour after this ordinance allows for the sale of intoxicating liquor.

5.0 TEMPORARY ON-SALE LICENSES FOR INTOXICATING LIQUOR

5.01 The County may issue a temporary on-sale license for the sale of intoxicating liquor to a club or charitable, religious, or other non-profit organization in existence for at least three (3) years for the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee.

5.02 The temporary license under this section shall be issued for not more than three (3) consecutive days.

5.03 The premises for which a temporary license is issued may include public property owned by the County.

5.04 In the event the premises used are public property owned by the County, the licensee shall deposit with the Kanabec County Auditor, a \$1,500 refundable cash deposit to guarantee that the premises will be cleaned up after the expiration of the temporary license, and to guarantee against property damage to the property owned by the County.

5.05 A temporary license shall not be issued for the use of public property owned by the County unless the licensee files with the Kanabec County Auditor a liability and property damage insurance policy protecting the licensee and County with the limits of at least \$100,000 per person; at least \$300,000 per occurrence and property damage of at least \$10,000.

6.0 GENERAL PROVISIONS

6.01 A licensee shall allow any law enforcement official to enter the premises at any time, for the purpose of investigating possible violations of this ordinance, other ordinances, and

Minnesota Statutes.

6.02 A licensee shall immediately stop sales when ordered to do so by the Sheriff of Kanabec County or their deputies.

6.03 A licensee shall make every sale in full view of the public.

6.04 Any license issued under this ordinance shall be posted in a conspicuous place on the premises for which it is issued.

6.05 Any license issued under this ordinance shall not be transferred to any other person, organization or premises.

6.06 The licensee shall comply with all laws, rules and regulations of the state and federal governments in operation on the premises, and shall ensure compliance therewith by each of their partners, employees, agents and customers.

7.0 PENALTIES

7.01 Any violation of Sections 4.02 or 4.03 is a misdemeanor, and additionally shall be cause for revocation, or suspension for up to 60 days of the license of the offender and/or up to a \$2000 fine.

7.02 Any violation of Section 6.01 shall be cause for revocation , or suspension for up to 60 days of the license of the offender and/or up to a \$2000 fine.

7.03 Any violation of Minnesota Chapter 340A shall be cause for revocation, or suspension for up to 60 days of the license of the offender and/or up to a \$2000 fine.

7.04 Upon a determination by the County Auditor that a violation of this ordinance or Minnesota Chapter 340A has occurred, the following minimum penalties shall apply:

- a.** First violation: \$1000 fine
- b.** Second violation within 36 months of any prior violation:\$2000 fine
- c.** Third violation within 36 months of any prior violations: \$2000 fine and a 14-day license suspension
- d.** Upon a fourth violation occurring within 36 months of any prior violations, the licensee's license will be revoked.

7.05 Payment of all fines assessed must be made within 90 days of the date that written notice of the violation was provided to the licensee. Unpaid fines shall constitute a basis to deny renewal of a liquor license when renewal is due.

7.06 Violations are counted per licensee. In the event of a change in the licensee, upon the first violation occurring after the change, penalties will be assessed as a first offense.

8.0 NOTICE AND HEARING

8.01 If the County Auditor makes a determination to suspend or revoke a license granted under this ordinance, or to impose a fine on the licensee, the County Auditor must provide written notice of the specific civil penalty to the licensee.

8.02 Written notice from the County Auditor must inform the licensee of the following:

- (a) The reason for the Auditor's determination;
- (b) The proposed consequences that the County intends to impose on the licensee;
- (c) The licensee's right to request a hearing prior to the determination becoming final; and
- (d) The consequences of the licensee's failure to request a hearing within 10 days of mailing of written notice.

8.03 A hearing must be requested within 10 days of the date the notice was mailed via certified mail. If a licensee does not request a hearing within that time period, the determination of the County Auditor will be the final decision. Requests for a hearing must be submitted in writing to the County Coordinator.

8.04 If the licensee requests a hearing, the hearing will be conducted in accordance with Minn. Stat. §340A.415 and Sections 14.57 to 14.69 of the Administrative Procedures Act ("APA"), and any amendment or recodification thereto.

8.05 The County Board must select an independent hearing officer to conduct a hearing and make a report and recommendations pursuant to the provisions of the APA.

8.06 The County must consider the hearing officer's recommendations and issue its decision on the suspension or revocation based on that recommendation pursuant to provisions of the APA. This decision will be the County's final decision.

9.0 EFFECTIVE DATE

This ordinance shall be effective July 1, 2015.

Passed by the Kanabec County Board of Commissioners this 24th day of June, 2015.

Kanabec County Chairperson

County Coordinator

10:00am Appointment

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: 1) Create Broadband Committee & 2) Department Update	b. Origination: EDA
c. Estimated time: 10 minutes	d. Presenter(s): Heidi Steinmetz

e. Board action requested:

Create a committee that would advise the County Board directly on broadband matters

f. Background:

1. In order to maintain the momentum created by participating in Blandin Foundation's "Community Broadband Resources (CBR): Accelerate" program, EDA staff is suggesting that the County Board create a broadband committee that would advise the County Board directly. This committee would be a spinoff of the County's CBR: Accelerate team. The first task of the committee would be to review and score broadband feasibility study proposals.

2. In light of the EDA's first formal department update to the County Board, below are some of the EDA's accomplishments since inception:

- Secured \$231,500 in grants
- Recruited NorthStar Aluminum, Kwik Trip, and Fowler Parts Service
- Administered 41 CARES Act grants, 23 state-funded COVID relief grants
- Property Assessed Clean Energy (PACE) program created
- Secured opportunity zone designation for Mora
- Opened Small Business Development Center (SBDC) outreach office
- Recruited workforce housing developer to create Vasa Crossing project in Mora
- Partnered with First Children's Finance to establish Kanabec County Childcare Capacity Builders (CCB) team and
- Strategic Child Care Supply Plan
- Created Childcare Capacity Builders Forgivable Loan Program
- Shovel Ready certification secured from DEED for Mora and Braham Industrial Parks
- Hosted three annual economic development conferences

To maintain a level of privacy for the businesses that have received assistance from the EDA over the last year, staff will verbally provide a list of that assistance during the County Board meeting on August 17th.

Supporting Documents: None ☒ **Attached:**

Date received in County Coordinators Office:

Coordinators Comments:

10:15am Appointment

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Reevaluation Results	b. Originating Department: County Coordinator
c. Estimated time: 5 Minutes	d. Presenter(s): Kim Christenson

e. Board action requested:

Approve the following resolutions:

Resolution #__a - 08/17/21

Deputy Auditor, Property & Tax Evaluation

WHEREAS the board did by Resolution #15 – 06/15/21 refer the position of Deputy Auditor, Property & Tax the pay plan consultant for review, and

WHEREAS the board has been presented with the results of that study;

BE IT RESOLVED to accept the ranking for the “Deputy Auditor, Property & Tax” position, which will remain at a Pay Range 11.

Resolution #__b - 08/17/21

Deputy Auditor, Tax II Evaluation

WHEREAS the board did by Resolution #15 – 06/15/21 refer the position of Deputy Auditor, Tax II the pay plan consultant for review, and

WHEREAS the board has been presented with the results of that study;

BE IT RESOLVED to accept the following ranking for the “Deputy Auditor, Tax II” position, which results in Pay Range 11:

Category	Rank	Points
Qualifications	q45	91
Decisions	d24	52
Problem Solving	p14	55
Relationships	r18	64
Effort A	ea5	4
Effort B	eb14	12
Hazards	h2	5
Environment	n5	8
TOTAL POINTS		291

f. Background:

See attached memo from the Pay Consultant.

Supporting Documents: None Attached: ☒

Date Received in County Coordinator's Office:

N/A

Coordinators Comments:

None

From: Wendie Lindberg [mailto:Wendie.Lindberg@mranet.org]
Sent: Thursday, July 1, 2021 3:51 PM
To: Kim Christenson <kim.christenson@co.kanabec.mn.us>
Subject: RE: Please review

Sure thing – here you are:

Deputy Auditor, Property & Tax	q45	91	d24	52	p14	55	r18	64	ea9	5	eb12	17	h2	5	n5	8	297	11
Deputy Auditor - Tax II	q45	91	d24	52	p14	55	r18	64	ea5	4	eb14	12	h2	5	n5	8	291	11

FYI, I will be out of the office July 8th through 22nd, if you have any jobs you need evaluated it would be best to send them to me before that, or when I return.

Thanks!

Wendie Lindberg
Compensation Director
Main: 763-253-9100 | Direct: 763-253-9721
MRA | 9805 45th Ave N | Plymouth | MN | 55442
Wendie.Lindberg@mranet.org | www.mranet.org



10:45am Appointment

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Resolution for Crime Victim/Witness Position Grant	b. Origination: County Attorney's Office
c. Estimated time: 10 minutes	d. Presenter(s): Barbara McFadden, County Attorney

e. Board action requested:

Resolution #__ - 8/17/21

Crime Victim Services Grant Acceptance Resolution

WHEREAS, the Kanabec County Attorney's Office application for renewal of the Minnesota Department of Public Safety, Office of Justice Programs, Crime Victim Services grant has been approved for an additional two year term;

WHEREAS, the grant amount is \$140,000.00; and

WHEREAS, the OJP grant funding provides all costs related to employment of a full-time Victim Services Coordinator in the County Attorney's Office to fulfill the County Attorney's Office's obligations under Minnesota Statutes Chapter 611A and other provisions and serves the interests of public safety in general.

THEREFORE BE IT RESOLVED to accept the grant and execute the Grant Agreement.

f. Background:

Supporting Documents: None Attached: ☒

Date received in County Coordinators Office: 8/10/21

Coordinators Comments:

MINNESOTA DEPARTMENT OF PUBLIC SAFETY



Office of Justice Programs

Crime Victim Services

445 Minnesota Street • Suite 2300 • Saint Paul, Minnesota 55101-1515
Phone: 651.201.7300 • 888.622.8799 • Fax: 651.296.5787 • TTY: 651.205.4827
www.dps.state.mn.us

Date: June 11, 2021
To: Cheryl Terhaar
Kanabec County Attorney's Office
From: Cecilia Miller, Grants Director
Re: Notice of Eligibility for FY22-23 Funding (grant period: October 1, 2021 to September 30, 2023)

The information contained in this notice is specific to your agency's response to the *Crime Victim Services 2022-23 Renewal Grants RFP* (titled "Crime Victim Services 2022" in E-grants) at this link: [Crime Victim Services 2022 \(VOCA\) RFP](#).

Your agency is eligible to apply for **\$140,000** to provide the following services during the 24-month period of October 1, 2021 to September 30, 2023:

- \$140,000 for general crime services in Kanabec County.

Use the following amounts as you budget your award between the *VOCA*, *Match* & *State* columns in your E-grants budget document. Some funding has time limitations during the grant period. These time limitations should not be of concern if you spend federal and state dollars on a consistent basis over the 2-year grant period, but please note them as you budget.

- **\$139,000** in federal Victims of Crime Act (VOCA) funding
 - \$12,029 is only available for expenses incurred from October 1, 2021 to September 30, 2022 (first year of grant, source: VOCA 19).
 - \$92,162 is available for the entire grant period – October 1, 2021 to September 30, 2023 (sources: VOCA 20 & VOCA 21).
 - \$34,809 will only be available for expenses incurred from October 1, 2022 to September 30, 2023 (last year of grant, source: VOCA 22).
- **\$34,752** is required in VOCA match
- **\$1,000** in state funding
 - \$500 is available from October 1, 2021 to June 30, 2023 (first 21 months of grant).
 - \$500 is available from July 1, 2022 to September 30, 2023 (last 15 months of grant).

Please see the RFP for specific information about completing your budget and requesting a match waiver if applicable.

As a recipient of federal funding, you are required to have an active SAM account at <https://www.sam.gov/> to receive reimbursements. Because your SAM account requires annual renewals at no charge, please become familiar with the date that your SAM account expires each year so you can

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make the necessary updates to avoid reimbursement delays.

The Office of Justice Programs (OJP) reserves the right to modify the amount for which your agency is eligible to apply if grant award amounts received by OJP are different than anticipated.

Please feel free to contact your grant manager with questions and for technical assistance.

10:55am Appointment

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Department Update and New Position Request for 2022	b. Origination: Information Systems
c. Estimated time: 15 minutes	d. Presenter(s): Lisa Blowers

e. Board action requested:

- a. Department Update
- b. Request to add a Full-Time Computer Technician in 2022 Budget

The pandemic highlighted the importance of having full staffing in the office in the IS Department, as we needed to keep up with the demand of supporting technology for all departments work processes and delivery of county services to continue. Some of our rapid technology expansion during the pandemic will remain and become permanent responsibilities. During the pandemic, the IS Department staff was not taking enough PTO due to this demand and now are in a position that needs to lower those balances.

Technology needs continue to increase constantly, and nearly all departments continue to need more and more hardware and software to operate by current industry standards and practices. Staffing has also increased in other departments, so demands upon our small department continually increase with more workers using more technology. We as a county need to keep up with the demand.

At this time the IS Director is proposing an additional Computer Technician to keep up with the constant technology needs of the County departments and to help cover the staff levels of PTO hours available. This position would provide county employees with technical assistance and training for all users, including Security Awareness Training, support the new conference room technology, update and maintain County inventory and asset tracking, monitor software and systems updates, assist departments with content management of the website, assist with department software migrations and upgrade projects, and IS Department billing, invoicing, and purchasing. We need more staff to help run the county business and services. The IS Director would like to spend more time managing, planning and directing.

The Computer Technician job description is attached for review.

f. Background:

Supporting Documents: None Attached: ☒

Date received in County Coordinators Office:

Coordinators Comments:

Kanabec County Position Description

Computer Technician

Department: Information Systems

Exemption Status: Non-exempt

Board Approval: 12/15/99

Updated: 2018

Job Specifications	
Factor	Level
Minimum Education	a. High School + b. 2 years of Post Secondary in Information Technology
Minimum Job Related Experience	1.5 Years
Supervision Given	None
Supervision Received	Information Systems Director
<u>Knowledge, Skills & Abilities Desired:</u>	
<input checked="" type="checkbox"/> Knowledge of computer hardware, software and network operation.	
<input checked="" type="checkbox"/> Knowledge of current and upcoming digital equipment.	
<input checked="" type="checkbox"/> Knowledge of modern office equipment and procedures.	
<input checked="" type="checkbox"/> Ability to keep pace with a highly complex, rapidly evolving technology.	
<input checked="" type="checkbox"/> Ability to multi-task and prioritize work.	
<input checked="" type="checkbox"/> Ability to develop and maintain an effective working relationship with other employees, the general public, contractors and public officials.	
<input checked="" type="checkbox"/> Ability to gain basic understanding of numerous applications used by different departments within the county.	
<input checked="" type="checkbox"/> Ability to follow procedures and practices, and make decisions in accordance with these procedures and practices.	
<input checked="" type="checkbox"/> Ability to accurately handle detailed work amid interruptions.	
<input checked="" type="checkbox"/> Skilled in listening and communicating technical issues to lay users.	
<input checked="" type="checkbox"/> Highly skilled in MS Office applications.	
<input checked="" type="checkbox"/> Some skill in keyboarding and clerical skills.	
<input checked="" type="checkbox"/> Ability to organize and keep extensive network records updated at all times.	
<input checked="" type="checkbox"/> Maintain IT knowledge and ability to stay amid new technology.	

Job Summary

This position is responsible for performing a variety of duties in relation to hardware, software and network uses including, but not limited to, computer service, installation, and employee assistance. Work also includes a variety of clerical, receptionist, bookkeeping and public contact duties in assisting the Information Systems Director.

Some Examples of Essential Duties

75% Computer Systems

1. Perform routine maintenance and troubleshooting on LAN systems.
2. Perform routine maintenance and troubleshooting on telephone systems.
3. Respond to error messages and requests from users.
4. Investigate problems and issues by various means: Internet, contractors, vendors, trade documents, etc.
5. Acts as back-up to I.S. Administrator to perform various duties on a multiple server MS network.
6. Develop instructional materials.
7. Install software and new releases. Discover, evaluate, and eliminate problems which may be caused by user or system.
8. Set up and configure network PC's and printers.
9. Configure and install hardware and software.
10. Assist PC users with various software packages.
11. Maintain county-wide computer inventory of hardware and software.
12. Compile data for administrative analysis.
13. Ensure users understand and adhere to all policies to maintain security.
14. Orientate users of PC's, application use, phone use, and any and all attached devices.

19% Clerk/Receptionist

1. Types, mails and distributes letters, billings, memos, reports, and work orders.
2. Answers the telephone, screens callers, and assists them in a polite and courteous manner.
3. Greets walk-in visitors, answers inquiries, and directs visitors to appropriate person.
4. Composes, types and proofreads correspondence as directed in accordance with standard procedures.
5. Records and maintains files, records, schedules and statistics.
6. Schedules work orders.
7. Prepares worksheets, tables, forms, etc.
8. Assists the public and employees with routine questions.
9. Updates and maintains IT data base: users phone information, data equipment, software, etc.
10. Backs up County Coordinator's Assistant
11. Accesses and uses labor relations material, including confidential reports for labor relations.
12. Process all telephone charges, reports and so forth for all county offices.
13. Work in accordance with vendors for quotations and ordering and status of orders.

Other Important Duties

6% Miscellaneous

1. Assists Information Systems Director with budget and board request data.
2. Delivers documents and materials.
3. Orders materials and supplies.
4. Attends training as required.
5. Performs related work as required.
6. Works according to good safety practices as posed, instructed and written in policy. Uses all safety devices. Reports any unsafe condition or act to their supervisor.

Physical Demand Analysis Summary

In a typical 8-hour work day, this person sits for 4 hours, stands 2 hours and walks 2 hours. Some special physical demands include:

1. Occasional need to bend, reach above shoulder level, kneel, push and pull.
2. Frequent lifting and carrying up to 10 pounds.
3. Occasional lifting and carrying of sensitive instruments up to 24-pounds.
4. Frequent need for verbal and written communication ability.
5. Frequent need to hear normal conversation and equipment sounds, seeing with near acuity, and distinguishing colors with exposure to eyestrain.
6. Frequent use of hands at knee, mid-thigh, waist, and shoulder height with some use of hands above the head.
7. Frequent work on hands and knees under desks in crowded, dimly lit conditions.
8. Frequent work around computer equipment.
9. Frequent contact with the public and employees.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment of the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

The County is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act, the County will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.

11:10am Appointment

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Request to Add a Position to the Sheriff's Office in 2022	b. Origination: Sheriff's Office
c. Estimated time: 15 minutes	d. Presenter(s): Brian Smith, Sheriff

e. Board action requested:

Law enforcement-specific technology needs have increased substantially over the last few years. Ongoing training and support are needed to help the Sheriff's Office run more effectively and efficiently. This need exceeds the amount of time and subject matter expertise the I.S. Department is able to provide, therefore the Sheriff is requesting consideration of adding a Systems Specialist position to his budget in 2022.

The proposed job description is attached for review.

f. Background:

Supporting Documents: None Attached: ☒

Date received in County Coordinators Office:	8/4/21
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Coordinators Comments:

Kanabec County Position Description

SHERIFF'S OFFICE SYSTEMS SPECIALIST

Department: Sheriff's Office

Board Approval: _____

Exemption Status: Non-Exempt

Date:

Job Specifications		
	FACTOR	LEVEL
Education & Experience qualifications are a job-related combination substantially equivalent to the levels shown at right.	Education:	Bachelor's Degree in Information Technology or related field <u>and</u> four (4) years of related law enforcement work experience; OR Two (2) years of post-secondary education in Information Technology or related field and six (6) years of related law enforcement work experience; OR an equivalent combination of education and job-related work experience that totals eight (8) years of experience in related law enforcement technology
	Experience:	Minimum of 4 years in related field Experience with ProPhoenix, SQL server reporting services, criminal justice databases, project management, public safety, emergency services, applying mandated FCC rules and regulations, and CJIS security policies
	Other Requirements:	-Must have valid driver's license -Must be able to pass BCA background check -Must be able to be certified by the State of Minnesota for operation of National and State criminal justice computer systems
	Supervision given to:	None
	Supervision received from:	Chief Deputy

KNOWLEDGE, SKILLS & ABILITIES DESIRED:

- Must possess considerable knowledge of modern public safety communication practices, procedures, techniques, computer technology, hardware, software, applications and operating systems
- Knowledge of current and developing digital equipment and devices
- Knowledge of principle elements of radio communication networks including trunked radio systems, mobile data systems, digital microwave networks, fiber optic networks, LAN/WAN and Packet networks

- Knowledge of applicable laws, ordinances, rules, regulations, and standard operating procedures related to emergency public safety communications, computers and computer-aided dispatching
- Must be skilled in problem identification and problem-solving techniques
- Knowledge of network architecture and network security best practices
- Ability to multi-task and prioritize work
- Ability to develop and maintain an effective working relationship with other employees, vendors and public officials
- Ability to follow policies, procedures and practices, and make decisions in accordance with these policies, procedures and practices
- Ability to accurately handle detailed work amid interruptions
- Highly skilled in listening and communicating technical issues to all users of all skill levels
- Highly skilled in Microsoft Active Directory and Microsoft Office Suite software
- Ability to organize and keep extensive network and inventory records updated at all times

JOB SUMMARY

Under limited supervision, the Sheriff's Office Systems Specialist is responsible for the continuous successful 24/7 secure, reliable, efficient operation of the technology and communications systems for the Sheriff's Office, Jail, Emergency Operations Center, Dispatch Center, and patrol vehicles in compliance with all applicable regulations. This position will work closely with the Information Systems department on operational items and projects. Duties are primarily performed in a regular office environment, but also include the installation of technical equipment from mice to printers, patrol vehicle equipment, and uninterrupted power supplies.

ESSENTIAL DUTIES

CAD/RMS/JMS Administration (50%)

1. Manage all aspects of ProPhoenix and/or other CAD/RMS/JMS systems that may be utilized in the future.
2. Maintain good working relationships with ProPhoenix and enter requests for service when issues arise that cannot be resolved locally.
3. Demonstrate a high level of knowledge of all the products and APPS in the ProPhoenix system and make recommendations to administrators on future budget needs.

4. Train new and existing users on an ongoing basis to ensure users have the skills and knowledge necessary to efficiently utilize the system.
5. Attend annual ProPhoenix User Conference.
6. Facilitate monthly meeting with local User Group to keep all branches updated and to collaborate on solutions that may arise with functionality.

Office-wide System Updates, Projects and User-Access Maintenance (20%)

7. Ensure that all systems, hardware and software used within the Sheriff's Office, Jail, Emergency Operations Center, Dispatch Center, and patrol vehicles have updated operating systems, security systems, and other applications maintained on a regular schedule.
8. Work with vendors to resolve issues beyond local control.
9. Coordinate and manage projects for system and component updates/upgrades in the Sheriff's Office, Jail, Emergency Operations Center, Dispatch Center, and patrol vehicles in collaboration with the I.S. Department.
10. Maintain user access on all applicable systems (i.e. CodeRED, ARMER, Higher Ground, ProPhoenix, etc.).
11. Train new and existing users on any changes resulting from the updates.

Assist with Administration of the 800 MHz Subsystem (5%)

12. In conjunction with the Dispatch Administrator/Emergency Management Director, develop and maintain the County interoperability and subscriber configuration and database.
13. Serve as primary backup to the Dispatch Administrator/Emergency Management Director for troubleshooting and issue resolution.
14. Assist with training new and existing users on system and equipment operations and maintenance.

Assist with E911/Admin Phone Systems (5%)

15. Work closely with I.S. department to ensure dependable phone service into PSAP.

16. Work with vendors (i.e. Motorola, Higher Ground, etc.) to resolve issues beyond local control.
17. Train new and existing users on an ongoing basis to ensure users have the skills and knowledge necessary to efficiently utilize the phone systems.

Jail Camera System (5%)

18. Serve as the point of contact for the jail camera security system.
19. Work with vendors to resolve issues beyond local control.

Maintain County Sheriff's Website (5%)

20. Regularly update and maintain the Sheriff's Office portion of the website.
21. Coordinate integration with ProPhoenix Citizen Services in the website.

Troubleshooting & Training (5%)

22. Assist with troubleshooting and finding solutions for ITV, printer, copier, patrol vehicle systems, and any other technological issues within the Sheriff's Office.
23. Train new and existing users on software and systems such as WebEx, Microsoft Outlook, Excel, Word, etc. as needed.
24. Assist with jail training room A/V technology for users.

Other Duties (5%)

25. Review and ensure that all appropriate annual maintenance agreements are in place for various software utilized within the Sheriff's Office, Jail, Emergency Operations Center, Dispatch Center, and patrol vehicles.
26. Prepare annual reports on statistical information, respond to requests for information, research log data, and provide reports upon request.
27. Respond to emergency response situations and provide on-site support for the Emergency Operations Center as needed.
28. Assist with installation and testing of hardware in patrol vehicles as needed.
29. Maintain an effective working relationship with I.S. Department personnel.
30. Dress appropriately for the workplace.
31. Perform other related duties as assigned or apparent.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment of the position.

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The County is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act, the County will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.

August 17, 2021
Appointment Agenda of
Chad T. Gramentz, PE
Public Works Director

1. Intersection Policy

Resolution #1 (08-17-21)

2. Construction Update

Resolution #1 (8-17-21)
Rural Through/STOP Intersection Policy

WHEREAS the Kanabec County Board of Commissioners wishes to improve safety on Kanabec County roadways, and

WHEREAS the County Engineer has developed a policy to help improve traffic safety, titled Rural Through/STOP Intersections, dated August 17, 2021 and

WHEREAS the County Sheriff has assisted with the policy development, and

WHEREAS said policy was presented before the Board and included herein, and

THEREFORE BE IT RESOLVED to adopt the Rural Through/STOP Intersections policy dated August 17, 2021 as presented, and

BE IT FURTHER RESOLVED to apply said policy to previous crashes as available to the County Engineer on the MnCMAT2 system.

Chad Gramentz

Subject: FW: highway intersection policy
Attachments: Rural intersection prioritization.pdf; Rural Through-STOP Intersections Policy 7-16-21.pdf

From: Tom Suppes [mailto:tsuppes@mcit.org]
Sent: Thursday, July 29, 2021 2:29 PM
To: Chad Gramentz <chad.gramentz@co.kanabec.mn.us>
Subject: FW: highway intersection policy

Hello Chad,

Thank you for sending the Rural Through-STOP Intersections Policy to MCIT for risk management review. Typically, MCIT does not comment on county policies and defers the development of county policies to the county board and the county attorney. MCIT does recommend consistently following county policy as written or amended and document the process. MCIT also recommends that the county attorney review all policies prior to their approval and implementation.

To your question about a county policy being used against the county, Minnesota statutes and case law may provide some immunity from liability. In particular, discretionary immunity is a doctrine that precludes governmental liability where the conduct being challenged is a policy-making function. It generally applies to planning-level decisions that involve the evaluation of factors, such as the financial, political, economic and social effects, of a given plan or policy and requires the county to engage in a balancing of these factors. More information about discretionary and other immunities can be found on the MCIT website at: [Governmental Immunities | MCIT](#) . You may wish to take a look at the section on discretionary immunity and have a conversation with the county attorney as to how it may apply.

Please contact me with questions.

Thanks!

Tom

Tom Suppes
MCIT Risk Management Consultant
tsuppes@mcit.org
Phone: 651.209.6469
Toll-free: 866.547.6516, ext. 6469
Fax: 651.209.6496



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Governmental Immunities

Prepared for:
MCIT
by
Kenneth Bayliss

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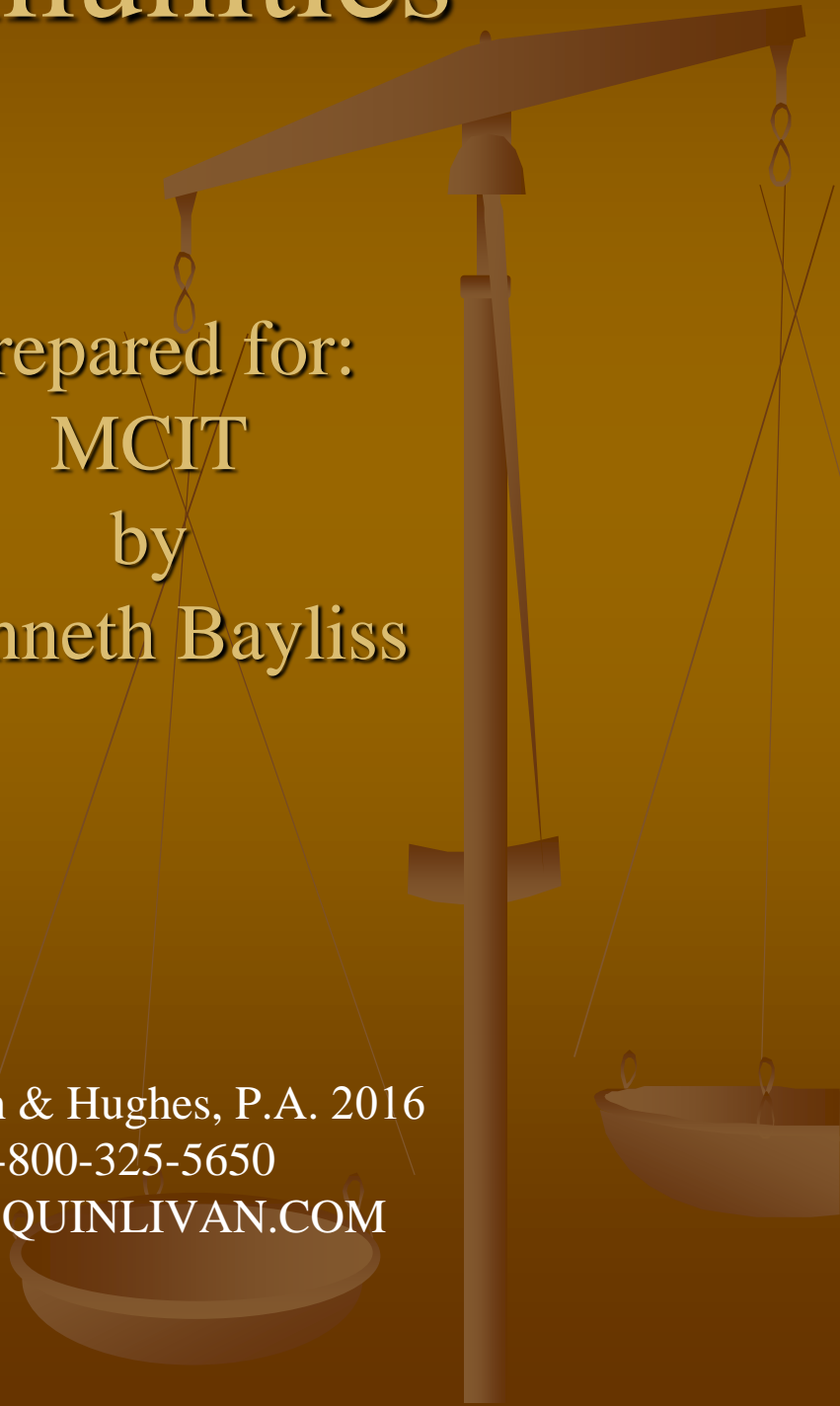


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FOREWORD AND ACKNOWLEDGEMENTS

This handbook is intended for use by personnel of LMCIT, MCIT, MATIT, LMC, AMC and cities, counties, townships, and other clients of the firm in the furtherance of the defense of cities, counties, towns, and other governmental entities, their officials, and their employees. It is not to be copied without the permission of Quinlivan & Hughes, P.A.

The materials in this handbook were written and prepared by Kenneth H. Bayliss. Mr. Bayliss, a former Assistant Attorney General in the office of the Minnesota Attorney General. He joined Quinlivan & Hughes in 1995. Most of his tenure with the Minnesota Attorney General's Office was spent in the Tort Claims Division, where he defended the State, its agencies, and its employees from civil lawsuits. He has continued to devote much of his private practice to the defense of governmental entities and since joining Quinlivan & Hughes P.A. has represented counties, township, school districts, the State, and joint powers entities in a wide range of legal disputes.

DISCLAIMER AND IMPORTANT MESSAGE

The materials in this handbook have been prepared by Kenneth H. Bayliss, a shareholder at Quinlivan & Hughes P.A. These materials are abridged from a variety of sources and are intended to report on general concepts related to governmental immunities. Attorneys should conduct their own independent legal research. This handbook is intended to serve as a guide and point of departure for analysis of claims involving governmental immunities. It is not a substitute for independent legal research.

It is very important that county attorneys not view the receipt of this handbook as an invitation to defend claims without providing notice of claim to LMC, MCIT, or MATIT. When a member receives a covered claim it should immediately notify the designated trust contact and inform it of the claim. This handbook may be of use to city, county, and township attorneys who wish to understand the various immunities that protect the cities, counties, and townships. It may even be of use in the defense of covered claims, but in no event should it be viewed as an invitation to forego existing claim and suit notification policies and procedures.

**A CITATION-FREE INTRODUCTION TO GOVERNMENTAL IMMUNITIES:
SEVEN BASIC POINTS ABOUT IMMUNITY LAW**

Anyone who has long served as a government official or employee is likely to have heard of mysterious “immunities” that protect the government, its officials, and its employees from claims and lawsuits. To many these immunities are murky concepts that are poorly understood for two primary reasons. First, the courts are confused. The courts have trouble keeping straight what immunities they are talking about. These are complicated doctrines and courts do not always keep them straight. A second significant problem arises from lawyers misreading the cases. Even when the courts know exactly what they are saying and seem fully in touch with all relevant authority, the complexity of immunity law often leads to lawyer confusion. Nearly every decade sees developments in immunity law and grappling with the scope of any particular immunity might require not just a full understanding of key recent cases, but also an understanding of how old cases or the history of the development of immunity law relate to current precedent. And immunity law is complicated. One trying to absorb explanations of immunities sometimes feels much like a reader of a novel who is introduced to a dozen new characters in a single chapter. This introduction attempts to offer some tips to understanding the basic outlines and contours of immunities without devolving into a discussion of individual cases.

Basic Point #1: There Are Many Types of Immunity.

One of the hardest things to understand about governmental immunity is that there are many different types of immunity. When one hears a speaker use the term “immunity,” one should recognize that the speaker has omitted something important by not explaining what type of immunity is involved. Saying that one is protected by “immunity,” without more, is like a duck hunter coming back to camp and describing the quarry to the other members of the camp as a “bird.” The fellow hunters at the camp want to know what kind of bird: whether goose, duck, mallard, bluebill, or canvasback.

There are the two basic categories of immunities:

- Statutory immunities—created by the legislature
- Common-law immunities—created by the courts

Most of the statutory immunities are found in special acts that apply to governmental entities. The Municipal Tort Claims Act (MTCA), which applies to municipalities—including counties, cities, and school districts—now contains 28 separate statutory immunities. The State Tort Claims Act, which applies to the State, contains 18.

Apart from the statutory immunities created by the legislature, there are also immunities that have been created by the courts. These are “common-law” immunities. These would include immunities such as “official immunity,” “vicarious official immunity,” “absolute immunity,” and “qualified immunity.” In addition to

these immunities, the courts have also created the “public duty doctrine,” an immunity-like doctrine that protects governments and their employees.

Basic Point #2: Until the Passage of the Municipal Tort Claims Act and State Tort Claims Act, Sovereign Immunity Prevented Nearly All Suits Against Governmental Entities, Their Officials, and Their Employees.

Until 1962, the principle of sovereign immunity prevented nearly all suits against the government. Sovereign immunity was a long-standing rule that held that one could not sue either the State of Minnesota or its political subdivisions. In the 1950’s and early 1960’s this rule came under fierce attack by plaintiffs who argued that the rule was unfair. In response to these arguments, the Minnesota Supreme Court decided that it would no longer apply the court-created doctrine of sovereign immunity to municipalities. At the court’s invitation, the Minnesota legislature passed the MTCA.

The MTCA first states that individuals may sue governmental entities. It then defines numerous exceptions to this general rule. These different exceptions are each statutory immunities. Originally there were only five immunities listed in the MTCA. By 2018, the number of immunities in the MTCA has grown to 28. Thus, while the abolition of sovereign immunity opened the door to suing governmental entities, the door has then been partially closed by passage of the MTCA and its various statutory immunities.

Basic Point #3: Some of the Immunities in the Municipal Tort Claims Act Are Quite Specific and Some are Very Broad.

The list of immunities provided in the MTCA is varied. They are not all equals in rank. Some are very narrow and specific:

- Tax collection immunity
- Beach or pool equipment immunity
- Emergency medical dispatch immunity

By contrast, others are very broad, not always easily defined, but very significant:

- Immunity for acts committed while executing a statute
- Immunity for discretionary acts

Given the language of the different statutory immunities it is easy to understand that some may require detailed elaboration by the courts, while others are self-evident—or nearly so.

Basic Point #4: What the Courts Call “Statutory Immunity” or

“Discretionary Immunity” Is One of the Most Important Immunities and Is Best Thought of As Policy-Making Immunity.

Unfortunately, the courts have called one of the most important statutory immunities, “statutory immunity.” This name is unfortunate because, as we have already seen, there are many different statutory immunities. Until 1996, “statutory immunity” was known as “discretionary immunity.” Then, in a case that attempted to clarify the names of the different immunities, the Minnesota Supreme Court started to call one of the immunities contained in the MTCA “statutory immunity.” In some cases after 1996 it is even referred to by a third name, “statutory discretionary immunity.” “Discretionary immunity” is now the preferred name.

Whatever it is called, discretionary immunity is immunity for “any claim based upon the performance or failure to perform a discretionary function or duty, whether or not the discretion is abused.” This immunity protects officials and employees making policy decisions based on social, political, and economic factors. Here’s an example of decisions that would likely be protected under this immunity:

- A county decides that instead of buying and maintaining five snowplows it can only afford to have three. Two are sold. Later, following a snowstorm, it takes longer to plow the county roads and someone gets in an accident as a result of the fact that the roads are not plowed soon enough.
- The State of Minnesota can choose two alignments for a new road. Because of the presence of a church that has historic value, the State decides to adopt the alignment that goes around the church rather than the one that requires the church’s demolition. Later, there is an accident that injures a motorist that would not have occurred if the road had not curved and gone around the church.
- A city holding pond, although initially built in a manner that was sufficient, becomes obsolete and has insufficient capacity. A city decides not to improve the pond because it has a huge budget shortfall and cannot afford the improvement.
- Because of a lack of funds a county decides not to build a walkway bridge over a busy road.

All of these activities would be protected by discretionary immunity because in every instance the decision made was a policy decision based on social, political, or economic factors.

Basic Point #5: Many Decisions of Government Officials and Employees

Are Protected by Official Immunity, Which Is Best Thought of As “Good Faith Immunity.”

After “statutory immunity,” which was just discussed, the next most important immunity is likely “official immunity.” Official immunity is designed to ensure that the threat of liability does not inhibit government officials from performing their duties. It protects officials from liability where their acts are “discretionary.” While “discretionary” acts are protected, “ministerial” acts are not protected.

Ministerial acts involve no discretion and require an employee to simply do what a statute or rule calls for. Discretionary acts involve decisions requiring the exercise of judgment or discretion. In many instances, even where policy-making may not be involved, official immunity will protect an official who acts in good faith. Official immunity could apply in the following circumstances:

- A bus driver is confronted with a situation where gang members are trying to beat up a passenger and throw him out the window. It is alleged that the bus driver does not take the best course of action in responding to the incident.
- A county highway engineer decides not to install rumble strips on a particular section of road.
- A police officer decides to participate in a high-speed chase.

When official immunity applies to protect the individual government officials and employees, the courts will usually extend that protection to the governmental entity itself. Official immunity is lost, however, where it can be shown that the official or employee has acted maliciously, such as when violating an express policy or a statute.

Basic Point #6: Although Not Properly Called an Immunity, the “Public Duty Doctrine” Acts Like an Immunity to Protect Many Government Actions.

The “public duty doctrine” is another immunity-like principle that can result in the dismissal of claims against governmental entities, their officials, and their employees. The public duty doctrine stands for the notion that governmental entities may have general duties to the public, but these general duties do not make the government an insurer with respect to that activity.

The public duty doctrine most often applies in cases where negligent inspection or negligent licensure is involved. It may also apply to a situation where a statute sets

forth a very broad duty. For instance, the following are examples where the public duty doctrine might apply:

- A county inspector is supposed to inspect properties to make sure they are in compliance with building codes. Although a building passes an inspection, it later collapses as a result of a defect.
- Firefighters make a tactical decision to let a fire burn rather than attempt to salvage a structure that will likely be destroyed anyways.
- A statute charges a State department with the general duty of “providing for safety on the roadways of the State of Minnesota,” or “providing workplace safety.”

The public duty doctrine makes sure that government does not become an insurer for private parties just because it necessarily plays a role in monitoring activities.

Basic Point #7: Many Subject-Specific Statutes Outside of the Tort Claims Act Provide Immunity.

Apart from the MTCA and the State Tort Claims Act, there are hundreds of statutes that may provide immunity for specific activities. For instance, statutes governing weed inspectors’ activities provide them with immunity from suit when fulfilling their weed inspection duties. Other statutes of similarly narrow reach limit liability when government officials are in custody of hunting equipment, or when they determine the salability of food. There are hundreds of such examples in Minnesota’s statutes.

As the legislature passes new statutes, it is increasingly facing concerns about liability that might be connected with these new statutes. Thus, often the legislature will spell out the extent of liability that applies to the activity. In so doing, it will frequently shield government and its employees from liability—sometimes partially, sometimes totally. These subject-specific statutes are a frequent source of immunity.

Governments and their officials and employees can take great solace in the fact that there are a wealth of governmental immunities that protect them from suit. While lawsuits against government bodies seem to be a fact of life, the protection afforded by these many immunities can help limit second-guessing of many governmental decisions and sometimes prevents lawsuits from discouraging public service.

A. Statutory Immunities

(1) Discretionary Immunity

A Note on Its Changing Nomenclature

A noteworthy complication when discussing discretionary immunity is that the nomenclature changes from decade to decade. What the courts once called “discretionary immunity,” has later been referred to as “statutory immunity,” or “statutory discretionary immunity.” In 1996, the Minnesota Supreme Court attempted to clarify any confusion by stating that, thereafter, “discretionary immunity” would be referred to as “statutory immunity”:

Unfortunately, the immunity field is brimming with such terms and inconsistent usage has led to more than a little confusion. Therefore, . . . we will henceforth refer to the immunity deriving from Minn. Stat. § 3.736, subd. 3 as “statutory immunity.”

Janklow v. Minnesota Bd. of Examiners of Nursing Home Administrators, 552 N.W.2d 711, 716 (Minn. 1996).

The Court’s purpose for renaming “discretionary immunity” was likely to reduce any confusion that existed between discretionary and official immunity. While discretionary immunity is a statutory immunity, and official immunity is a common-law immunity, the test for official immunity uses the word “discretion.” Additionally, the court’s selection of the word “statutory” as the new descriptor was also unfortunate, given that the Municipal Tort Claims Act contains the old “discretionary” immunity as one of its statutory immunities.

While Minnesota courts have abandoned the “statutory immunity” label in favor of “statutory discretionary immunity,” see, e.g., Unzen v. City of Duluth, 683 N.W.2d 875 (Minn. Ct. App. 2004); Zaske ex rel. Brasch v. Lee, 651 N.W.2d 527 (Minn. Ct. App. 2002), more recently, it appears that the courts have reverted back to the original, simplest, and probably best moniker, “discretionary immunity.” These materials will use “discretionary immunity.”

The Basics of Discretionary Immunity

Discretionary immunity precludes governmental liability where the conduct being challenged is a policy-making function. Zank v. Larson, 552 N.W.2d 719, 721 (Minn. 1996) (quoting Steinke v. City of Andover, 525 N.W.2d 173, 175 (Minn. 1994); Schroeder v. St. Louis Cty., 708 N.W.2d 497, 504 (Minn. 2006). It is found in the Municipal Tort Claims Act at Minn. Stat. § 466.03, subd. 6 and the State Tort Claims Act at Minn. Stat. § 3.736, subd. 3(b). It applies to “any loss caused by the performance or failure to perform discretionary duty, whether or not the discretion is abused.” Minn. Stat. § 3.736 subd 3(b).

While it is the most well-known immunity and probably the most important, it is also the most difficult to apply. See Nusbaum v. Blue Earth County, 422 N.W.2d 713, 718-19 (Minn.

1988) ("Courts have consistently encountered difficulty in applying the discretionary function exception.") To determine whether a governmental function is immune under the discretionary immunity doctrine, the Minnesota Supreme Court has distinguished between "planning" decisions, or decisions that are immune from liability, and "operational" decisions, or decisions that are not immune from liability. "Planning level decisions are those involving questions of public policy, that is, the evaluation of factors such as the financial, political, economic, and social effects of a given plan or policy." Holmquist v. State, 425 N.W.2d 230, 234 (1988); see Wornson v. Chrysler Corporation, 436 N.W.2d 472 (Minn. Ct. App. 1989) (held that the decision whether to install traffic signal lights was planning-level and is immune from liability); McEwen v. Burlington N. RR. Co., 494 N.W.2d 313, 317 (Minn. App. 1993) (state's decision to delay repainting of pavement markings after completion of spot overlay project was a planning-level decision); Gutbrod v. County of Hennepin, 529 N.W.2d 720, 723 (Minn. Ct. App. 1995) (decision to adhere to established repair schedule after considering risks and costs of changing schedule was protected by immunity); Watson by Hanson v. Metropolitan Transit Com'n, 553 N.W.2d 406, 413 (Minn. 1996) (transit authority's decision on how to "most effectively...deploy security resources constituted planning level conduct); Wiederholt v. City of Minneapolis, No. CX-96-2398, 1997 WL 228944 (Minn. Ct. App. May 6, 1997) (city's sidewalk maintenance policies represent planning level decisions); Riedel v. Goodwin, 574 N.W.2d 752, 759 (Minn. Ct. App. 1998) (township and county's decisions regarding roadside mowing were based on protected planning level policies); Conlin v. City of Saint Paul, 605 N.W.2d 396, 400 (Minn. 2000); Christopherson v. City of Albert Lea, 623 N.W.2d 272, 276 (Minn. Ct. App. 2001) (city's decision not to improve sewer system was policy making/planning level decision); Minder v. Anoka County, 677 N.W.2d 479, 484 (Minn. App. 2004); Schroeder v. St. Louis County, 708 N.W.2d 497, 505 (Minn. 2006) (county's decision to permit grader operators to choose when to grade against traffic was a planning-level decision); Besser v. City of Chanhassen, No. A12-0687, 2013 WL 491553 *3 (Minn. Ct. App. Feb. 11, 2013) (which water mains or other local improvements were to be replaced was a planning-level decision) Schmitz v. Rowekamp, No. A13-1686, 2014 WL 2013439 *5 (Minn. Ct. App. May 19, 2014) (state's decision not to repair fence was a policy decision/planning-level decision); Go Green Energy, LLC v. City of Orono, No.1 A16-1125, 2017 WL 1316137 *3 (Minn. Ct. App. April 10, 2017) (city's adoption of an ordinance was a planning-level decision); Sotona v. Gibbs, No. A16-1384, 2017 WL 1842838, *5 (Minn. Ct. App. May 8, 2017) (State Patrol's decision to use on-call supervisors was planning level decision because it involved the balancing of policy objectives). In contrast, "operational" decisions include "scientific or technical" decisions that do not involve a "balancing of policy considerations." Nusbaum v. Blue Earth County, 422 N.W.2d 713, 720-21 (1988). It has also been said that "operational" decisions "involve decisions relating to the ordinary day-to-day operations of the government." Holmquist, 425 N.W.2d at 232; Auger v. City of Plymouth, No. C4-93-664, 1993 WL 377094 (Minn. Ct. App. 1993) (employees' actions and decisions were made at the operational level because they did not involve balancing of policy objectives); Denson v. Minneapolis Public Housing Authority, No. C7-93-2442, 1994 WL 146232 (Minn. Ct. App. 1994) (interpretation and implementation of Caretaker's manual involved operational level decision-making); Unzen v. City of Duluth, 683 N.W.2d 875 (Minn. Ct. Appeals 2005) (city failed to show failure to warn was policy-based and was, thus, an operational-level

decision); Vang v. Forsman, No. A16-0782, 2016 WL 7042086 (Minn. Ct. App. Dec. 5, 2016) (not protected planning level decision if factors cannot be proved—it will be an operational decision).

As noted by the court in Holmquist, the distinction between planning and operational level decisions is not always clear.

The public policy decisions and the professional decisions involved in carrying out settled policies have in common the evaluation of complex and competing factors cannot be gainsaid. It is, however, the valuation and weighing of social, political, and economic considerations underlying public policy decisions, not the application of scientific and technical skills in carrying out an established policy, which invokes the discretionary exception affording governmental immunity.

Id. at 232-33. There is a “gray area” dividing protected and unprotected decisions, but, as it has been consistently held by the courts, the underlying concern is whether the conduct at issue involves the balancing of public policy considerations in the formulation of policy. See Angell v. Hennepin County Regional Rail Authority, 578 N.W.2d 343, 347 (Minn. 1998).

Irrelevance of Negligence Allegations

Allegations of negligence are irrelevant when evaluating whether discretionary immunity applies. The statutes absolve governmental entities from liability for discretionary acts “whether or not the discretion is abused.” Minn. Stat. § 3.736 subd. 3(b); Minn. Stat. § 466.03, subd. 6. See also Oslin v. State, 543 N.W.2d 408 (Minn. Ct. App. 1996) (state’s immunity retained where a loss is caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused); Bloss v. University of Minnesota Bd. Of Regents, 590 N.W.2d 661 (Minn. Ct. App. 1999).

The court has reasoned that “judicial review of major executive policies for ‘negligence’ or ‘wrongfulness’ could disrupt the balance of separation of powers of the three branches of government.” Nusbaum, 422 N.W.2d at 718. As the court noted in Holmquist:

the question is not whether the State's conduct resulted in a condition posing an unreasonable risk of harm; it is whether the conduct consisted of planning or policy making decisions (protected) or operational level decisions (unprotected).

425 N.W.2d at 232.

Determining whether the challenged government conduct involves a planning decision or an operational decision is central to a statutory-immunity analysis. As such, “[t]he first step in analyzing a claim of statutory immunity is to identify what governmental conduct is being challenged.” Minder v. Anoke County, 677 N.W.2d 479, 483-84 (Minn. Ct. App. 2004). Once statutory immunity is asserted, “the plaintiff then has the burden to

articulate specifically the claim that must be scrutinized to determine the immunity issue and to make some showing of fact to suggest the basis for the claim.” Gerber v. Neveaux, 578 N.W.2d 399, 403 (Minn. Ct. App. 1998).

Economic Considerations and the Allocation of Limited Financial Resources:

For a claim to be barred by discretionary immunity, the conduct that the plaintiff complains of must be the product of policy decisions made by the governmental entity. Discretionary immunity is most commonly applied when the challenged act is a product of limited financial resources.

Roadways

In Hennes v. Patterson, 443 N.W.2d 198 (Minn. Ct. App. 1989), the State was immune from liability when it plowed snow off of the traveled portion of a roadway and up against a guardrail, thereby creating a ramp over which a vehicle launched off a bridge. Because there was limited allocation of snow removal equipment, discretionary immunity barred the claim. Id. at 203. Similarly, in McEwen v. Burlington N. Ry. Co., 494 N.W.2d 313 (Minn. Ct. App. 1993), the court held that the failure to paint pavement markings on a freshly resurfaced roadway was an immune decision. Id. at 317. In McEwen, the decision not to repaint was the product of a MNDOT district policy of delaying repainting to avoid the need for a second repainting, the decision was based on financial considerations and was protected. Id. Finally, decisions regarding the installation of traffic signals based on a prioritization system are also discretionary because they have economic implications. Wornson v. Chrysler Corp., 436 N.W.2d 472, 474-75 (Minn. Ct. App. 1989); Christensen v. Mower County, 587 N.W.2d 305 (Minn. Ct. App. 1998) (Decisions to control an intersection and resulting decision as to length of traffic light sequence were both policy decisions because they involved balancing funding along with other policy considerations).

While a county’s plan to delay permanent repairs of an entire stretch of roadway, which included a pothole, until it received funding, was a policy decision that shielded the county from liability, see Gutbrod v. County of Hennepin, 529 N.W.2d 720 (Minn. App. 1995), attempts of county employees to repair a pothole temporarily are operational acts not protected by discretionary immunity. Breen v. County of Isanti, No. C7-97-697, 1997 WL 631533 (Minn. Ct. App, Oct. 14, 1997) (county’s temporary repair attempts at a pothole by throwing cold fill in it was not a planning-level decision and not protected by discretionary immunity).

Courts have also hinted at the creation of a “minimal expenditure of funds” exception to discretionary immunity. Christensen v. Mower County, 587 N.W.2d 305 (Minn. Ct. App. 1999) (failure to place warning signs warning of placement of loose limestone chip on roadway not protected because involved “minimal expenditure of funds.”); Nguyen v. Nguyen, 565 N.W.2d 721, 724 (Minn. Ct. App. 1997) (relatively inexpensive measures may not rise to the level of protect planning decisions). Summary judgment motions based on

discretionary immunity should carefully consider the “minimal expenditure of funds” counterargument.

Road Signs

While signage decisions may be subject to discretionary immunity because the government’s conduct is a policy-making nature involving economic considerations, Zank v. Larson, 552 N.W.2d 719, 721-22 (Minn. 1996); Berg v. Hubbard County, 578 N.W.2d 12, 15 (Minn. App. 1998), replacing a missing sign does not constitute a policy decision involving economic considerations. LaMosse v. City of Minneapolis, No. C7-98-1715, 1999 WL 55513 (Minn. Ct. App. Feb. 9, 1999); Nusbaum v. County of Blue Earth, 422 N.W.2d 713 (Minn. 1988) (improper placement of road sign did not involve economic considerations); Ostendorf v. Kenyon, 347 N.W.2d 834 (Minn. App. 1984) (once discretion to place traffic signs is exhausted, placement of signs is not a discretionary act).

Maintenance and Repair

In Magnolia 8 Properties, LLC v. City of Maple Plain, the Minnesota Court of Appeals held that the city’s decision to promptly respond to water-main leaks and conduct repairs as soon as possible involved economic considerations and constituted a planning-level decision entitled to discretionary immunity. Magnolia 8 Properties, LLC v. City of Maple Plain, 893 N.W.2d 658 (Minn. Ct. App. 2017).

Other Policy Considerations

Even when strict economic considerations are not involved, other policy considerations may support a finding of discretionary immunity. For instance, decisions regarding the placement of inmates or patients, and decisions regarding how much liberty to afford them, are normally protected policy decisions immune from suit. In Pappenhausen v. Schoen, 268 N.W.2d 565, 567 (Minn. 1978), the State was immune from liability when it granted a medical parole of a mentally ill rapist from a prison to an open state hospital, where he escaped and raped someone. The court noted that the level of confinement or freedom allowed to mental patients was “an indisputably discretionary activity, involving as it does the application of skilled judgment to a wide variety of human conditions.” Id. at 572. A similar result was reported in Cairl v. State, 323 N.W.2d 20 (Minn. 1982), where the Court held the State immune for a decision to release a dangerous youth from a state institution on holiday leave where the youth then set a fire causing injuries. See also Koelln v. Nexus Residential Treatment Facility, 494 N.W.2d 914 (Minn. Ct. App. 1993) (holding county and State immune from liability for placement of psychopathic personality in residential treatment setting). In Johnson v. State, 553 N.W.2d 40 (1996), the court held that discretionary immunity barred claims related to the release of an inmate who was supposed to report to a halfway house.

When a governmental decision recognizes the potential for harm and consciously decides to permit that harm to exist because it believes its decision is necessary to serve a greater

good, that governmental decision will not normally be disturbed. Thus, in Pletan v. Gaines, 494 N.W.2d 38 (Minn. 1992), the Minnesota Supreme Court held that a school district's decision not to assign personnel to ensure that children board the right bus was a protected decision. The court noted:

The school district's formulation of a bus transportation policy involved many factors, including safety, cost, and the educational goal of instilling a sense of personal responsibility to the students.

Id. at 44.

In terms of public transit, the Minnesota Supreme Court has held that the transit authority's decision not to have security personnel ride buses was made at the planning level and protected by discretionary immunity. Watson v. Metropolitan Transit Comm'n, 553 N.W.2d 406 (Minn. 1996). In Watson, gang members threw a bus passenger out a bus window. The plaintiff's suit was not successful, however, since the challenges focused on the security personnel policy that was implemented by public transit.

Policy Considerations Conclusion

As the above cases demonstrate, it is critical to be able to point to a policy consideration that was taken into account by the governmental entity to establish discretionary immunity.

The Importance of the Record in Discretionary Immunity Cases

The importance of tying the governmental action to policy considerations when one attempts to establish statutory immunity is demonstrated by comparing Hennes v. Patterson, 443 N.W.2d 198 (Minn. Ct. App. 1989) and Gorecki v. County of Hennepin, 443 N.W.2d 236 (Minn. Ct. App. 1989). These cases involved nearly identical accidents and were handed down at approximately the same time by the Court of Appeals. In each case, a vehicle left a bridge and fell to the ground below after climbing a ramp of snow that a snowplow had left along a bridge guardrail. As it was previously discussed, discretionary immunity was found to apply in Hennes, because the record established that the snow had not been removed due to economic considerations. Hennes, 443 N.W.2d at 203. In Gorecki, by contrast, the government did not adequately explain why the snow had remained against the bridge rail; however, the explanation that was given was not tied to any significant policy considerations—such as budgeting—thus, discretionary immunity did not bar the claim. Comparing Hennes and Gorecki, it's clear that one must carefully explain to the court what policies exist and how these policies relate to the challenged conduct to prevail on a discretionary immunity defense.

The importance of a substantial record supporting summary judgment was highlighted by the Minnesota Supreme Court case of Conlin v. City of Saint Paul, 605 N.W.2d 396 (Minn. 2000). In Conlin, Plaintiff turned a corner on to a street that had been recently sealed and sanded and fell off his motorcycle. The affidavit of an engineer explained that

warning signs were only left up for one day after the sealing and sanding of the roads. Id. The engineer's affidavit stated the reasons for keeping up warning devices for only one day as follows:

the minimal public safety concerns associated with this project; traffic considerations that barricades or cones blocking large areas for up to a ten-day period would create congestion and flow problems; social considerations that residents on sealed roads would be inconvenienced by barricades and financial considerations that Street Maintenance's limited funds would be required to hire and pay additional crews for posting and removal of signs or barricades.

Id. at 399. The Court held that the affidavits submitted were insufficient evidence to satisfy the city's burden of proof. The court's decision may well have been different if any cost of keeping the signs in place had been given and if the "whether or not the discretion is abused" language in the statute had been emphasized. Id. at 404.

Following that same logic, the courts in Hancock v. Ind. School Dist. #281, No. Co-02-018 (Minn. Ct. App. Dec. 3, 2003) (unpublished) and Olmanson v. LeSueur County, 673 N.W.2d 506 (Minn. Ct. App. 2004), aff'd 693 N.W.2d 876 (Minn. 2005) also determined that the evidence presented did not meet the discretionary immunity threshold. In Hancock, a school district's policy decision to replace non-safety glass only as it became broken was not entitled to discretionary immunity. The court stated that the school district could not present sufficient evidence that the policy existed. The decision also appeared to be operational rather than planning. There was strong evidence of the existence of the policy and it seems quite surprising that the court did not take the school district's affidavits as sufficient evidence of a policy.

In Olmanson v. LeSueur County, 673 N.W.2d at 506, the decision not to erect off-road culvert crossing signs for the protection of snowmobilers was not protected by discretionary immunity. Id. The court found there was insufficient evidence relating to how the policy was created.

Accordingly, we hold for immunity purposes it is essential that the county provide detailed evidence of how and when the county made a particular policy decision, including providing evidence of specific facts that the county considered in making its determination. We agree with respondent that the county need not necessarily adopt a written policy, but there must be evidence that there was a deliberative process that led to establishment of the policy in question.

Id. at 515.

Though it is a case involving official immunity, also instructive is the unreported case of Christensen v. Rainy River Community College, No. CX-02-658 (Sept. 21, 2004) (unpublished). In that case, the decision not to repair a sidewalk was protected by official immunity where there were numerous requests for funding to repair sidewalks that were

turned down by a parent government agency. This type of strong record would surely get one over the hurdle set forth by cases such as Conlin.

The importance of documenting the creation of a policy was further demonstrated in Schroeder v. St. Louis County, 708 N.W.2d 497 (Minn. 2006). In that case, an accident occurred as a road grader was working the road while traveling against traffic. Id. at 500. It had been recognized that working against traffic might pose a hazard, but the county had decided that for economic reasons and for competing safety reasons it was preferable to do the particular work involved while traveling against traffic. Id. at 505. Because the county was able to produce written evidence of a meeting, showing that the issue had been discussed and decided, the county was entitled to immunity.

“Mere” Professional Judgment

Although almost every governmental act can involve the exercise of some discretion, not every act involving some discretion is entitled to discretionary immunity. Nusbaum, 422 N.W.2d at 719. For instance, decisions involving mere professional engineering judgment have been held not protected by discretionary immunity, Schaefer v. State, 444 N.W.2d 876 (Minn. Ct. App. 1989), decisions based upon safety alone may not be protected, Abo El Ela v. State, 468 N.W.2d 580, 582 (Minn. Ct. App. 1991), and instances that involve mere implementation of policy are not protected. Nusbaum v. Blue Earth County, 422 N.W.2d 713 (Minn. 1988). In Nusbaum, for example, the policy decision to adopt the Manual on Uniform Traffic Control Devices was a decision protected by discretionary immunity, but the manner of implementation of the policies contained in the manual was accorded no such protection. It should be noted that the Supreme Court has observed that there is,

[N]ot always a sharp distinction between 'making' and 'implementing' policy, and whether consequences of policy making might also be immune will require inquiry into 'whether the consequential conduct itself involves the balancing of public policy considerations in the formulation of policy.'

Olson v. Ramsey County, 509 N.W.2d 368, 371 (Minn. 1993) (quoting Pletan v. Gaines, 494 N.W.2d 38, 44 (Minn. 1992)). Those considering a dispositive motion on grounds that involve professional decisions that do not directly implicate public policy are likely to find official immunity is more applicable than discretionary immunity.

Policy Need Not Be Written

There is no requirement that a policy be a written policy for the governmental entity to be entitled to summary judgment. Bloss v. University of Minnesota Bd. of Regents, 590 N.W.2d 661, 666-67 (Minn. Ct. App. 1999); Schroeder v. St. Louis County, No. A04-97 (Minn. Ct. App. Oct. 12, 2004) (unpublished), aff'd 708 N.W.2d 497 (Minn. 2006).

Implementation of Policy

Despite the Nusbaum court's suggestion that the implementation of decisions is not protected, several decisions have found that the implementation of policy can itself be protected by discretionary immunity. Sometimes the implementation of a policy itself is entitled to immunity. Whether consequences of a planning decision are immune from liability depends on whether the consequential conduct itself involves the balancing of public policy considerations in the formulation of the policy. Pletan v. Gaines, 494 N.W.2d 38, 44 (Minn. 1992). "Sometimes the implementation of a policy itself requires policymaking." Holmquist, 425 N.W.2d at 234 (citation omitted). See also Bloss v. University of Minnesota Bd. of Regents, 590 N.W.2d 661 (Minn. Ct. App. 1999) (holding decisions related to level of protection offered to students on foreign study program were entitled to discretionary immunity).

Failure to Adopt a Policy

The mere failure to adopt a policy designed to prevent harm does not involve a policy decision protected by discretionary immunity. S.W. v. Spring Lake Park Sch. Dist. No. 16, 580 N.W.2d 19 (Minn. 1998). This case overruled Killen v. Independent School District 706, 547 N.W.2d 113 (Minn. Ct. App. 1996).

Particular Types of Cases

Warning Signs

Warning of hazards by placing signs is not inherently either discretionary or operational; classification depends on the factors considered in making the decision. Steinke v. City of Andover, 525 N.W.2d 173, 175 (Minn. 1994) (choosing whether to warn public of hazards is not inherently discretionary or operational); Holmquist v. State, 425 N.W.2d 230, 234 (Minn. 1988) (placing signs may or may not be discretionary); Van De Walker v. County of Steele, 1998 WL 373266 (Minn. Ct. App. July 7, 1998) (unpublished) (decision to leave up warning signs for limited period of time not protected by discretionary immunity where there was no evidence as to the manner that policy was considered); Christensen v. Mower County, 587 N.W.2d 305 (Minn. Ct. App. 1999) (failure to place warning signs warning of loose limestone chip on roadway not protected because involved "minimal expenditure of funds.") Although decisions not to engage in road shoulder maintenance were protected by discretionary immunity, decision not to put up warning sign where there was prior notice of a dangerous condition was not protected. Berg v. Hubbard County, 578 N.W.2d 12 (Minn. Ct. App. 1998).

In Steinke v. City of Andover, the Minnesota Supreme Court held that the failure to place a warning sign in a particular location was the result of a planning level decision. Id., 525 N.W.2d 173 (Minn. 1994). Anoka County had decided to place signs warning of deep ditches only along county roads and recognized rights of way, not at unrecognized rights of way or upon unimproved property. Id. at 176. On discretionary immunity grounds, the court barred the claim for negligent failure to warn. Id. Similarly, the Minnesota Court of

Appeals in Mattson v. City of Rushford No. A15-1018 (April 18, 2016), upheld a decision to place bike warning signs only where bikes were allowed and not to provide warnings to those riding on sidewalks where a city ordinance prohibited riding bikes on sidewalks.

In terms of traffic signals, the length of the all-red clearance is a policy decision protected by discretionary immunity. Zank v. Larson, 552 N.W.2d 719 (Minn. 1996).

Road Maintenance.

In Gutbrod v. County of Hennepin, 529 N.W.2d 720, (Minn. Ct. App. 1995), the court held that the county's decision to repair potholes according to a set schedule was immune. The Court in Gutbrod stated the issue as follows:

To determine whether a particular act is protected, it is necessary to distinguish planning level decisions from those at the operational level. . . . Planning level decisions are protected and involve questions of public policy and the balancing of competing policy objectives. . . . Unprotected, operational level decisions relate 'to the ordinary day-to-day operations of the government' and involve the exercise of scientific or professional judgment.

Id. at 723. The Court in Gutbrod went on to analyze the claim that, because the County failed to detect and repair a rut in the roadway, the plaintiff hit the rut and lost control of a motorcycle. Id. The Court held that officials made decisions concerning the rut at the planning level because of balancing of factors, including available funds, work schedules and known risks. The Court stated: "The county's decision to adhere to the established repair schedule, however, was made by [the county engineer] after he considered the risks and costs of changing that schedule. As such, its decision is protected." Id. at 723.

More recently, discretionary immunity was extended to the decision not to have inspection routes, but to instead rely on county law enforcement and maintenance personnel to report downed signs. Zaske ex rel. Bratsch v. Lee, 651 N.W.2d 527 (Minn. Ct. App. 2002).

Brush and Immunity

Discretionary immunity can also apply in cases of traffic signs that are obscured by brush. In Riedel v. Goodwin, 574 N.W.2d 753 (Minn. Ct. App. 1998) the government entity's decision to clear vegetation from high volume roadways before low volume roadways was protected by discretionary immunity. In another case, the township's decision not to mow brush adjacent to intersections was a protected planning decision. Schultz v. Frank, No. C1-00-285 (Minn. Ct. App. Aug. 1, 2000) (unpublished).

Snowplowing

The courts have reviewed several cases involving the application of discretionary immunity in snowplowing. In the most important case, In re: Alexandria Accident of Feb. 8, 1994, 561 N.W.2d 543 (Minn. Ct. App. 1997), the court held that decisions not to upgrade the lighting system on snowplows, decisions regarding the scheduling of snowplowing, and decisions related to the training of snowplow operators were all subject to discretionary immunity. Id. However, had the snowplow driver's decision been ministerial, as opposed to discretionary, it would not have been protected. Shariss v. City of Bloomington, 852 N.W.2d 278 (Minn. Ct. App. 2014).

Similarly, the priority of snow removal is a protected planning decision. Norlander v. Norman's Bar, 1999 WL 118628 (Minn. Ct. App. 1999). In Hromatko v. City of Worthington 998 WL 252412 (Minn. Ct. App. May 19, 1998) (unpublished), the court held that the city was immune for hazards associated with snow piles that limited sight distances at intersections because removal of snow piles involved planning decisions. Id. However, where the snowplow driver is not actively engaged in plowing at the time of the accident, it is more difficult to claim discretionary immunity. In Norman v. Thorson, No. C9-99-1578 (Minn. Ct. App. April 25, 2000) (unpublished), the snowplow driver was returning from a coffee break, but not plowing. Id. In that case, the court refused to extend immunity, finding that the ruling in Alexandria Accident did not apply.

To prove that snowplowing policies are protected by discretionary immunity, an affidavit must thoroughly explain the economic factors; minimal detail does not entitle the government to discretionary immunity. Fear v. Ind. School Dist. 911, 634 N.W.2d 204 (Minn. Ct. App. 2001) review denied, (Minn. Dec. 11, 2001).

Decisions based on weather information, and actions taken by snowplow operators pursuant to state policy, may be protected as well.

Unrepaired Defects

Immunity may also be lost where known defects are not repaired. Berg v. Hubbard County, 578 N.W.2d 12 (Minn. Ct. App. 1998). Immunity applied to the county's summertime failure to repair ruts based on a maintenance schedule, but immunity was lost where the county failed to repair or warn after a previous accident occurred just before the subject accident and the county road maintenance personnel inspected the site but did not warn or repair. Id.

In Minder v. Anoka County, 677 N.W.2d 479 (Minn. Ct. App. 2004), a case involving an injury to a motorcycle rider who hit pothole, the county was immune for decisions related to prioritization of approval of road repairs. Id. The county's entitlement to immunity was not overcome by the argument that the pothole should have been filled pursuant to the county's practice of spot repairs. Id. There was no evidence that the particular pothole at issue had been brought to the attention of the county prior to the accident. Id.

Guardrails

Where a decision to install bridge approach guardrails was the product of a mixture of professional judgment and policy decisions, such a decision was a planning decision entitled to discretionary immunity. Fisher v. County of Rock, 596 N.W.2d 646 (Minn. 1999); Emmons v. Olmsted County, No. C6-96-2138 (Minn. Ct. App. May 20, 1997) (bridge guardrails protected as planning decision because of the expense involved); But see, Barrett v. Itasca County, 1998 WL 865621 (Minn. Ct. App. Dec. 15, 1998) (unpublished) (holding failure to erect guardrail is the type of operational decision not protected by discretionary immunity; record appeared to have no evidence of prioritization of projects); Abbett v. County of St. Louis, 424 N.W.2d 82 (Minn. Ct. App. 1988) (held that county's decision to not place guardrail at highway accident site was not insulated by doctrine of discretionary immunity in that decision was one of professional judgment rather than policymaking); see also Angell v. Hennepin County Reg'l Rail Auth., 578 N.W.2d 343, 346 (Minn. 1998) (failure to erect barricade to protect bicyclist not entitled to discretionary immunity where decision appeared to involve mere professional judgment); Johnson v. County of Nicollet, 387 N.W.2d 209 (Minn. Ct. App. 1986) (held that county's decision against placing a guardrail between road and river bank was not discretionary, since it was made in implementing county's policy decision to permit public use of road, and since the county engineer acknowledged it was hazardous).

Construction Decisions

A decision not to build a pedestrian walk across a busy roadway was a planning decision that was protected by discretionary immunity. Fawzy v. Flack, No. C4-00-846 (Minn. Ct. App. Nov. 21, 2000) (unpublished).

Moreover, in Gerber v. Neveaux, 578 N.W.2d 399 (Minn. Ct. App. 1998), the decision to rely on state highway construction standards and state inspections was protected by discretionary immunity. Id.

Finally, where the design and construction of a county road is policy-based, discretionary immunity applies. Fischer v. County of Blue Earth, No. C6-00-413 (Minn. Ct. App. Oct. 23, 2000) (unpublished).

Flooding, Drainage and Water Cases

The court in Chabot v. City of Sauk Rapids, 422 N.W.2d 708, 711 (Minn. 1988) held that a city's decision not to upgrade an inadequate holding pond, because of economic considerations, was a policy-making decision protected by discretionary immunity. Id. Similarly, the court in Wennerlyn v. City of Minneapolis, 1999 WL 690195 (Minn. Ct. App. Aug. 31, 1999) (unpublished), held that a city's decision not to upgrade sewer system components to meet 200-year flood, rather than 10-year flood, was a protected planning decision. Id. See also Christopherson v. City of Albert Lea, 623 N.W.2d 272 (Minn. Ct. App. 2001) (city's decision not to make capital improvements to sewer system was policy-making decision, and, thus, was protected by discretionary immunity).

Permit Issuance

The government does not have discretion to engage in policy-making conduct that is patently unlawful. See Snyder v. City of Minneapolis, 441 N.W.2d 781, 787 (Minn. 1989) (stating that “city employees...did not have discretion to approve permits in clear violation of the law”); cf. Anderson v. City of Minneapolis, 287 Minn. 287, 289, 178 N.W.2d 215, 217 (1970) (“[i]f the proposed use authorized by the building permit was clearly illegal, ...no element of discretion or judgment should have been exercised by the city’s employee”). The proposition that the government entity’s granting of building permits is discretionary and protected by statutory immunity has been repeatedly affirmed. See, e.g., Snyder v. City of Minneapolis, 441 N.W.2d 781, 787 (Minn. 1989) (affirming Anderson’s holding that issuance of building permit is generally discretionary conduct); Vrieze v. New Century Homes, Inc., 542 N.W.2d 62, 66-67 (Minn. App. 1996) (holding that granting building permits is discretionary and subsequent approval of modification to buildings permits is discretionary conduct); Sheedy v. Mower County, No. Co-96-2328 (Minn. Ct. App. July 8, 1997); Reinardy v. City of Red Wing, No. Co-99-1548 (Minn. Ct. App. Mar. 21, 2000); same holding in Mohler v. City of St. Louis Park, 643 N.W.2d 623 (Minn. Ct. App. 2002) (also rejecting section 1983 claim).

However, a decision to issue a permit for the construction of a private sewage treatment structure is immune under the doctrine of discretionary immunity. McNamara v. McLean, 531 N.W.2d 911 (Minn. Ct. App. 1995).

Hiring, Training and Retention

Hiring, training, including the level of training, and retraining employees is a protected planning decision entitled to discretionary immunity. Fear v. Ind. School Dist. 911, 634 N.W.2d 204 (Minn. Ct. App. 2001) review denied, (Minn. Dec. 11, 2001); Maras v. City of Brainerd, 502 N.W.2d 69 (Minn. Ct. App. 1993) (police officer); Watson v. Metropolitan Transit Comm’n, 553 N.W.2d 406 (Minn. 1996) (bus driver); Chaney v. MCTO, No. Co-95-2477 (Minn. Ct. App. Jan. 14, 1997) (unpublished) (bus driver); Peterson v. Ind. School Dist. 704, No. Co-99-285 (Minn. Ct. App. July 29, 1999) (unpublished) (cheerleader coordinator).

Whistleblower

Discretionary immunity cannot apply to a claim under the whistleblower act. Janklow v. Minn. Bd. Of Examiners for Nursing Home Adm’rs., 552 N.W.2d 711 (Minn. 1996).

Human Rights Act

Discretionary immunity is unavailable to a claim under the Minnesota Human Rights Act, Davis v. Hennepin County, 559 N.W.2d 117 (Minn. 1997).

Law Enforcement Decisions

The decision to arrest, pursuant to a statute immunizing officers from liability for arrests in domestic disputes, was protected by discretionary immunity (but reasoning of case may limit application). Lom v. Itasca County, 2002 WL 264658 (Minn. Ct. App. Feb 26, 2002) (unpublished).

Trees and Shrubs

Even where an ordinance compelled homeowners to trim trees and shrubs within sight triangle at intersections, the decision to prioritize tree trimming and clearing of shrubs from sight triangles at most frequented intersections was protected by discretionary immunity. Soltis-McNeal v. Erickson, 1999 WL 1138524 (Minn. Ct. App. Dec. 14, 1999) (unpublished). But mere mistake in professional judgment, such as failure to detect rot in a tree during a tree inspection does not rise to the level of a protected planning decision. Elfstrand v. City of Brooklyn Center, 1998 WL 887470 (Minn. Ct. App. Dec. 22, 1998)(unpublished).

Relocating Baseball Field

Where to relocate a baseball field is a policy decision entitled to discretionary immunity protection. Hills v. City of White Bear Lake, 1999 WL 451763 (Minn. Ct. App. July 6, 1999).

Nuisance

There is no discretionary immunity where a county creates a nuisance. Sletten v. Ramsey County, 2002 WL 109272 (Minn. Ct. App. Jan 29, 2002) (unpublished) and Sletten v. City of Maplewood, 1999 WL 595368 (Minn. Ct. App. Aug. 10, 1999) (unpublished).

Discretionary Immunity Summary

Discretionary immunity is perhaps best thought of as policy-making immunity. It is probably the most amorphous and difficult to understand of the various governmental immunities. This is particularly true because seemingly similar incidents can give rise to different results. Even when negligence is clear cut, the careful attorney or claims representative must be careful to determine whether there are any established government policies that account for the conduct giving rise to the loss. Although a discretionary immunity defense may not become apparent until the litigation has progressed for some time, one should consider discretionary immunity's applicability from the time that the claim is first made and reconsider its applicability as the claim progresses and more facts become known.

(2) Snow-And-Ice Immunity

Snow and ice are the inevitable products of Minnesota's wintry climate. The legislature recognized that it would be disastrous if governmental entities were liable for each and every accident occurring on snow-covered or ice-covered roadways. Governmental entities are thus not liable for losses caused by:

Snow or ice conditions on any highway or public sidewalk that does not abut a publicly owned building or publicly owned parking lot, except when the condition is affirmatively caused by the negligent acts of the municipality.

Minn. Stat. § 466.03, subd. 4(a); see also Minn. Stat. § 3.736, subd. 3(d). [Note: The statutory definition of “highway” includes township roads, city streets and alleyways, county roads, state highways and interstate highways. Minn. Stat. §§ 160.02; 161.16.] Thus, where slippery road or sidewalk conditions are the product of natural causes, snow and ice immunity protects governmental entities from liability.

Negligence Claims

In statutory interpretation cases, plain meaning must be used to interpret the provision. Hoff v. Surman, 883 N.W.2d 631, 635 (Minn. App. 2016). Using that method, the court in Hoff determined that, while governmental entities will be immune to all claims based on snow and ice conditions against a municipality responsible for the maintenance of a public road or sidewalk, a defendant public-employee cannot bring a snow-and-ice immunity affirmative defense against a plaintiff who does not directly claim that the road conditions were the cause of the accident. Id. at 637. Thus, while negligent driving claims are not protected by the immunity, for example, section 466.03, subd. 4. allows the snow-and-ice exception to all other claims that are “based on snow or ice conditions.” Id.; see, e.g., Matter of Heirs of Jones, 419 N.W.2d 839, 840 (Minn. Ct. App. 1988) (recognizing immunity for county under snow-and-ice exception and barring plaintiff's claim that “improper maintenance created a dangerous and slippery condition which caused [a] fatal accident.”) Rather, one case explicitly referred to snow-and-ice immunity as “the exception for removal of ice and snow.” Hennes v. Patterson, 443 N.W.2d 198, 201 (Minn. Ct. App. 1989) (emphasis added); see also In re Alexandria Accident of Feb. 8, 1994, 561 N.W.2d 543, 549 (Minn. App. 1997) (holding that snow-and-ice immunity “protects government entities from liability for damages caused by the natural consequences of snow plowing when the plowing was done pursuant to established snow-removal policies and the claimants have shown no willful acts or malfeasance.”); Ayers v. Kalal, No. A15-0694, 2015 WL 9264116 (Minn. Ct. App. Dec. 21, 2015) (unreported) (trial court's decision to grant summary judgment on snow-and-ice immunity reversed because condition of highway was disputed.)

Affirmative Act

One exception to snow and ice immunity applies to affirmative acts. Municipalities are liable if there is an affirmative act of negligence regarding maintenance of a road. In In re Jones, 419 N.W.2d 839 (Minn. Ct. App. 1988), the plaintiff sued St. Louis County for

failing to salt a county road on which the decedent was fatally injured. The court found that the failure to salt or otherwise remedy a naturally occurring slippery condition could not constitute an affirmative act so as to give rise to liability:

In this case, the slippery road conditions were caused by traffic on the road which packed down natural snowfall. While the county may have been able to avert the condition by using salt, the county cannot be said to have affirmatively caused the slipperiness. The statute requires the condition to have been caused by an act, not an omission of the county.

Id. at 841.

The court also rejected the claim that a failure to maintain a road could constitute an affirmative act, noting that such a ruling "would essentially nullify [the] statutory language." Id. Similarly, in Berg v. City of St. Paul, 414 N.W.2d 204 (Minn. Ct. App. 1987), the court held that the City of St. Paul could not be liable for slippery road conditions when such conditions were caused by natural weather conditions, rather than affirmative negligent acts. Berg, 414 N.W.2d at 207-08.

The type of affirmative act necessary to avoid the application of snow and ice immunity was demonstrated in Robinson v. Hollatz, 374 N.W.2d 300 (Minn. Ct. App. 1985). The Robinson court held that liability could attach where plaintiff alleged snow had negligently been piled in a roadway median so as to obscure his vision. Robinson, 374 N.W.2d at 303. The court found that the piling of snow in the median was an affirmative act precluding immunity. The court acknowledged that:

The statute grants immunity to a county or municipality for injuries resulting from the usual and natural accumulation of snow and ice on the streets.

Id.

Absent evidence that the government affirmatively created the snow or ice condition, losses related to snow and ice are entitled to immunity. Norlander v. Norman's Bar, 1999 WL 118628 (Minn. Ct. App. 1999) (unpublished). Kyllonen v. City of Park Rapids, 1998 WL 764087 (Minn. Ct. App. 1998) (unpublished) (Failure to clear a catch basin did not constitute an affirmative act within the meaning of the exception to snow and ice immunity.)

A clever argument was advanced in Koen v. Tschida, 493 N.W.2d 126 (Minn. Ct. App. 1992). The plaintiff argued that the accident was a product not of the snow or ice condition on the roadway, but, instead, the county's failure to trim trees adjacent to the roadway, post warning signs, and reduce the speed limit at the site of the accident. Plaintiff argued that trimming the trees would have helped avoid the icy condition on the roadway in the first place, because it would have exposed the roadway to more sunlight. Koen, 493 N.W.2d at 128. Further, the plaintiff alleged that, because the county knew that this area

was subject to icy conditions, it should have reduced the speed limit and posted signs warning of the potential icy conditions. *Id.* The court rejected all these arguments, noting that none of these acts could be said to constitute "affirmative negligence." *Id.*

Proximate Cause of Injury

The negligent removal of snow and ice must be the proximate cause of the injury for the immunity to apply. In *Squillace v. Cillage of Mountain Iron*, 26 N.W.2d 197 (Minn. 1946), the Supreme Court of Minnesota held that a boy who slipped and fell over an icy slope and under the wheels of the school bus, after being discharged from his school bus, was entitled to recovery, because the municipality's removal of snow and ice from the public street proximately caused a formation of icy slopes extending to where the boy was required to walk. This case predates the adoption of the Municipal Tort Claims Act, but is still helpful on the issue of proximate cause in snow and ice cases.

Sufficiency of Evidence and Notice

In those cases where public buildings are involved, it may be useful to reference pre-tort claims act cases. In one such case, involving an action by a pedestrian against the city for injuries sustained in a fall on an icy crosswalk, evidence sustained the finding that the city was negligent in permitting the crosswalk to remain covered with ice. *Mathieson v. City of Duluth*, 276 N.W.2d 222 (Minn. 1937). In that case, there was testimony suggesting that lumps of ice on the crosswalk existed, there were automobile ruts from seven to nine inches deep and footprints in ice from four to five inches deep, and such condition had existed for a week to two weeks. *Id.* Similarly, in an action against a village for injuries caused by ice on a sidewalk, evidence proved that the village was negligent. *Nichols v. Village of Buhl*, 193 N.W.2d 28 (Minn. 1922). Quantities of water had been spilled on the sidewalk, which froze in small patches of ice forming ridges and rendering the walk unsafe for use. *Id.*

But for a municipality to be liable for an injury due to accumulation of ice and snow in an area it is responsible for, it must have had actual or constructive notice that the condition existed for a sufficient length of time to allow reasonable opportunity to remedy it. *Scott v. Village of Olivia*, 110 N.W.2d 21 (Minn. 1961).

Liability Adjacent to Buildings

The statute also provides a rule that governs liability adjacent to buildings when a municipality owns or leases a building or parking lot in another jurisdiction:

Notwithstanding paragraph (a), a municipality that owns or leases a building or parking lot in another municipality is not immune from a claim based on snow or ice conditions on a public sidewalk abutting the building or parking lot, but the other municipality is immune, except when the condition is affirmatively caused by its own negligent acts.

Minn. Stat. § 466.03, subd. 4(b).

(3) Outdoor Recreation Immunity and Park and Recreation Immunity

States and political subdivisions are immune from claims involving park and recreation facilities. With respect to counties, this is known as parks and recreation immunity, see Minn. Stat. § 466.03, subd. 6e, and, with respect to the State, this immunity is known as outdoor recreation immunity. Minn. Stat. § 3.736, subd. 3(i).

Under the terms of the Municipal Tort Claims Act, municipalities are immune from

[A]ny claim based on the construction, operation, or maintenance of any property owned or leased by the municipality that is intended or permitted to be used as a park, as an open area for recreational purposes, or for the provision of recreational services, or from any claim based on the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, if the claim arises from a loss incurred by a user of park and recreational property or services. Nothing in this subdivision limits the liability of a municipality for conduct that would entitle a trespasser to damages against a private person.

Minn. Stat. § 466.03, subd. 6e. Thus, as with the similar provisions of State's outdoor recreation immunity, a municipality is liable under the terms of the immunity when the landowner's conduct falls below the duty owed to a trespasser under the common-law standard. The common law trespasser standard thus becomes the focus of any claim based on outdoor recreation or parks and recreation immunity.

The standard that will normally apply to recreation immunity claims is found in Restatement (Second) of Torts § 335. Under this standard, a possessor of land who knows, or from facts within his knowledge should know, that trespassers constantly intrude upon a limited area of the land, is subject to liability for bodily harm caused to them by an artificial condition on the land, if:

- (a) The condition
 - (i) Is one which the possessor has created or maintains and
 - (ii) Is, to his knowledge, likely to cause death or seriously [sic] bodily harm to such trespassers and
 - (iii) Is of such a nature that he has reason to believe that such trespassers will not discover it, and
- (b) The possessor has failed to exercise reasonable care to warn such trespassers of the condition and the risk involved.

See Johnson v. Washington County, 518 N.W.2d 594 (Minn. 1994); Sirek v. State, Dept.

of Natural Resources, 496 N.W.2d 807,809 (Minn. 1993); McCullough v. City of Red Wing, 2016 WL 7438719 (Minn. Ct. App. Dec. 27, 2016).

The common-law trespasser standard is frequently applied in cases that do not involve governmental liability. See, e.g., Sirek, 496 N.W.2d at 810-12 (citing cases that did not involve governmental immunity in context of outdoor recreation immunity). Thus, case law applying to a landowner's obligation to trespassers may bear on issues of immunity, even though immunity is not discussed in those opinions. Conversely, outdoor recreation immunity and parks and recreation immunity cases are a rich source of case law when interpreting any landowner's duty to a trespasser.

The Child and Adult Standards

Two Minnesota Supreme Court cases, Johnson v. Washington County, 518 N.W.2d 594 (Minn. 1994), and Sirek v. State, Dept. of Natural Resources, 496 N.W.2d 807 (Minn. 1993), set the standards applicable to outdoor recreation and park and recreation immunities. Johnson involved a wrongful death action that arose from the drowning of a seven-year-old while participating in an extended daycare program at a park. A Washington County jury found the county that operated the park where the drowning occurred liable for damages. Johnson, 518 N.W.2d at 598. Although it appears that no motions asserting park and recreation immunity were made by the county until after the trial had taken place, the trial court granted the county's post-trial motion for judgment notwithstanding the verdict based on assertion of the park and recreation immunity. The Court of Appeals further held that, even if the Reserve Pool were an artificial condition, the county is entitled to immunity because the pool contained no hidden dangers. Id. The Supreme Court, after review by the Court of Appeals, affirmed the trial court's decision. Id. The court specifically held that artificial conditions that duplicate natural terrain do not constitute an artificial condition so as to give rise to liability the restatement standard:

As this court recognized in Davies v. Land O'Lakes Racing Association, 244 Minn. 248, 255, 69 N.W.2d 642, 647 (1955), even under § 339, "a possessor of land will not ordinarily be held liable for injuries occurring in ordinary, natural, or artificial bodies of water that are free from traps or concealments." (Emphasis added). The Reserve Pool, as constructed, has a gradually-sloped bottom with no drop-offs and contains no unusual currents. Moreover, as we noted in Davies, "[i]t is generally conceded that the ordinary body of water, even though it be artificial, while it does involve the risk of death or serious harm, does not constitute an unreasonable risk thereof because even a child to some extent appreciates the risks that are connected with it."

Id. at 599-600. The Supreme Court rejected the contention that the presence of lifeguards created a duty beyond that which would otherwise exist and cited approvingly the Court

of Appeals case of Zacharias v. Minnesota Dept. of Natural Resources, 506 N.W.2d 313 (Minn. Ct. App. 1993). Zacharias had also involved a drowning. There the court held that an artificially created swimming pond contained within a state park was subject to the outdoor recreation immunity and that the presence of lifeguards did not give rise to a duty greater than the restatement standard. Id. at 318.

The other important Supreme Court decision, Sirek, involved a tragic accident in which a six-year-old, who was with her family on a visit to Interstate State Park, rushed to cross a highway dividing the park. Sirek, 496 N.W.2d at 809. The Sireks had reached an end of the trail and were waiting for traffic to clear when their child suddenly attempted to dash across the highway and was struck by a passing van. Id. The most critical issue in Sirek was whether the adult trespasser standard contained in Restatement (Second) of Torts § 335 applied or whether the child trespasser standard contained in Restatement (Second) of Torts § 339 applied. Until Sirek no one had argued that the more liberal standard contained in § 339 should apply in cases in which children were injured. See, e.g., Henry v. State, 406 N.W.2d 608 (Minn. Ct. App. 1987) (applying § 335 even though accident involved the death of a child as a result of a falling tree limb in a state park). The plaintiff in Sirek argued that Restatement § 335 should only be applied in those cases involving injury to the adult. The Supreme Court rejected this contention, holding that Restatement § 335 applies in all outdoor recreation immunity or parks and recreation immunity cases in which children are under the supervision of adults. Sirek, 496 N.W.2d at 812. See also Johnson v. Washington County, 518 N.W.2d 594, 599 (Minn. 1994) (applying Restatement § 335 when a child is under the supervision of adult lifeguards). After disposing of the question of which Restatement standard applied, the Sirek court then held that the Sireks had actually discovered the existence of the highway and that there were no traps or hidden dangers that would give rise to liability. Sirek, 496 N.W.2d at 814.

In another important decision, the court in Martinez v. Minnesota Zoological Gardens, 526 N.W.2d 416 (Minn. Ct. App. 1995), examined the Restatement standard and applied it to a situation where a child was injured by heavy railings that tipped over and landed on him; at the time, he was a visitor at the Minnesota Zoological Gardens. Id. This case was decided under the State's "Zoo Immunity" because the Minnesota Zoo is not a part of the outdoor recreation system. See Minn. Stat. § 3.736, subd. 3(p). Nevertheless, the standards are identical. The Martinez court noted that: "the plaintiff bears the burden of establishing that each of the elements of § 335 has been met in order to defeat a claim of immunity." Martinez, 526 N.W.2d 418.

Thus, the Martinez court expressly recognized that the Restatement standard contains several independent prerequisites to liability rather than a "totality of the circumstances" type test. Further, Martinez noted, citing Sirek, that a landowner is

entitled to assume trespassers will realize that no preparation has been made for the reception and will, therefore, be on the alert to observe the conditions which exist upon the land.

Id. at 418. The Martinez court held that because a brief inspection of the railings would

have revealed the condition and the possibility that they would tip over, the railings, as a matter of law, did not constitute a concealed condition so as to give rise to liability under the Restatement standard. Id. at 419.

While courts have generally held that the adult trespasser standard applies to these immunity claims, the courts have held differently with respect to a child's injury that occurred on school grounds. Fear v. Ind. School Dist. 911, 634 N.W.2d 204 (Minn. Ct. App. 2001) review denied, (Minn. Dec. 11, 2001). A contrary result was arrived at in Stiele ex rel. Gladieux v. City of Crystal, 646 N.W.2d 251 (Minn. Ct. App. 2002). A boy, aged 11, cut his leg on a metal signpost when jumping off a fence near some tennis courts. Id. The court first reviewed whether the case should be analyzed under Restatement section 335 or 339. It concluded that 335 was the proper standard pursuant to Sirek and Johnson v. County of Washington. The court then concluded that the hazard was not hidden and was simply not of a type likely to cause death or great bodily harm. Where a 14-year-old skier hit a barrel that was plainly visible, the adult trespasser standard applied and park and recreation immunity barred the claim. Schaffer v. Spirit Mountain Recreation Area Authority, 541 N.W.2d 357 (Minn. Ct. App. 1995).

Moreover, in Habeck v. Ouverson, 669 N.W.2d 907 (Minn. Ct. App. 2003), the court established that municipal recreational immunity applies to accidents occurring at county fairs. In this case, a young girl was run over by tractor that transported people at a county fair. Since children were ordinarily present at the fair, however, the court held that the more lenient child trespasser standard applied.

User of A Park or Recreation System

One interesting case examined the threshold inquiry of when someone is the “user” of a park or the outdoor recreation system. In Carlson v. State, Dept. of Natural Resources, 2002 WL 46999 (Minn. Ct. App. Jan. 15, 2002) (unpublished), the court held that a snowmobiler was a “user” of the outdoor recreation system when he ran into a dock temporarily stored in an outlet of the Pelican River. Id. Additionally, in Kastner v. Star Trails Ass'n, 658 N.W.2d 890 (Minn. Ct. App. 2003), the court established that a snowmobile trail user organization that contracts with a municipality and is responsible for maintaining a snowmobile trail is entitled to recreational immunity.

Hidden Defects

One unusual case has held that a rollerblader who claimed not to see a hazard on a path established the existence of a hidden defect so that recreational immunity did not apply. Lishinski v. City of Duluth, 634 N.W.2d 456 (Minn. Ct. App. 2001), review denied (Minn. Jan. 15, 2002). This is contrary to many recreational immunity cases, given that the restatement places a high threshold when determining whether or not a defect is hidden. Careful review of the cases cited in the Restatement and the cases cited in Lishinski suggests that “hidden” does not mean that the injured party simply did not see the defect.

Contrarily, the court found no hidden defects in Hinnenkamp v. City of Columbia Heights, 2002 WL 233824 (Minn. Ct. App. Feb. 12, 2002) (unpublished), the court held that where a city-owned mixer fell off a cart, spilling scalding liquid on a caterer, the injury occurred at a facility intended to provide recreational services and the immunity therefore applied. The court also determined that a large, heavy mixer on a wheeled cart presented no hidden dangers. In Unzen v. City of Duluth, 683 N.W.2d 875 (Minn. Ct. App. 2004), the court refused to apply recreational use immunity when a golfer tripped on defective stair nosing at a municipal golf course. Id. The court imposed liability on the government, even though the stairs or any defects were not hidden or concealed within the meaning of the restatement standards. Id. It would also seem unlikely that such a condition would be likely to cause death or great bodily harm. Id. Additionally, in Lundstrom v. City of Apple Valley, 587 N.W.2d 517 (Minn. Ct. App. 1998), the Court of Appeals of Minnesota held that black tape on the green tennis court was not a hidden danger. Id.

Miscellaneous Cases

Bog Races: A city's decision to permit bog races was protected by recreational immunity. Merchlewitz v. Midwest 4 Wheel Drive Ass'n, Inc., 587 N.W.2d 652 (Minn. Ct. App. 1999).

Bike Trails: In Levine v. City of Maple Grove, 1994 WL 396354 (Minn. Ct. App. Aug. 5, 1994) (unpublished), a city was sued for installing posts adjacent to a city bike trail. Id. The City argued that it was entitled to summary judgment as a matter of law because the post was not likely to cause serious bodily harm or death to a trespasser, it had no knowledge that the post was likely to cause such harm or death, and the post was an obvious condition that trespassers are likely to discover. Id. The appellate court affirmed the trial court's decision. Similarly, the appellate court in Mattson v. City of Rushford, extended immunity to a municipality when a plaintiff fell into a culvert while riding her bike. Id., 2016 WL 1551642 (Minn. Ct. App. Apr. 18, 2016), review denied (July 19, 2016). Because the plaintiff intentionally left the bike path and the potential for danger was visible with a brief inspection had she stopped and looked, recreational use immunity applied. Id. In Arth v. City of Edina, C2-96-1018, 1997 WL 53017 (Minn. Ct. App. Feb. 11, 1997), plaintiff-bicyclist was injured when she ran into a city maintenance vehicle on the city bike path. Id. at *1. The city argued that it was entitled to recreational-use immunity. Id. However, the court rejected that argument, holding that, (1) since the maintenance vehicle was an artificial condition on the land created by the city that was likely to cause death or serious bodily harm, and (2) the city did not warn of the condition, the city was not entitled to recreational-use immunity. Id. at *3.

Asphalt Trails: In Charai v. City of Woodbury, No. C6-99-2154, 2000 WL 944680 (Minn. Ct. App. July 11, 2000), plaintiff was injured while rollerblading on an asphalt trail in the City of Woodbury. Id. at *1. Plaintiff sued the city, alleging negligent maintenance of the trail, and the city moved for summary judgment, arguing that plaintiff's claims were barred by recreational-use immunity. Id. The court held, however, that, because plaintiff failed to prove all elements of section 335 to defeat immunity, granting summary judgment for the city was appropriate. Id. at *3.

Ice Rink: In Sanford v. City of Hopkins, No. A07-556, 2008 WL 933458 (Minn. Ct. App. April 8, 2008), the plaintiff injured his ankle while skating on an indoor ice rink owned and operated by the City of Hopkins. Id. at *1. The city moved for summary judgment based on recreational-use immunity. Id. The court concluded that, as a matter of law, the evidence was insufficient to demonstrate that the condition of the ice rink was likely to cause death or serious bodily harm or that the city had knowledge of such sloping of the ice along the sideboards. Id.

Softball Diamond: In Collins v. City of Hastings, No. A06-67, 2006 WL 3719545 (Minn. Ct. App. 2006), plaintiff broke his ankle when he attempted to catch a foul fly ball and his cleats became entangled in the chain-link fence next to first base. Id. at *1. The city moved for summary judgment, arguing that it was protected by recreational-use immunity. Id. Because the plaintiff admitted that he would have seen the fence's condition if he had inspected, he did not raise a question of material fact regarding whether the condition of the fence was visible. Id. at *4. Judgment was entered for the city. Id.

Additional Cases: In Krieger v. City of St. Paul, 762 N.W.2d 274 (Minn. Ct. App. 2009), a visitor brought a premises-liability action against the city after she tripped on a gouge in a temporary walkway as she left a city-owned recreation center. Applying the above-referenced standard, the court held that, because the plaintiff did not establish that the gouge was a condition likely to cause death or serious bodily harm, she failed to establish an element of the trespasser-liability exception to recreational-use immunity. Id. Additionally, the Court of Appeals in O'Brien v. City of Mentor, A16-0794, 2017 WL 24686 (Minn. Ct. App. Jan. 3, 2017), held that the trespasser exception to recreational-use immunity was not applicable to bar a personal injury action brought by a teenager who was injured in a city park, because the city did not have actual knowledge that the condition, which consisted of two metal cables stretched between tennis courts, was likely to cause death or serious bodily injury prior to the accident. Id.

In Spry v. City of Wadena, No. A12-0925, 2012 WL 5990322 (Minn. Ct. App. Dec. 3, 2012), the plaintiff was injured by a buffalo at city park, and, plaintiff subsequently filed a negligence action. Id. at *1. Because issues of material fact existed as to: (1) whether the buffalo or the area surrounding the buffalo enclosure were conditions that the city knew were likely to cause death or serious bodily harm; (2) whether such dangerous conditions were hidden, and (3) whether the city exercised reasonable care to warn the public of such hidden dangerous conditions, however, the city's motion for summary judgment was denied by the court. Id.

In McCullough v. City of Red Wing, A16-0723, 2016 WL 743871 (Minn. Ct. App. Dec. 27, 2016), plaintiff, who was injured when a section of a concrete wall fell on him as he swung on his hammock, filed an action against the City of Red Wing. Id. at *1. However, because there were genuine issues of material fact regarding the city's actual knowledge that the balustrade was likely to cause serious bodily injury and whether the condition of the balustrade wall was concealed, denial of the city's motion for summary judgment by the court was appropriate. Id.

In Shaffer v. City of Brooklyn Center, No. C1-97-307, 1997 WL 471190 (Minn. Ct. App. Aug. 19, 1997), plaintiff slipped, fell, and was injured in a corridor leading from the women's locker room to the swimming pool at the Brooklyn Center Civic Center. Id. at *1. Plaintiff commenced an action for damages, alleging serious permanent injuries resulting from the fall, and Brooklyn Center moved for summary judgment, arguing it was entitled to recreational-use immunity. Id. Since there was no evidence to indicate the wet floor was hidden due to warning signs of wet tiles, and because she was near the pool, Brooklyn Center owed no duty to the plaintiff. Id. at *2.

Scope

Outdoor recreation immunity is a powerful tool in the defense of claims arising out of park and recreation areas. It is important not to view this simply as "park" immunity; rather, the municipal parks and recreation immunity also applies to claims based on the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces. Minn. Stat. § 466.03, subd. 6e, and the State Tort Claims Act, Minn. Stat. § 3.736, subd. 3(i), applies not just to state parks, but to any of the "outdoor recreation system" as defined in Minn. Stat. § 86A.04.

Additionally, wayside rest areas are included in the outdoor recreation system, as are state historic sites and monuments. (A listing of state historic sites is found in Minn. Stat. § 138.53.) At least one district court has held that an individual who tripped on the indoor steps of the State Capitol while on a tour was a user of the outdoor recreation system, and, consequently, subject to the standard of liability contained in the Restatement. Erickson v. State, No. CX-89-2992 (Ramsey Cty. Dist. Ct. Dec. 6, 1991). If counties or other municipalities owning historic sites are sued by those touring the sites, this immunity may well be available, because of the breadth of the definition of "outdoor recreation" immunity, when combined with the special "catch-all" immunity, Minn. Stat. § 466.03, subd. 15, which grants municipalities immunity where the State would be immune.

Conclusion

Attorneys and claim representatives analyzing the liability of a government entity with respect to such claims should always consider whether this immunity applies.

(4) Licensing and Permitting Immunity

Governmental entities often require citizens to apply for and purchase licenses, permits, and authorizations. Since most licensing statutes contain some criteria, which, after a lapse by a licensee, would allow a plaintiff to challenge the wisdom of the original licensure, the potential liability of governmental entities in the absence of a licensing immunity provision would be staggering. Both the Municipal Tort Claims Act and the State Tort Claims Act contain licensing and permitting immunity. Minn. Stat. § 466.03, subd. 10; Minn. Stat. § 3.736, subd. 3(k). Licensing and permitting immunity bars claims based on the failure of a person to meet the standards needed for a license, permit, or other authorization issued by the governmental authority.

Application of this immunity is illustrated in Andrade v. Ellefson, 391 N.W.2d 836 (Minn. 1986). In Andrade, two infants were injured in a family daycare operated by defendant Ellefson. Id. The infants' injuries were consistent with either a fall or violent shaking at the daycare. Id. Plaintiff sued Anoka County, alleging that the children's injuries were caused by negligent licensing, inspection, and supervision of the daycare home by the county. Id. at 837. It was further alleged that Anoka County ignored repeated complaints of overcrowding in the home, and possibly ignored complaints of physical abuse as well. Id. at 839. Despite these complaints, the daycare center's license was renewed several times. The Minnesota Supreme Court held that the Plaintiffs' claims against Anoka County were barred by the licensing immunity contained in Minn. Stat. § 3.736, subd. 3(k). Id. 840. Andrade stands for the proposition that actions based on negligent licensure will not be permitted.

Licensing and permitting immunity was also applied in Gertken v. State, 493 N.W.2d 290 (Minn. Ct. App. 1992). In that case involving two wrongful death claims, the plaintiffs alleged that a state licensing inspector provided negligent advice concerning the safety of her home's ventilation system. Id. After an inspection by a state deputy fire marshal, carbon monoxide accumulation in the home resulted in the death of two members of plaintiff's family and injuries to others. Id. Plaintiff alleged that, during an inspection of the home required by daycare licensing standards, the deputy fire marshal had given advice concerning ventilation of the fireplace. Id. at 292. Plaintiff contended that this advice was not directly related to standards needed for a license, and consequently was outside the scope of immunity. Id. The Court of Appeals disagreed and held that the immunity provision applied even if the advice was outside the normal scope of an inspection. Id. The court observed:

The immunity statute includes the State's representations within the scope of the subject matter involved in the issuance of a license. It would be anomalous to construe the statute to apply to only representations implied by state licensure and not to express statements or silence in response to comments on subjects within the scope of the licensing inspection. We approach this case exactly as did the trial court, asking simply whether the representations were 'directly related' to the scope of the subject matter considered in licensing.

Id. The court expressly declined to address the issue of whether express representations made during the course of a licensing inspection would give rise to liability. Id. at 292.

Andrade and Gertken demonstrate that licensing and permitting immunity apply not only in those situations where a license or permit has been issued but also to inspections conducted pursuant to that licensing and permitting authority. The applicability of licensing and permitting immunity should be considered whenever a claim arises out of investigation or inspections conducted pursuant to licensing or permitting statutes.

Other licensure and permit cases have involved an issuance of building permits. Vrieze v. New Century Homes, Inc., 542 N.W.2d 62 (Minn. Ct. App. 1996) (city inspector's approval of modifications to building permit after its issuance was a discretionary act); Feuling v. City of Plymouth, No. A05-1860, 2006 WL 2129772 (Minn. Ct. App. Aug. 1, 2006) (city's issuance of building permits was discretionary and the city was immune from homeowners' claims that city's negligent failure to control development led to flooding problems); Anderson v. City of Minneapolis, 178 N.W.2d 215 (Minn. 1970) (city issuing building permit in doubtful case involved exercise of discretion—city's employee had to make a judgment as to whether plans submitted in support of application for permit constituted a permissible use of property in area involved, so that property owners had no cause of action against city for damage which resulted when building permit was canceled).

(5) "Catch-All" Immunities

As a result of a 1986 amendment to the Municipal Tort Claims Act, municipalities are immune from any claim for which the state would be immune if the action had been brought against the State. Minn. Stat. § 466.03, subd. 15.

This immunity assures that the scope of immunities available to municipalities will never be narrower than that available to the State. The converse, however, is not true: there is no "catch-all" immunity provision that provides that the State has all immunities that are available to municipalities. At the time of the enactment of "catch-all" immunity, the legislature also specifically included most of the state immunities in the text of the Municipal Tort Claims Act. As a result, it is only in an unusual case that one would need to apply this immunity. It would, however, expressly provide immunity for losses caused by wild animals in their natural state, as provided in Minn. Stat. § 3.736, subd. 3(e). Further, it would assure that future amendments to the State Tort Claims Act would have the effect of providing equal protection to municipalities.

In Levine v. City of Maple Grove, No. C2-94-270 (Minn. Ct. App. Aug. 5, 1994) (unpublished) the court held a city by operation of Minn. Stat. § 466.03, subd. 15, enjoyed the same immunity as the state enjoys under Minn. Stat. § 3.736 (1992). Because state immunity under § 3.736 extends to trails or paths with artificial surfaces, the city likewise has such immunity.

One area in which the "catch-all" immunity provision may be of some practical assistance to defending claims on behalf of government agencies would be in those instances where a plaintiff is attempting to impose respondeat superior or vicarious liability on a municipality. This is because the definition of "scope of employment" found within the State Tort Claims Act is much narrower than the common law definition of "scope of employment." The common law test, as found in Marston v. Minneapolis Clinic of Psychiatry, 329 N.W.2d 306 (Minn. 1983), imposes vicarious liability even where it is clear that the employee is no longer serving the interest of his employer. Marston, 329 N.W.2d 306 (Minn. 1983). This rigid and expansive definition of "scope of employment"

contrasts sharply with the narrower standard in the tort claims act:

Scope of office or employment means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authorities.

Minn. Stat. § 3.732, subd. 1(3). It is clear that the definition of "scope of employment" found in the State Tort Claims Act is different than that in Marston. By operation of the "catch all" provision of the Municipal Tort Claims Act, the definition of "scope of employment" found in the State Tort Claims Act is applicable to municipal claims.

(6) Other Statutory Immunities

Both tort claims acts contain numerous narrowly drawn immunity provisions that limit governmental entities' responsibility for many specific types of activities. These additional immunities have infrequently been the topic of appellate decisions, but still are occasionally useful in the defense of claims.

a. Due Care in the Execution of a Statute

Both tort claims acts provide immunity for losses caused by acts or omissions of employees "exercising due care in the execution of a valid or invalid statute or regulation." Minn. Stat. § 3.736, subd. 3(a). See also Minn. Stat. § 466.03, subd. 5. This immunity is infrequently applied, primarily because it would appear to require a showing of "due care" before being applicable. See Boop v. City of Lino Lakes, 502 N.W.2d 409 (Minn. Ct. App. 1993). The proper use of this immunity was seen in Johnson v. Dirkswager, 315 N.W.2d 215 (Minn. 1982), where this immunity provided some protection for a state employee who was required to disclose information pursuant to the Data Practices Act. Johnson v. Dirkswager, 315 N.W.2d at 223. See also Freier v. Independent Sch. Dist. No. 197, 356 N.W.2d 724 (Minn. Ct. App. 1984) (finding an absolute privilege to disclose information pursuant to the Data Practices Act).

The statutory immunity provisions providing for immunity where employees exercise due care in the execution of a valid or invalid statute or rule are infrequently applied. This immunity is best reserved for those occasions on which statutes require a governmental employee to perform certain acts and the subsequent challenge is not to the manner in which the employee perform the acts but to the requirement that the employee perform the acts.

b. Tax Collection Immunity

Both tort claims acts bar claims "in connection with the assessment and collection of taxes." Minn. Stat. § 3.736, subd. 3(c); Minn. Stat. § 466.03, subd. 3. This immunity bars suits arising from the assessment and collection of taxes.

c. DWI Impoundment Immunity

Formerly codified at Minn. Stat. § 169.121, subd. 9, Minn. Stat. 169A.48 grants immunity to the state and political subdivisions and their employees for liability arising out of the driving, operation, and physical control of a motor vehicle that has been impounded by a peace officer. The immunity applies where the police officer acts in good faith and exercises due care. While it would thus seem that the statute provides only limited protection, since it applies only where good faith and due care can be shown, it should be noted that liability frequently arises out of the acts of those other than the peace officer who conducts the impoundment. This immunity provision may thus primarily benefit the state and municipalities from claims for losses that occur at impound lots.

d. Unimproved Real Property Immunity

This immunity provision provides immunity to governmental entities for claims "based upon the condition of unimproved real property" which they own. Minn. Stat. § 3.736, subd. 3(g); Minn. Stat. § 466.03, subd. 6(b). While the Municipal Tort Claims Act does not define "unimproved real property," the State Tort Claims Act defines it as "land that the state has not improved, including, fixtures and attachments to land that the state has not either fixed nor improved." Minn. Stat. § 3.736, subd. 3(g). These provisions are intended for the defense of claims that arise out of land that governmental entities have title to, but on which they conduct no activities. It might also find application where the governmental entity has possession of property shortly after a purchase, but has neither erected any structures thereon, nor conducted any activities on that land.

Demolition and removal of buildings from government-owned land constitutes property improvement. Thus, that land may not be considered "unimproved real property," and unimproved property immunity will not apply to claim based on condition of property. In Angell v. Hennepin County Regional Rail Authority, a bicyclist filed suit after riding off the solely standing structure, a loading dock, on property owned by the county after the rest of the buildings had been demolished. Id., 578 N.W.2d 343 (Minn. 1998). The court determined that the land was not "unimproved property," and, therefore, the authority could not avoid liability. Id.

e. Losses Other Than Injury or Loss of Property or Personal Injury or Death

Both tort claims acts provide immunity for losses "other than injury to or loss of property or personal injury or death." Minn. Stat. § 3.736, subd. 3(f); Minn. Stat. § 466.03, subd. 8.

This is a cryptic provision that has never been interpreted in Minnesota jurisprudence. This immunity was one of the initial 12 immunities enacted pursuant to the State Tort Claims Act. The review of the legislative history, however, does not disclose the source of this immunity provision or its intended purpose.

It might be argued that this provision was intended to bar claims other than direct claims

by injured parties. A good example of such a claim would be a subrogation claim. There the claim that is actually being brought is not one for injury to or loss of property or personal injury or death, but instead a claim being asserted by a party who faced a personal injury or property damage claim. Further historical research and/or clever lawyering are likely the only method of giving some meaning to this unusual statutory provision.

f. Public Assistance or Welfare Immunity

Minn. Stat. § 466.03, subd. 9 and Minn. Stat. § 3.736, subd. 3(j) both preclude liability for “a loss of benefits or compensation due under a program of public assistance or public welfare, except where...compensation for loss is expressly required by federal law in order..., to receive federal grants-in-aid.” The statutes would seem to bar consequential claims arising from the denial of welfare benefits. These provisions have not been interpreted in judicial decisions.

g. Wild Animal Immunity

Minn. Stat. § 3.736, subd. 3(e) provides immunity for losses caused by wild animals in their natural state. While applying this immunity would seem straightforward, one should be alert to the possibility of applying it in a new, creative fashion. For instance, if a vehicle swerved to avoid a deer and hit a roadside obstacle alleged to have been negligently placed, the county or other political subdivision could argue that the wild animal caused the accident and that it, therefore, is immune. See Woller v. City of Granite Falls, No. CO-94-2616 (Minn. Ct. App. July 25, 1995); see also Curtis v. Klausler, 802 N.W.2d 790 (Minn. Ct. App. 2011) (city and city employee were immune from liability after employee lost control after striking a deer and hit another driver). Furthermore, cases have arisen where the falling of diseased tree limbs have been attributed to negligent inspection of the trees. If such resulted from insect damage to the tree, it could be argued that the immunity applies.

h. Patient and Inmate Immunity

Both tort claims acts contain provisions limiting the government’s liability to patients and inmates of state and municipal hospital and correctional facilities. See Minn. Stat. § 3.736, subd. 3(l) and (m); Minn. Stat. § 466.03, subd. 11 and 12. While these immunities provide protection from some claims by patients and inmates, these provisions will not bar tort suits brought by patients or prisoners in all instances. Compare Jarvis v. Levine, 418 N.W.2d 139 (Minn. 1988) (treating physician, medical director of state hospital, and commissioner of human services immune from liability), with Diedrich v. State, 393 N.W.2d 666 (Minn. Ct. App. 1986) (not all tort suits brought by patient or prisoner are barred by immunity provisions; rather, given the proper facts, the inclusion of the “reasonable use” language allows the possibility of a suit based on the “usual care or treatment”).

i. Logging Road Immunity

Governmental entities are immune from losses "arising out of a person's use of a logging road on public land...." Minn. Stat. § 466.03, subd. 17.

j. Additional State Immunities

The State Tort Claims Act also contains the following immunities:

- i. Subd. 3(h) a loss involving or arising out of the use or operation of a recreational motor vehicle within the right-of-way of a trunk highway, except that the state is liable for conduct that would entitle a trespasser to damages against a private person.
- ii. Subd. 3(o) a loss caused by an aeration, bubbler, water circulation, or similar system used to increase dissolved oxygen or maintain open water on the ice of public waste, that is operated under a permit issued by the commissioner of natural resources;
- iii. Subd. 3(p) a loss incurred by a visitor to the Minnesota Zoological Garden, except that the state is liable for conduct that would entitle a trespasser to damages against a private person;
- iv. Subd. 3(r) a loss incurred by a user of property owned, leased, or otherwise controlled by the Minnesota National Guard or the Department of Military Affairs, except that the state is liable for conduct that would entitle a trespasser to damages against a private person.

Since municipalities do not conduct these activities, these immunities would become relevant only where one was litigating against the state.

k. Additional Municipal Immunities

The Municipal Tort Claims Act also contains several narrow immunities. Amongst these are:

- i. Immunity from losses arising at water access sites, Minn. Stat. § 466.03, subd. 6c, see Marlow v. City of Columbia Heights, 284 N.W.2d 389 (Minn. 1979) (government was liable for water skier who severely cut bottom of his foot when he stepped on sharp object near public boat-launching site; failure to maintain the facility in a safe condition, or to warn of hazard, was operational);
- ii. Immunity from liability where other statutes provide immunity to a municipality, Minn. Stat. § 466.03, subd. 7;
- iii. Immunity arising from the operation of all-terrain vehicles, off-road vehicles, and off-highway motorcycles, Minn. Stat. § 466.03, subd. 16; and immunity for losses arising out of beach or pool equipment, Minn. Stat. § 466.03, subd. 6f¹.

¹ Note: Whereas parks and recreation immunity does not exist in situations where a landowner would be liable to trespassers, the beach or pool equipment immunity

- iv. Other recently-added immunities bar claims for losses related to school building security, where the school has obtained variances from the fire code for building security purposes, Minn. Stat. § 466.03, subd. 18;
- v. Losses related to emergency medical dispatches, Minn. Stat. § 466.03, subd. 19;
- vi. Losses related to certain urban property available for highway use, Minn. Stat. § 466.03, subd. 20;
- vii. Losses related to accuracies or alleged in accuracies in GIS survey data, Minn. Stat. § 466.03, subd. 21; and
- viii. Losses related to the operation of a recreational motor vehicle within a highway right-of-way, Minn. Stat. § 466.03, subd. 22.

I. Additional Statutory Immunities Not Found In The State Or Municipal Tort Claims Acts

In addition to the immunities that are found in the State and Municipal Tort Claims Acts, dozens of additional immunities from civil liability are found throughout Minnesota Statutes. See, e.g., Minn. Stat. § 97B.065, subd. 8 (immunity from civil and criminal liability arising out of custody of hunting equipment); Minn. Stat. § 16A.272 (absolute immunity for state treasurer from claims regarding safe-keeping of money); Minn. Stat. § 31.09 (absolute immunity for those determining that food is not salable). Thus,, it is important to review those statutes and regulations that correspond with the particular challenged activity. One must make sure that the statutes do not contain special immunity provisions apart from those contained in the tort claims acts.

B. Common-Law Immunities

The enactment of the Municipal Tort Claims Act and the State Tort Claims Act created a wealth of different statutory immunities. The abolition of the broad common-law principle of sovereign immunity also gave rise to more well developed common-law immunities.

There are numerous types of common-law immunities. As with statutory immunities, it is important to use clear and consistent terminology. The danger of not clearly labeling the various immunities can be seen from examining Rico v. State, 472 N.W.2d 100, 106, n.4 (Minn. 1991). There the court cited Theide v. Town Scandia Valley, 14 N.W.2d 400, 408 (Minn. 1944), for the proposition that "immunity is a prerogative of the state itself which cannot be invoked by public officers or agents when sued for their own torts." Rico, 472 N.W.2d at 106. Of course, the immunity that the court referred to in Theide was sovereign immunity. Sovereign immunity only applied to the state and did not apply to individuals. This, of course, is different than the issue the court was addressing in Rico, namely, whether statutory discretionary immunity applied to individuals as well as the

provision does not apply where the municipality's conduct "would entitle trespassing children to damages against a private person." Minn. Stat. § 466.03, subd. 6f(c).

state. It would seem unhelpful to cite precedent relating to sovereign immunity as applicable after the courts abolished sovereign immunity. Such slips are avoided by clearly labeling the immunities that are being discussed.

(1) Official Immunity

Policy and Purpose

Common official immunity “involves the kind of discretion which is exercised on an operational rather than a policy-making level,” meaning that it protects the discretionary decisions of government officials from suit for discretionary actions taken by them in the course of their official duties. Kari v. City of Maplewood, 582 N.W.2d 921, 923 (Minn. 1998); S.W. v. Spring Lake Park Sch. Dist. #15, 580 N.W.2d 19, 23 (Minn. 1998); accord Pletan v. Gaines, 494 N.W.2d 38, 40 (Minn. 1992); Taymond v. Pine County Sheriff's Office, ____ N.W.2d ____ (Minn. Ct. App. 2018), pet. for rev. filed (June 6, 2018). Official immunity has a broad scope, and it has been sometimes said to be as broad now as it was prior to the abolishment of sovereign immunity, at which time, it served to deflect those claims which were brought against individual governmental employees.

The goal of official immunity is to protect public officials from the fear of personal liability, which might deter independent action and impair effective performance of their duties. Elwood v. Rice County, 423 N.W.2d 671, 678 (Minn. 1988). The doctrine protects from personal liability public officials charged by law with duties that call for the exercise of judgment or discretion, unless the official is guilty of a willful or malicious wrong. Rico v. State, 472 N.W.2d 100 (Minn. 1991); Elwood v. Rice, 423 N.W.2d 671, 677 (Minn. 1988). As the court observed in Rico v. State, there are important differences between the discretionary immunity provision of the tort claims act and the official immunity doctrine:

Although the discretionary function exception to the tort claims act and the official immunity doctrine both protect discretionary acts, the discretionary acts protected by each are not identical. Governmental immunity under the discretionary function exception and official immunity serve different purposes: governmental immunity “is designed to preserve the separation of powers,” whereas official immunity primarily is “intended to ensure that the threat of potential liability does not unduly inhibit the exercise of discretion required of public officers in the discharge of their duties.” Holmquist v. State, 425 N.W.2d 230, 233 n. 1. (Minn. 1988). Thus, discretion has a broader meaning in the context of official immunity. Elwood, 423 N.W.2d at 678.

Rico, 472 N.W.2d at 107.

In sum, present day official immunity first turns on the conduct at issue—the officer must be acting within the scope of his or her employment at the time of the act or omission. Secondly, the court must examine whether the conduct is discretionary, protected, or

ministerial, generally not protected. While a discretionary act involves individual professional judgment, reflecting the professional goals and factors of a situation, Huttner v. State, 637 N.W.2d 278, 284 (Minn. App. 2011), a ministerial act is “one that is absolute, certain and imperative, involving merely the execution of a specific duty arising from fixed and designed facts. A ministerial duty leaves nothing to discretion; it is a simple, definite duty arising under stated conditions.” Mumm v. Mornson, 708 N.W.2d 475, 505 (Minn. 2006). Lastly, if the court determines the conduct is discretionary, the court must determine whether the conduct was willful or malicious.” Kariniemi v. City of Rockford, 882 N.W.2d 593, 600 (Minn. 2016) (quoting Vassallo ex rel. Brown v. Majeski, 842 N.W.2d 456, 462 (Minn. 2014)). If it is willful or malicious, then the conduct is not protected. Whether immunity applies is a legal question. Id. at 599.

Ministerial Decisions Pursuant to Policy May Be Protected

Generally, ministerial decisions are not protected by official immunity. See Schroeder v. St. Louis County, 708 N.W.2d 497 (Minn. 2006) (a road grader’s decision to grade after dusk without lights was ministerial and not protected by official immunity); Xia Yang v. Scott, 2008 WL 4007401 (Minn. Ct. App. Sept. 2, 2008) (the decision to turn on lights and siren was ministerial and not protected by official immunity); Briggs ex rel. Briggs v. Rasicot, 867 N.W.2d 217 (Minn. Ct. App. 2015) (held that officer violated a ministerial duty when he left his unattended squad car unlocked with its engine running, in violation of a city ordinance and police department policy, and, thus, was not entitled to official immunity). However, ministerial actions based on policy decisions may be protected, Anderson v. Anoka Hennepin Ind. School Dist., 678 N.W.2d 651, 660 (Minn. 2004), provided that the ministerial conduct included a ministerial duty that was either not performed or performed negligently. Id.; citing Lodl v. Progressive N. Ins. Co., 253 Wis. 2d 323, 646 N.W.2d 314, 321 (2002) (“if liability is premised upon the negligent performance (or non-performance) of a ministerial duty imposed by law or government policy, then immunity will not apply.”). In Anderson v. Anoka Hennepin Ind. School Dist., 678 N.W.2d 651 (Minn. 2004), a student lost a finger while using table saw in industrial arts class. Id. at 654. At the time, because he was sawing narrow strips of wood, no safety guard was being used on the saw. Id. It was the department’s policy that the table saw’s guard be removed when narrow strips of wood were being sawed. Id. Summary judgment on statutory immunity, official immunity, and vicarious immunity was denied in the trial court. Id. at 655. The Court of Appeals affirmed. Id. Review was sought and granted only on the issues of official immunity and vicarious official immunity. Id. The Minnesota Supreme Court first noted that the decision was a “ministerial” one, and therefore of a type that would not normally be entitled to official immunity. Id. at 656. Nevertheless, the court held that even a ministerial decision could be protected if it involved simply the action of a policy decision. Id. at 660. Thus, because the teacher’s ministerial conduct was required by a protocol established through the exercise of discretionary judgment, it was protected by official immunity. Id.

The effects of Anderson on immunity jurisprudence are uncertain, since in most cases, the policy nature of the decision would be before the court directly. In Anderson, since

review of the statutory immunity decision was not sought, the court could not face the issue directly.

Willful or Malicious Wrong Not Protected

Another distinction between official immunity and discretionary immunity is that official immunity does not protect an officer who commits a willful or malicious wrong. Rico, 472 N.W.2d at 107; Kari v. City of Maplewood, 582 N.W.2d 921, 923 (Minn. 1998); McDonough v. City of Rosemount, 503 N.W.2d 493, 497 (Minn. Ct. App. 1993). Within the meaning of the official immunity doctrine, malice "means nothing more than the intentional doing of a wrongful act without legal justification or excuse, or, otherwise stated, the willful violation of a known right." Rico, 472 N.W.2d at 107, quoting Carnes v. St. Paul Union Stockyards Co., 164 Minn. 457, 462, 205 N.W. 630, 631 (1925).

Most cases decided by the Minnesota courts have not found malice. In Igou v. Garden City Twp., No. A16-0999, 2016 WL 7337143 (Minn. Ct. App. Dec. 19, 2016), the plaintiff was injured after jumping from the snowplow after it began sliding down a slippery hill. Igou sued the plow truck operator and the township for damages resulting from the operator's recruitment of Igou and alleged negligent driving while Igou was in the truck. The court found that the operator weighed a number of considerations before recruiting Igou and driving with him in the truck, such as the need to stay on schedule to make the road safe for travel during winter weather, the safety of the operator and Igou, whether to sand by hand, or simply to stop sanding altogether. Igou argued that, even if the operator's decision was discretionary, it was malicious and willful, as the operator knew there was a risk of Igou being injured. In its reasoning, however, the court pointed out that there was no bad faith or evidence showing the operator knew he was violating any of Igou's rights or acting contrarily to any policy, rule, or statute to support the willful and malicious exception to official immunity. Therefore, official immunity was not barred by a willful and malicious allegation. Additionally, in Vassalo ex rel. Brown v. Majeski, 842 N.W.2d 456 (Minn. 2014), the plaintiff brought a negligence claim against a sheriff's deputy when the deputy struck plaintiff's vehicle as he was responding to an emergency. Once dispatched, the deputy activated his lights and sirens. When he proceeded through an intersection, however, the deputy turned his siren off and kept his lights on. His car struck the plaintiff's vehicle and the plaintiff sustained severe injuries. The Minnesota Supreme Court held that, among other reasons, the deputy's actions were not willful or malicious so as to preclude application of official immunity.

Factual Disputes on Malice

Fact disputes on the issue of malice precluded summary judgment in the case of Averbeck v. City of Minneapolis, 2004 WL 887180 (Minn. Ct. App. Apr. 27, 2004) (unpublished). Official immunity could not be granted where there was a sharp factual dispute as to how an injury was actually incurred. Id. Plaintiff claimed that the officer intentionally slammed his finger in a car door. Id. Because the officer denied this allegation, the factual dispute precluded summary judgment. Id.

Similarly, the Minnesota Supreme Court in State by Beaulieu v. City of Mounds View, 518 N.W.2d 567 (Minn. 1994), precluded summary judgment on official immunity grounds, because genuine issues of material fact existed as to whether the police officers acted maliciously when they made their felony stop of plaintiffs' vehicle.

The Development and Reemergence of the Official Immunity Doctrine

The official immunity doctrine in its present incarnation derives from the case of Elwood v. Rice County, 423 N.W.2d 671 (Minn. 1988). In Elwood, a woman was receiving threatening phone calls from her ex-husband after a pattern of domestic abuse. Id. Law enforcement officers reported to a residence from which the threatening calls were being made and, without the express consent of the owner, forced their way into the home in order to speak to the ex-husband. Id. at 673-74. After talking with the ex-husband, and being unsure as to whether the telephone contact violated the outstanding restraining order, the officers left without making any arrests. Id. at 674. Plaintiffs, parents of the ex-husband and owners of the house that was broken into, brought suit against the officers involved in the entry, asserting both federal civil rights violations pursuant to 42 U.S.C. § 1983 and state tort claims. Id.

The court found that the federal civil rights claims were disposed of by the doctrine of qualified immunity, a common defense to 1983 claims. Id. The court then went on to address the question of whether qualified immunity existed for the state common-law tort claims. Id. The Elwood court expressly refused to apply federal qualified immunity to these common-law tort claims. Id. The court, however, recognized that it needed to provide law enforcement officers some protection. Id. Primarily relying upon cases that predated abolition of the doctrine of sovereign immunity, the court found that the common-law doctrine of official immunity still retained independent vitality in state tort actions. Id. at 677. Elwood demonstrates the most frequent use of the official immunity doctrine: a form of "good faith" immunity, similar to qualified immunity, applied to actions involving law enforcement officers. Id.

Moreover, in Rico v. State, 472 N.W.2d 100 (Minn. 1991), it became clear that the official immunity doctrine finds application even when law enforcement officers are not involved. In that case, a disgruntled former employee of the Department of Veteran Affairs brought suit against the State and the commissioner of veteran's affairs alleging breach of an employment contract and wrongful discharge. Id. It was alleged that the commissioner had intentionally committed acts that constituted illegal retaliation. Id. The court, however, held that the commissioner's acts were not willful or malicious within the meaning of the official immunity doctrine. Id. In so doing, the Rico court adopted a standard that is remarkably similar to § 1983 qualified immunity:

In this sense, Gregg's actions would be intentional or willful. But the willful or malicious wrong exception to official immunity contemplates something more. The defendant must have reason to know that the challenged conduct is prohibited. The exception does not impose liability merely because an official intentionally commits an act that a court or a jury subsequently

determines is wrong. Instead, the exception anticipates liability only when an official intentionally commits an act that he or she has reason to believe is prohibited.

Id. The Rico court then went on to cite the section 1983 standard: no liability unless the official's conduct violates "clearly established statutory or constitutional rights of which a reasonable person would have known." Id., citing Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982). While the Rico court carefully maintained that the doctrine of official immunity and qualified immunity are separate, the court, nevertheless, noted that federal decisions interpreting qualified immunity under § 1983 were "instructive." Id. at 108.

Police Chases

Another important Minnesota Supreme Court case, Pletan v. Gaines, 494 N.W.2d 38 (Minn. 1992), held that police officers engaging in dangerous high-speed car chases with fleeing suspects were entitled to official immunity. Id. While qualified and official immunities are quite similar, especially when involving police, the Pletan court defined the differences between official and discretionary immunity as follows:

The discretion involved in official immunity is different from the policymaking type of discretion involved in discretionary function immunity afforded to governmental entities. Official immunity involves the kind of discretion which is exercised on an operational rather than a policymaking level, and it requires something more than the performance of "ministerial" duties.

Pletan, 494 N.W.2d at 40.

The Pletan court also established that official immunity applies to the governmental entity that employs the official as well as to the individual official. Id. at 43. The court noted that the public policy considerations underlying official immunity would be undermined if official immunity did not apply to the governmental entity as well as to the individual official. Id.

Pletan has been applied in a number of subsequent unreported cases involving police chases. It has also been extended to the related situation of emergency responders responding to medical emergencies. In the important case of Bailey v. City of St. Paul, 678 N.W.2d 697 (Minn. Ct. App. 2004), ambulance personnel that responded to medical emergency and made decisions in an emergency situation were protected by official immunity and vicarious official immunity was extended to the city. Id. The court observed that if ambulance personnel driving to the scene of an emergency are entitled to official immunity, that those responding to the emergency should also be protected once they actually provide emergency treatment, citing Kari v. City of Maplewood 582 N.W.2d 921 (Minn. 1998).

Mumm v. Mornson, 708 N.W.2d 475 (Minn. 2006), however, complicated the analysis applicable to police chase cases. Mumm declined to extend official immunity to a situation

where Minneapolis officers were said to have no objective reason to initiate or continue a chase. A pedestrian was killed when the officers decided to “take the driver out,” something the court concluded was totally unjustified. Important to the court’s decision was its conclusion that the chase violated the city’s written chase policy. Mumm was later distinguished in a case involving the St. Paul Police Department’s chase policy. Xia Yang v. Scott, No. A07-1921 (Minn. Ct. App. Nov. 25, 2008) (unpublished). In Xia Yang the court found that official immunity applied because the applicable multi-factor chase protocol could not be said to have been violated with malice.

Additional Noteworthy Official Immunity Cases

In Vassallo ex rel. Brown v. Majeski, 842 N.W.2d 456 (Minn. 2014), a motorist brought a negligence claim against a sheriff’s deputy and the county following a two-car collision that occurred as the deputy was responding to an emergency call. The Minnesota Supreme Court held that (1) a statute requiring that an emergency vehicle approaching a red stop signal or stop sign slow down as necessary for safety, but permitting vehicles to proceed cautiously past the red stop sign or stop signal, created a discretionary duty; (2) a statutory requirement that an emergency vehicle approaching a red stop signal or stop sign sound its siren or display at least one lighted red light to the front before proceeding, imposed a ministerial duty with which the deputy complied; (3) the deputy did not, by proceeding against the traffic light at the intersection with flashing lights on and the siren turned off, violate any ministerial duty created by sheriff’s office policy; and (4) the deputy’s discretionary actions were not willful or malicious as to preclude official immunity. Id. at 465.

In S.L.D. v. Kranz, 498 N.W.2d 47 (Minn. Ct. App. 1993), an out-of-state father brought a negligence action against the county for damages arising out of sexual abuse of his daughters. He alleged that the county failed to conduct a thorough and complete investigation after he telephoned his concerns to county social services agency. Id. at 49. The Court of Appeals of Minnesota held that (1) social workers were performing discretionary duties, rather than mere ministerial duties, when they decided the father’s call did not constitute a report of neglect, and, thus, the social workers were protected by official immunity for not investigating the father’s assertion of sexual abuse. Id. at 49. Thus, the social workers and the county, by vicarious immunity, were immune from suit. The court acknowledged, however, that if the social workers failed to communicate accurate information received from the out-of-state father alleging that his child was sexually abused, official immunity would not have been extended. Id. at 52-55.

Defenses to Official Immunity

Limitations on the doctrine of official immunity were noted in the case of Bauer v. State, 511 N.W.2d 447 (Minn. 1994). The court held that official immunity could not be applied to a common law defamation claim, observing that it did not appear that official immunity had ever been applied to public officials charged with defamation and noting that defamation had an intricate set of special rules which included a qualified privilege for remarks made on proper occasion. Bauer, 511 N.W.2d at 449.

The application of official immunity was similarly rejected in Waste Recovery Co-op v. County of Hennepin, 517 N.W.2d 329 (Minn. 1994), wherein the court found that an employee who failed to enforce statutes establishing absolute, certain, and imperative duties could not avail himself of the doctrine. Id. at 333. The Waste Recovery line of reasoning was further developed in Sletten v. Ramsey County, 675 N.W.2d 291 (Minn. Ct. App. 2004). In Sletten the city was not entitled to vicarious immunity where it failed to adhere to its own policies and applicable environmental regulations. The city operated a composting site. Waste pickups were not always made on time. The court found that city's failure to comply with its own rules concerning timeliness of the pickups deprived it of vicarious official immunity. Three Justices, Blatz, Page and Anderson, dissented.

Types of Governmental Employees Protected by Official Immunity

Employees other than law enforcement officers have been protected by the doctrine of official immunity in several cases. See Olson v. Ramsey County, 509 N.W.2d 368 (Minn. 1993) (held that Ramsey County social workers were immune from a wrongful death claim upon the death of a child who had been abused by his mother and was subject to a case management plan intended to forestall further abuse); McDonough v. City of Rosemount, 503 N.W.2d 493 (Minn. Ct. App. 1993) (city administrator was permitted to claim official immunity for actions taken concerning negotiations of a contract for the sale of land); Mowatt v. County of Hennepin, 2002 WL 857733 (Minn. Ct. App. May 7, 2002) (unpublished) (held that employer that tried, in good faith, to accommodate employee's medical condition was entitled to official immunity from claims that the employer should have provided additional accommodations); Brinkley v. Allina Health Sys., No. A14-0794, 2015 WL 506623, at *1 (Minn. Ct. App. Feb. 9, 2015) (held that impatient mental-health-care unit was entitled to official immunity, because it made a good-faith decision not to admit an individual who later committed suicide); K.B. v. Waddle, 764 F.3d 821 (8th Cir. 2014) (public swimming pool employees were entitled to official immunity, because the duty to report threats of sexual violence was a discretionary one, not ministerial).

Moreover, official immunity bars a claim against an individual who participates in the commitment of someone under the Civil Commitment Act, Minn. Stat. § 253B; Mjolsness v. Riley, 524 N.W.2d 528 (Minn. Ct. App. 1994).

Privately Employed City Engineers: Recently, the Minnesota Supreme Court has held that, in addition to public employees, privately employed individuals serving as city engineers are protected by official immunity. In Kariniemi v. City of Rockford, the court held, as a matter of first impression, that an employee of a private engineering firm who was designated as the city engineer was entitled to official immunity. Kariniemi v. City of Rockford, 882 N.W.2d 593, 593 (Minn. 2016). The Court reasoned that, since the engineer was hired to perform the functions of a directly-employed city engineer pursuant to a contract with the city, and he performed discretionary functions in close coordination with the city, he, was a "public official" eligible for common law official immunity related to the design of a storm-water drainage system. Id.

The 1996 Trio of Minnesota Supreme Court Official Immunity Cases

In 1996, the Minnesota Supreme Court handed down a series of cases that are important in defining the contours of official immunity.

One of the most influential official immunity decisions came from the Minnesota Supreme Court in Watson v. Metropolitan Transit Comm'n, 553 N.W.2d 406 (Minn. 1996). In that case, the Court held that an MTC bus driver and MTC were immune for decisions that a bus driver made while gang members were throwing a passenger out the window. Id. The Court mentioned that the driver's response was not "absolute, certain, and imperative, involving merely execution of a specific duty arising from fixed and designated facts." Id.

Official immunity also barred suit against governmental entities in Johnson v. State, 553 N.W.2d 40 (Minn. 1996). There, a felon failed to report to a halfway house and murdered a young girl. Id. The court found that official immunity applied.

Official immunity is a broad doctrine that can be asserted in a wide variety of cases involving alleged wrongful acts of government officials. With respect to "whistleblower claims," however, the Minnesota Supreme Court has held that official immunity would not apply where no individual, but, instead, a board, terminated the employee. Janklow v. Minn. Bd. Of Examiners for Nursing Home Adm'rs., 552 N.W.2d 711 (Minn. 1996).

Negligent Design Cases

Highway Maintenance and Design

The official immunity defense in highway maintenance and design claims is clearly illustrated in Ireland v. Crow's Nest Yachts, 552 N.W.2d 269 (Minn. Ct. App. 1996). There, the court applied the principles of official immunity to a claim alleging that warning sign and rumble strips should have been erected on a highway. Id. The court held that these issues involved professional judgment and discretion. Therefore, official immunity and vicarious official immunity barred the claim. Id.; see Spargur v. Freeborn Cnty., No. A14-0608, 2014 WL 5314683, at *1 (Minn. Ct. App. Oct. 20, 2014) (holding that the county was entitled to official immunity, barring claim that county negligently failed to erect and maintain adequate road warning signage). In Dewitt v. Metropolitan Council, a city employee's decision to place a barricade with a flasher, rather than taking other action, was a decision not protected by official immunity. Dewitt v. Metropolitan Council, 2002 WL 1791818 (Minn. Ct. App. Aug. 6, 2002) (unpublished). The court said that the employee's actions did not involve the exercise of discretion. Id. However, in Benson v. Itasca County, 2003 WL 21007152 (Minn. Ct. App. May 6, 2003) (unpublished), the decision not to locate a double arrow sign directly in front of the oncoming lane was protected by official immunity. Id. Imperfections in sign placement and condition were not sufficient to avoid the application of immunity. Id.

Snowmobile Maintenance and Design

In Olmanson v. LeSueur County, 673 N.W.2d 506 (Minn. Ct. App. 2004), the court refused to extend official immunity to signing decisions on snowmobile trails. Id. The reasoning seems strained, however. The court refused to apply official immunity, because there was no claim by the county that a county employee was attempting to implement a policy in a discretionary manner. Id. This analysis seems weak, however, because when the Minnesota Supreme Court granted review of this case in March of 2004, it only reviewed the applicability of the ten-year statute of repose and did not revisit the Court of Appeals' official immunity analysis. Olmanson v. LeSeuer County, 693 N.W.2d 876 (Minn. 2005).

Roadways and Bridges Maintenance and Design

The decision not to install a guardrail on roadways and bridges was protected by official immunity. Haggerty v. Pawlyshyn, 1999 WL 43338 (Minn. Ct. App. Feb. 2, 1999); Bartman v. City of Worthington, 2011 WL 1642626 (Minn. Ct. App. May 3, 2011).

Vicarious Official Immunity

The doctrine of vicarious official immunity protects the state or a political subdivision from liability based on the conduct of an employee who is protected by the doctrine of official immunity, regardless of whether the defendant employee is named in the suit. Wiederholt v. City of Minneapolis, 581 N.W.2d 312, 316 (Minn. 1998). "In general, when a public official is found to be immune from suit on a particular issue, his or her government employer will enjoy vicarious official immunity from a suit arising from the employee's conduct." Schroeder v. St. Louis County, 708 N.W.2d 497, 508 (Minn. 2006). The rationale for extending the immunity of a public official to the employer is that, if it is not extended, the governmental entity will establish policies inhibiting the exercise of discretion in a manner that is a disservice to the public as a whole. Ireland v. Crow's Nest Yachts, Inc., 1996 WL 422477, at *5 (Minn. Ct. App. July 30, 1996) (citing Pletan v. Gaines, 494 N.W.2d 42 (Minn. 1992)). Thus, if a public official is not entitled to official immunity, the public officer's employer is not entitled to vicarious official immunity. Anderson v. Anoka Hennepin INdep. Sch. Dist. 11, 678 N.W.2d 651, 664 (Minn. 2004).

Whether to apply vicarious official immunity is a policy question. Motl ex rel. Motl v. Powder Ridge Ski Area, 2012 WL 426602, at *2 (Minn. Ct. App. Feb. 13, 2012) (quoting Anderson, 678 N.W.2d at 663-64). Minnesota courts have examined vicarious official immunity in various cases. See Olson v. Ramsey County, 509 N.W.2d 368, 372 (Minn. 1993) (county entitled to vicarious official immunity to avoid "the focus of a stifling attention on the [employee's] performance, to the serious detriment of that performance"); Ireland v. Crow's Nest Yachts, Inc., 552 N.W.2d 269, 274 (Minn. Ct. App. 1996) ("vicarious official immunity serves to avoid chilling the [employee's] exercise of his independent judgment by allowing him to act without fearing that his conduct may eventually be subject to review by the judiciary and may expose his employer to civil liability"), review denied (Minn. Sept. 20, 1996); Raymond v. Pine County Sheriff's Office, A17-1578, 2018 WL 2090920 (Minn. Ct. App. May 7, 2018) (vicarious official immunity applies when the employee is protected by official immunity); Living Springs Church v. Spring Lake Park, 2013 WL 2149994 (Minn. Ct. App. May 20, 2013) (held that the city's

employees were entitled to official immunity because identifying the valve and protocol to open all city water-main valves were discretionary acts, and, consequently, the city was entitled to vicarious immunity); Statz v. State, No. A15-1604, 2016 WL 2946170, at *1 (Minn. Ct. App. May 23, 2016), review denied (Aug. 9, 2016) (Minnesota Court of Appeals held that failing to grant vicarious official immunity to state for engineers removing stop signs from one of the road ways that led to an accident, would likely detriment the state engineers' work performance and would overly scrutinize the engineers' ability to effectively employ their professional judgment).

While vicarious official immunity is typically granted when official immunity applies, there can be some apparent inconsistency. Compare, e.g., S.W. v. Spring Lake Park School Dist. No. 16, 592 N.W.2d 870 (Minn. Ct. App. 1999), aff'd without opinion, 606 N.W.2d 61 (Minn. 2000) (holding that granting vicarious immunity to the school would have the effect of rewarding the school for its failure to adopt a security policy, which would be contrary to the public policy of encouraging schools to protect children in their charge), with Meier v. City of Columbia Heights, 686 N.W.2d 858 (Minn. Ct. App. 2004) (holding that the plaintiff's claim for failure to adopt a procedure to be used in abating garbage houses was barred by vicarious official immunity, even though it was analogous to S.W. v. Spring Lake Park). It is not always easy to determine exactly when the courts will apply vicarious official immunity.

Sundry Types of Official Immunity Cases

Enhancement of Permit Fees

The court in Podruch v. State, Dept. of Public Safety, 674 N.W.2d 252 (Minn. Ct. App. 2004), held that the Commissioner of Public Safety's decision to charge five dollars for issuance of handicapped permit parking card was protected by official immunity.

Training Drills

In Fedke v. City of Chaska, 685 N.W.2d 725 (Minn. Ct. App. 2004), a claim by a participant in a simulated emergency drill was barred by official immunity and vicarious official immunity. The court cited two other cases involving training exercises: Clingan v. Anoka County, 2003 WL 139392 (Minn. Ct. App. Jan. 21, 2003); Armstrong v. County of Sherburne, 2000 WL 1809075 (Minn. Ct. App. Dec.12, 2000). These cases had come to a similar conclusion and the court found their reasoning persuasive.

Discrimination

Intentional torts and disability discrimination claims are not barred from suit by the doctrine of official immunity, because such conduct is not discretionary conduct intended to be protected by the doctrine. Gleason v. Metropolitan Council Transit Operations, 582 N.W.2d 216 (Minn. 1998).

(2) Section 1983 Qualified Immunity

“Qualified immunity is a federal law doctrine that has been applied by courts in the context of federal civil rights arising under 42 U.S.C. § 1983.” State by Beaulieu v. City of Mounds View, 518 N.W.2d 567, 569 n.4 (Minn. 1994). It is the most important affirmative defense available to government officials that “shields them from civil liability if ‘their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” Mumm v. Mornson, 708 N.W.2d 475, 483-84 (Minn. 2006) (citing Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)).

To establish whether qualified immunity applies, the Court applies a two-step inquiry. First, the court must first determine that the facts alleged are adequate to show a constitutional violation.” Mumm, 708 N.W.2d at 483 (citing Saucier v. Katz, 533 U.S. 194, 201 (2001)). Second, “the court must decide whether the law regarding the right allegedly violated ‘was clearly established.’” Id. (citing Saucier, 533 U.S. at 201). Whether the law regarding the right was clearly established is a legal question to be decided by the court. Mumm, 708 N.W.2d at 433.

While this two-step inquiry is the current method for establishing qualified immunity, the test for qualified immunity has evolved over the years. The United States Supreme Court recognized the doctrine in Pierson v. Ray, 386 U.S. 547 (1967), where it permitted police officers to raise a “good faith” defense in a § 1983 action. The court later extended that decision to high-ranking government officials and held that the immunity analysis included both objective and subjective factors. Scheuer v. Rhodes, 416 U.S. 232 (1974). Soon after Scheuer, the court explicitly adopted a two-factor test, whereby the immunity defense failed if officials either knew or reasonably should have known that their action violated plaintiffs’ clearly established constitutional rights—or if they maliciously intended that result. Wood v. Strickland, 420 U.S. 308 (1975).

The qualified immunity standard was reformulated in Harlow v. Fitzgerald, 457 U.S. 800 (1982). There the court eliminated the subjective component of the qualified immunity tests. Harlow, 457 U.S. at 816-18. The court reasoned that to retain a subjective component was inconsistent with the purposes of the doctrine, namely protecting government officials from the burdens of discovery and trial. Id. After Harlow the test is whether the official’s conduct violated “clearly established statutory or constitutional rights of which a reasonable person would have known.” Id. at 818. Further, after Harlow, it is clear that qualified immunity is a purely legal question conceptually distinct from an ordinary defense to the merits of plaintiff’s claim. Mitchell v. Forsyth, 472 U.S. 511, 530 (1985). Importantly, an order denying qualified immunity is immediately appealable. Further, issues of qualified immunity should be resolved at the earliest possible stages of litigation to shield officers from the disruptive effects of broad-ranging discovery and the effects of litigation. Elwood v. Rice County, 423 N.W.2d 671, 675 (Minn. 1988). Dismissal pursuant to the doctrine of qualified immunity is encouraged prior to discovery and can be obtained at that stage if the actions plaintiff alleges are wrongful are those a reasonable officer could have believed are lawful. Id.

In Malley v. Briggs, 475 U.S. 335 (1986), the U.S. Supreme Court stressed the objective

reasonableness standard as the focus of qualified immunity analysis. Under Malley, the "good faith" inquiry is confined to the question of "whether a reasonably well-trained officer would have known" the act was illegal. Malley, 475 U.S. at 334, citing United State v. Leon, 468 U.S. 987, 922 (1984). The Malley court also noted that immunity should be recognized "if officers of reasonable competence could disagree on this issue." Malley, 475 U.S. at 341.

The case of Anderson v. Creighton, 483 U.S. 635 (1987), made it clear that, for qualified immunity not to apply, the official charged with violating a right must not only be aware of the existence of the right but a reasonable official in his position must understand that his conduct actually violates the right. Id. at 640. As the court noted in Stone v. Badgerow, 511 N.W.2d 747 (Minn. Ct. App. 1994),

A plaintiff does not overcome an official's claim of immunity by simply asserting a general constitutional right; the plaintiff must show that a reasonable official would have known that their specific action was in violation of clearly established law.

Stone, 511 N.W.2d at 751, citing Anderson v. Creighton, 483 U.S. at 641. The Stone court, citing Malley v. Briggs, also observed that:

The scope of the qualified immunity doctrine is sufficiently broad to protect 'all but the plainly incompetent or those who knowingly violate the law.'

Stone, 511 N.W.2d at 751, quoting Malley, 475 U.S. at 341.

Qualified immunity finds its most frequent application in instances involving allegations of police misconduct. In Elwood v. Rice County, 423 N.W.2d 671 (Minn. 1988), the court applied qualified immunity where reasonably well-trained officers could differ as to whether exigent circumstances justified entry into a residence. Elwood, 423 N.W.2d at 675-76. In Reuter v. City of New Hope, 449 N.W.2d 745, 750 (Minn. Ct. App. 1990), the court held that an officer who placed an emergency medical hold on an hysterical driver was entitled to qualified immunity. Qualified immunity has also been granted to police officials' decision to drive a front-end loader through the side of an apartment building to gain access to individuals suspected of illegal drug activity. McGovern v. City of Minneapolis, 480 N.W.2d 121 (Minn. Ct. App. 1992). The McGovern court noted that because of:

the fortress-like condition of the premises, the likely presence of weapons and the need to safeguard the lives of officers, suspects, and any bystanders, exigent circumstances justify the mode of entry chosen by the officers.

Id. at 123-24.

Despite the breadth of the qualified immunity doctrine, a court has held that qualified immunity would not apply to an officer's split-second decision to shoot a suspect who is

carrying a knife. Maras v. City of Brainerd, 502 N.W.2d 69 (Minn. Ct. App. 1993). The Maras court noted:

the question is whether any reasonable police officer could determine that [the police officer] was sufficiently threatened so as to justify the use of deadly force. We conclude [he] was not sufficiently threatened. [The suspect] never raised the knife above his waist. None of the police officers felt that [another individual who was present] was in any danger. [The suspect] was obviously intoxicated and could barely stand. As a whole, reviewing the facts in a light most favorable to the trustee, Peterson's actions were relatively benign and did not justify the use of deadly force.

Maras, 502 N.W.2d at 77. It was undisputed in Maras that the officer shouted at the suspect three to five times that he should drop the knife. The officer shot the suspect when the suspect was between five and fourteen feet away. Given the Malley court's holding that immunity should be recognized "if officers of reasonable competence could disagree on this issue," the Maras court's ruling was hard to predict. Malley, 475 U.S. at 314. The court's decision in Maras is best explained by the vastly different factual versions of the incident that were related by plaintiff and the defendant officer. See Maras, 502 N.W.2d at 77. In other cases, however, the Court of Appeals has noted that

the focus for qualified immunity is not whether questions of fact exist. Rather, it is whether the officers violated a particularized law at the time of their conduct and whether no reasonable officer would have acted similarly.

Reuter v. City of New Hope, 449 N.W.2d 745, 750 (Minn. Ct. App. 1990).

Over the past few years, the number of qualified immunity cases has greatly increased. Many cases have extended qualified immunity to the officers in question. See Dist. of Columbia v. Wesby, 138 S.Ct. 577 (2018) (Officers were entitled to qualified immunity for arresting partygoers who alleged they had permission to be at the house, because probable cause existed for the arrest. There is no well-established law to support the partygoers' claim that they had a right to be present at the house, even if they had a good faith belief that the homeowner has granted them permission to be there); Hansen v. Black, 872 F.3d 554 (8th Cir. 2017), reh'g and reh'g en banc denied (Nov. 6, 2017), cert. denied (May 14, 2018) (officer was entitled to qualified immunity for shooting and killing a dog after officer made several attempts and failed to remove dog from highway, because the dog was a unrestrained, unsupervised and it created a serious risk to public safety); Frederick v. Motsinger, 873 F.3d 641 (8th Cir. 2017) (officers were entitled to qualified immunity, because use of a taser on a woman holding a knife in a stabbing position was objectively reasonable); Hosea v. City of St. Paul, 867 F.3d 949 (8th Cir. 2017) (officers entitled to qualified immunity, because they had arguable probable cause to arrest plaintiff for domestic assault, whether or not they knew at the initial scene whether the plaintiff's girlfriend was in danger); Weed v. Jenkins, 138 S.Ct. 1148 (2018) (officers arresting protesters who refused to stop displaying graphic posters and causing traffic obstruction were entitled to qualified immunity, because they imposed reasonable, content-neutral

restrictions); Rogers v. King, 885 F.3d 1118 (8th Cir. 2018) (officers were entitled to qualified immunity for fatally shooting suicidal individual who turned gun on officers, because a reasonable officer would have had probable cause to believe that the individual posed a serious threat of harm); Plumhoff v. Rickard, 134 S.Ct. 2012, 188 L. Ed. 2d 1056 (2014) (officers who fired gunshots into a car engaged in a high-speed chase were entitled to qualified immunity, because deadly force was reasonable due to the dangerousness of the suspect's fleeing); Gilani v. Matthews, 843 F.3d 342 (8th Cir. 2016) (officers entitled to qualified immunity because plaintiff failed to show that officers exercised their discretion to enforce traffic laws solely because of his ethnicity); Branch v. Gorman, 742 F.3d 1069 (8th Cir. 2013) (officers had probable cause to arrest plaintiff, even if they knew the flask in plaintiff's possession was empty, because Minnesota law only requires that it contain alcohol merely at some point while the vehicle was moving); Bishop v. Glazier, 723 F.3d 957 (8th Cir. 2013) (since plaintiff suffered only a de minimis injury from being choked by a police officer, the officer was entitled to qualified immunity); Wright v. United States, No. 14-3606, 2015 WL 9310298 (8th Cir. Dec. 23, 2015) (court determined a twenty-minute detention was not unreasonable after a scene of confusion; therefore, officers were entitled to qualified immunity), the courts have also denied qualified immunity in a number of circumstances. But see Edwards v. Byrd, 750 F.3d 728 (8th Cir. 2014) (guards were not entitled to qualified immunity, because they were aware that excessive force, such as using a "flash bang" to break up a fight, was being used against the plaintiffs but did not intervene to protect them); Barton v. Taber, 820 F.3d 958 (8th Cir. 2016) (officer denied qualified immunity from constitutional violation, because there were objective signs that intoxicated arrestee needed serious medical attention and the officer's response was wholly inadequate); Capps v. Olson, 780 F.3d 879 (8th Cir. 2015) (qualified immunity not extended to officer who should have understood that use of deadly force against a fleeing suspect who did not pose significant and immediate threat of serious injury or death to an officer or others was unconstitutional); Robinson v. City of Minneapolis, 957 F. Supp.2d 1094 (D. Minn. 2013) (officers were not entitled to qualified immunity on the claim of excessive force because plaintiff was sitting on a concrete construction barrier adjacent to the sidewalk and was not obstructing the path).

The doctrine of qualified immunity has also been contemplated in situations involving government officials other than law enforcement officers. See Scott v. Tempelmeyer, 867 F.3d 1067 (8th Cir. 2017) (Minnesota Court of Appeals held that attorney was entitled to qualified immunity on a first amendment claim because plaintiff failed to show that a clearly established right existed to be free from retaliatory regulatory enforcement that is otherwise supported by probable cause); Mooers v. City of Lake City, No. A13-2197, 2014 WL 3023368 (Minn. Ct. App. July 7, 2014) (city council and city attorney were entitled to qualified immunity because their allegedly defamatory statements were made upon a proper occasion, from a proper motive, and based upon reasonable or probable cause); Jenkins v. University of Minnesota, 838 F.3d 938 (8th Cir. 2016) (graduate researcher denied qualified immunity for sexual harassment/fourteenth amendment violation); Truong v. Hassan, 829 F.3d 627 (8th Cir. 2016) (bus driver was entitled to qualified immunity when he physically removed Truong and his belongings, allowed unruly passengers to exit the bus and physically remove Truong, and attempted to scare him away from the front of the bus, after he failed to pay the bus fare and refused to leave bus.)

In the context of political discharge claims, qualified immunity acts to bar claims arising out of political firings. Stone v. Badgerow, 511 N.W.2d 747 (Minn. Ct. App. 1994). An official enjoys qualified immunity from political discharge claims as long as the position "potentially concerns matters of partisan political interest and involved a least a modicum of policymaking responsibility, access to confidential information or official communication." Stone, 511 N.W.2d at 751, quoting Mandez-Palou Rohena-Betancow, 813 Fd.2d 1255, 1259 (1st Cir. 1987).

Plaintiffs frequently bring § 1983 claims along with their state tort claim because proving a violation of § 1983 entitles them to attorney's fees. 42 U.S.C. § 1988. Even a nominal recovery by plaintiff can result in a huge award of attorney's fees. See, e.g., Riverside v. Rivera, 477 U.S. 561 (1986) (affirming an award of \$245,456.25 in attorneys' fees to prevailing civil rights plaintiff who obtained recovery of only \$33,350 in damages); Nephew v. Aurora, 830 F.2d 1547 (10th Cir. 1987) (award of \$12,500 in attorneys' fees was not excessive even though damage award was only \$1.00).

Qualified immunity is often the best line of defense in cases brought pursuant to 42 U.S.C. § 1983. The doctrine is favored by the courts, intended to be used prior to discovery, and permits appellate review of an adverse decision at an early stage in the litigation.

(3) Absolute Immunity

Certain governmental actions have been accorded "absolute immunity." In most instances, it arises out of judicial or quasi-judicial activities. Since "Absolute immunity" can take many different forms, it is preferable to use specific names, such as "absolute judicial immunity" or "absolute prosecutorial immunity."

Absolute immunity *always* protects an official's acts from personal liability from damages, even if the official should have known that the acts clearly violated the plaintiff's rights. See Imbler v. Pachtman, 424 U.S. 409 (1976) (noting that absolute immunity automatically "defeats a suit at the outset, so long as the official's actions were within the scope of the immunity.") Absolute immunity focuses on the nature of the governmental function that the official was performing. It reflects a recognition that the particularly sensitive nature of performing certain duties makes it "better to leave un-redressed the wrongs done by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation." Simmons v. Fabian, 743 N.W.2d 281 (Minn. Ct. App. 2007).

To be protected, a statement generally must: (1) have been made by a judge, judicial officer, attorney, or witness; (2) at a judicial or quasi-judicial proceeding; and (3) the statement at issue must be relevant to the subject matter of the litigation. Mahoney & Hagberg v. Newhard, 729 N.W.2d 302, 206 (Minn. 2007).

Absolute Judicial Immunity

Absolute judicial immunity is one of the most “solidly established” doctrines, deeply rooted in common law. Gammel v. Ernst & Ernst, 72 N.W.2d 364, 368 (1955). Because the judicial function is vulnerable to the threat of litigation, claims against judges for decisions they make in their judicial capacity are barred, irrespective of a conspiracy allegation, and however erroneous, if the doctrine is asserted as a defense. Hoppe v. Klapperich, 28 N.W.2d 780, 788 (1947); Simmons v. Fabian, 743 N.W.2d 281, 286 (Minn. Ct. App. 2007). It rests upon considerations of public policy, with its purpose being to preserve the integrity and independence of the judiciary and to ensure that judges will act upon their convictions free from the apprehensions of possible consequences. Hoppe, 28 N.W.2d at 788.

The immunity extended to judges is not limited to the judiciary, however. Rather, the court in Linder noted:

[Absolute immunity] also extends to quasi-judicial officers, ... to grand and petit jurors in the discharge of their duties, ... to assessors upon whom is imposed the duty of valuing property for the purpose of levying taxes, ... to commissioners approved to appraise damages when property is taken under the right of eminent domain, ... [and] to prosecuting attorneys.

Linder v. Foster, 295 N.W. 299, 301 (1940). Thus, absolute immunity as afforded the judiciary is the source of the other forms of absolute immunity that apply to various quasi-judicial activities.

Absolute Prosecutorial Immunity

Both state and federal courts recognize that a criminal prosecutor is absolutely immune from suit for actions connected with the charging or prosecution of a criminal case. See Imbler v. Pachtman, 424 U.S. 409, 427-28 (1976); Brown v. Dayton Hudson Corp., 314 N.W.2d 210, 214 (Minn. 1981); Brotzler v. Scott County, 427 N.W.2d 685, 689 (Minn. Ct. App. 1988); Saterdalen v. Spencer, 725 F.3d 838, 842 (8th Cir. 2013). Prosecutorial immunity has long shielded prosecutors from civil litigation arising out of acts “intimately associated with the judicial phase of the criminal process....” Imbler, 424 U.S. at 430. This immunity not only protects prosecutors from allegations of improper charging decisions and unmeritorious prosecution, Brown, 314 N.W.2d at 214, but it also protects prosecutors from allegations of vindictive prosecution, Wahl v. Mciver, 773 F.2d 1169, 1173 (11th Cir. 1985), and prosecution based on malice, self interest, or illegal conduct. Imbler, 424 U.S. at 427. Thus, immunity depends not on the status of the prosecutor; rather, it depends upon the functional nature of the activities—whether the prosecutor was acting within the scope of his or her duties.

The doctrine of absolute prosecutorial immunity was examined in Kipp v. Saetre, 454 N.W.2d 639 (Minn. Ct. App. 1990), when a probationer filed suit under the federal civil rights statute and set forth common-law claims arising from the revocation of his

probation without a hearing. Id. at 639. Although the District Court, Crow Wing County, denied the county prosecutor's motion for summary judgment on immunity grounds, the Minnesota Court of Appeals reversed, reasoning:

the ultimate fairness of the operation of the system itself could be weakened by subjecting prosecutors to...liability.... This immunity does leave the genuinely wronged defendant without civil redress against the prosecutor whose malicious or dishonest action deprives him of liberty. But the alternative of qualifying a prosecutor's immunity would disservice the broader public interest. It would prevent the vigorous and fearless performance of the prosecutor's duty that is essential to the proper functioning of the criminal justice system.

Kipp, 454 N.W.2d at 643, quoting Imbler v. Pachtman, 424 U.S. 409 (1976). Therefore, because the prosecutor's acts at issue involved acting in accordance with a judge's allegedly illegal decision not hold a probation revocation hearing, the Court of Appeals concluded that the prosecutor was entitled to absolute prosecutorial immunity. Id. at 639.

The following cases have also applied absolute prosecutorial immunity. Erickson v. County of Clay, 451 N.W.2d 666 (Minn. Ct. App. 1990) (prosecutors were entitled to absolute immunity with respect to conduct of proceedings before grand jury and with respect to claim of negligent supervision of assistant county attorney by county attorney in conduct of grand jury proceeding); Rachuy v. County of Chisago, 1995 WL 81404 (Minn. Ct. App. Feb. 28, 1995) (county attorneys, who acted within the scope of prosecutorial duties when they, to prepare testimony and file copies of criminal history in court files, gave a witness a copy of appellant's criminal history, were entitled to absolute prosecutorial immunity); S.J.S. by L.S. v. Faribault County, 556 N.W.2d 563 (Minn. Ct. App. 1996) (prosecutor was entitled to absolute immunity for releasing minor's statement describing criminal sexual conduct, in response to criminal defendant's discovery request, without an in-camera review); Connor v. City of La Crescent, No. A10-1585, 2011 WL 2175858 (Minn. Ct. App. June 6, 2011) (decision to bring criminal charges against a defendant is "intimately associated with the judicial phase of the criminal process" and protected by absolute prosecutorial immunity); Wolbert v. Minnesota Dept. of Public Safety, No. 62-CV-12-8556, 2013 WL 6596752 (Minn. D. Ct April 10, 2013) (county attorney, performing prosecutorial duties at the time of plaintiff's guilty plea and sentencing hearing, entitled to absolute prosecutorial immunity); Sharkey v. Shoreview, No. 62CV129629, 2013 WL 9828029 (Minn. D. Ct. Aug. 15, 2013) (prosecutors entitled to absolute prosecutorial immunity regarding claims arising from various criminal hearings in plaintiff's case).

It has been well-established that prosecutors are entitled to absolute immunity from civil liability "when acting within the scope of their duties by filing and maintaining criminal charges." Brown, 314 N.W.2d 210, 214 (Minn. 1981). While the Court of Appeals once extended "prosecutorial immunity" to "investigators" in Barry v. Johnson, 350 N.W.2d 498 (Minn. Ct. App. 1984) and Hyland v. State, 509 N.W.2d 561 (Minn. Ct. App. 1993), that is no longer the case. Stresemann v. Jesson, 868 N.W.2d 32 (Minn. 2015), held that immunity did not extend to investigators not intimately involved with the initiation and maintenance of criminal charges. Id. at 36. In that case, an owner of a LLC brought a

conversion and trespass to chattels action against the chief investigator for the Medicaid Fraud Control Unit of the state Attorney General's Office, alleging that the investigator lost or destroyed LLC's patient files collected via a search warrant. Id. at 32. The District Court denied the investigator's motion to dismiss based on prosecutorial immunity. Id. at 33. The Court of Appeals reversed that decision, and the Supreme Court, persuaded by Burns v. Reed, 500 U.S. 478 (1991), and Buckley v. Fitzsimmons, 509 U.S. 259 (1993), overruled Barry and Hyland. Id.

In Burns v. Reed, the U.S. Supreme Court considered whether a prosecutor is entitled to absolute immunity for giving legal advice to police officers. Burns v. Reed, 500 U.S. 478, 492 (1991). The Court held that the prosecutor was not entitled to absolute immunity for that conduct because "advising the police in the investigative phase of a criminal case" was not "intimately associated with the judicial phase of the criminal process." Id. at 493 (quoting Imbler, 424 U.S. at 430). The Court rejected the argument that investigative activities are related to the prosecutor's role in screening cases for prosecution, reasoning that:

Almost any action by a prosecutor, including his or her direct participation in purely investigative activity, could be said to be in some way related to the ultimate decision whether to prosecute, but we have never indicated that absolute immunity is that expansive. Rather, as in Imbler, we inquire whether the prosecutor's actions are closely associated with the judicial process. Indeed, we implicitly rejected the United States' argument in Mitchell v. Forsyth, 472 U.S. 511 (1985), where we held that the Attorney General was not absolutely immune from liability for authorizing a warrantless wiretap. Even though the wiretap was arguably related to a potential prosecution, we found that the Attorney General "was not acting in a prosecutorial capacity" and thus was not entitled to the immunity recognized in Imbler.

Id. at 495-96 (citation omitted).

The U.S. Supreme Court further clarified the parameters of prosecutorial immunity in Buckley v. Fitzsimmons:

There is a difference between the advocate's role in evaluating evidence and interviewing witnesses as he prepares for trial, on the one hand, and the detective's role in searching for the clues and corroboration that might give him probable cause to recommend that a suspect be arrested, on the other hand. When a prosecutor performs the investigative functions normally performed by a detective or police officer, it is "neither appropriate nor justifiable that, for the same act, immunity should protect the one and not the other." Thus, if a prosecutor plans and executes a raid on a suspected weapons cache, he "has no greater claim to complete immunity than activities of police officers allegedly acting under his direction."

509 U.S. 259, 273–74 (citations omitted).

In Stresemann, the Minnesota Supreme Court, relying on the reasoning of Burns and Buckley, concluded that there was a material difference between investigative functions normally performed by an investigator or police officer and the prosecutorial functions of filing and maintaining criminal charges. Because the investigator was not intimately involved with the initiation and maintenance of criminal charges, the Court of Appeals erred when it concluded that she was entitled to prosecutorial immunity.

While it has been thoroughly established that absolute prosecutorial immunity was formed to protect persons performing functions of a prosecutor, prosecutors' opponents, public defenders, are also entitled to immunity. Dziubak v. Mott, 503 N.W.2d 771 (Minn. 1993). In Dziubak, the court noted that:

the public defender is appointed to protect the best interest of her or his client and must be free to exercise independent, discretionary judgment when representing the client without weighing every decision in terms of potential civil liability.

Id. at 775. In establishing absolute immunity for public defenders, the court rejected the contention that public defender liability was necessary to ensure the vigorous defense of indigents. Id. The court noted that there were many differences between a public defender and ordinary private counsel: the public defender is appointed to represent a client and does not always enter into the relationship voluntarily; public defenders are limited in their representation by the resources available; and there is no disincentive for indigent clients to bring frivolous claims against public defenders. Id. at 776.

Other Forms of Absolute Immunity

Because judicial immunity is intended to protect the judicial process, it also extends to persons who are integral parts of that process, which include, for example, witnesses, physicians, and guardians. Briscoe v. LaHue, 460 U.S. 325, 334-35 (1983); Sloper v. Dodge, 426 N.W.2d 478, 479 (Minn. Ct. App. 1988); Elfstrom v. Knox, No. C4-99-1097, 2000 WL 53409 (Minn. Ct. App. 2000).

Absolute immunity applies to witnesses and parties from claims for damages arising out of their trial testimony. Mahoney & Hagberg v. Newgard, 712 N.W.2d 215, 219 (Minn. Ct. App. 2006). This immunity is premised on public policy concerns that favor ascertainment of truth over self-censorship that may result from witnesses' fears of subsequent liability. Id.

Moreover, court-appointed psychiatrists and physicians who prepare and submit medical evaluations relating to judicial proceedings are entitled to absolute immunity. Koelln v. Nexus Res. Treatment Facility, 494 N.W.2d 914 (Minn. Ct. App. 1993); see also Moses v. Parwatikar, 813 F.2d 891, 892 (8th Cir. 1987) (court appointed psychiatrist who was to

examine plaintiff and report findings to the court was protected by absolute immunity). Absolute immunity has also been applied to court-appointed therapists. Meyers v. Price, 463 N.W.2d 773 (Minn. Ct. App. 1990).

Court-appointed guardians ad litem are also entitled to absolute immunity for actions within the scope of their appointment. Tindell v. Rogosheske, 428 N.W.2d 386 (Minn. 1988); see Pirila v. Jantzen, No. A03-149, 2003 WL 22136802 (Minn. Ct. App. Sept. 16, 2003) (guardians ad litem entitled to absolute immunity because they did not exceed their authority).

Other persons have also been deemed integral parts of the judicial process and entitled to absolute immunity. Carradine v. State, 522 N.W.2d 733 (Minn. 1994) (arresting officer had absolute immunity from civil suits for alleged defamatory statements made by arresting officer about arrestee in report); Kipp v. Saetre, 454 N.W.2d 639 (Minn. Ct. App. 1990) (probation officer was entitled to absolute immunity from suit for acting in accordance with a judge's allegedly illegal decision that no probation revocation hearing was necessary); Harlow v. State Dept. of Human Services, 883 N.W.2d 561 (Minn. 2016) (DHS deputy commissioner was absolutely immune from defamation claims for statements made within scope of authority); Peterka v. Dennis, 764 N.W.2d 829 (Minn. 2009) (appointed experts, such as accountants, are entitled to immunity); Mahoney & Hagberg v. Newgard, 712 N.W.2d 215 (Minn. Ct. App. 2006) (legal assistant, who made statements in affidavit that were relevant to issues in a judicial proceeding, was absolutely immune from tort liability for breach of confidences, invasion of privacy, and civil conspiracy).

It should be noted, however, that courts have refused to extend the doctrine of absolute immunity so far that it necessarily applies to private residential treatment facilities to which offenders are placed. Koelln v. Nexus Res. Treatment Facility, 494 N.W.2d 914 (Minn. Ct. App. 1993).

C. The Public Duty Doctrine

The public duty doctrine is a broad-based public policy doctrine that can bar claims brought against governmental entities. It derives from basic principles of negligence law that limit duties arising from statutes creating general public duties. Cracraft v. City of St. Louis Park, 279 N.W.2d 801, 805 (Minn. 1979). Litigants attempting to recover from governmental authorities must prove that those authorities breached a duty owed to them in their individual capacity and not merely an obligation owed to the general public. Hoffert v. Owatonna Inn Towne Motel, 199 N.W.2d 158, 159 (Minn. 1972). While the public duty doctrine is also available to private actors, it is most commonly referenced in cases involving public entities. Cracraft v. City of St. Louis Park, 279 N.W.2d 801, 803 (Minn. 1979); In re Norwest Bank Fire Cases, 410 N.W.2d 875 (Minn. Ct. App. 1987).

The public-duty doctrine has been applied to a variety of municipal activities, but the most common cases involve building inspections, firefighting, or similar services. In the landmark Cracraft case, the parents of children who were severely burned in a school

explosion sued the city for its allegedly negligent failure to discover a fire-code violation during an inspection about six weeks before the explosion. Id. at 802-03. On the parents' appeal from summary judgment in favor of the city, the Minnesota Supreme Court reaffirmed the "basic tenet of negligence law" that "general duties owed to the entire public rather than a specific class of persons cannot form the basis of a negligence action." Id. at 804. As stated in Cracraft, a municipality does not owe any individual a duty of care merely by the fact that it enacts a general ordinance requiring fire code inspections or by the fact that it undertakes an inspection for fire code violations. Id. at 806. A duty of care arises only when there are indicia that the municipality has undertaken the responsibility of protecting a particular class of persons from the risks associated with fire code violations. Id.

The Cracraft court noted the difference between a "special duty" and "public duty," and it refused to abolish the distinction. Id. It stated that a "special duty" is nothing more than convenient terminology for the ancient doctrine that, once a duty to act for the protection of others is voluntarily assumed, due care must be exercised. Id. It is somewhat unfortunate that the terms "public" duty and "special" duty have been used, inasmuch as they give the misleading impression that the distinction applies only to governmental tortfeasors. Id. Therefore, the court prefers the phrases "no duty" and "assumed duty." Id.

While there is no bright line rule for establishing the difference between a public duty and special duty, the court identified four factors that should be considered when a special duty, or, one that would form the basis for liability, exists:

1. Whether the alleged tortfeasor had actual knowledge of the dangerous condition;
2. Whether the injured party relied upon the representations and conduct of the alleged tortfeasor;
3. Whether a statute exists which sets forth mandatory acts clearly for the protection of a particular class of persons rather than the public as a whole; and
4. Whether the acts or omissions of the tortfeasor increase the risk of harm.

Id. Using these factors, the Cracraft court employed a balancing test and concluded that a municipality is not liable for negligent fire inspections that allegedly led to a property loss. Id.

The public duty doctrine was further explained in Andrade v. Ellefson, 391 N.W.2d 836 (Minn. 1986). In that case, a parent sued the county for negligent inspection of a daycare home. Id. The court analyzed each of the factors individually and concluded that certain daycare statutes created a "special duty," since these statutes were undoubtedly enacted for the protection of a particular class of persons, rather than the public as a whole. Andrade, 391 N.W.2d at 837. Andrade makes it clear that the factors are not pre-requisites

to establishing a special duty, but they are, instead, factors to be analyzed under a totality of circumstances. Id. at 841-43. In conducting its analysis, the court found that one of the four factors, the third factor, was decisive. Id. at 842-43. In so doing, it might be argued that the court created a "superfactor" which can trump all the other factors, even when analysis of other factors undeniably favors the governmental entity. See id.

Subsequent cases, in which plaintiffs sue a defendant for an injury resulting from (1) the negligent enforcement of a law against a third party or (2) the negligent performance of a duty that does not arise from its owner or operator status, have applied these factors. See, e.g., Radke v. City of Freeborn, 694 N.W.2d 788, 790-91, 793, 798 (Minn. 2005) (concluding that "special duty" existed where father alleged that county's negligent investigation of child-abuse reports resulted in child's murder by mother's friend); Gilbert v. Billman Const., Inc., 371 N.W.2d 542, 544, 546-47 (Minn. 1985) (declining to apply public-duty doctrine, where "evidence ... permit[ted] a strong inference that the county assumed a direct duty to [property owners] by designing their septic system and requiring that it be constructed in accordance with the plans [county] prepared"); Woehrle v. City of Mankato, 647 N.W.2d 549, 550, 553 (Minn. Ct. App. 2002) (concluding that no "individual duty" existed where property owners alleged that city's negligent firefighting resulted in damage to property); McNamara v. McLean, 531 N.W.2d 911, 913, 915-16 (Minn. Ct. App. 1995) (concluding that no "private duty" existed, where sellers alleged that county's negligent point-of-sale inspection of septic system induced buyers to purchase property and led to buyers' suit against sellers when system failed); Ariola v. City of Stillwater, No. A14-0181, 2014 WL 5419809 (Minn. Ct. App., Oct. 27, 2014) (public-duty doctrine considered, but did not bar claim); Blaine v. City of Sartell, 865 N.W.2d 723, 729 (Minn. Ct. App. 2015) (holding that, since the county had a common-law duty of reasonable care with regard to Ditch 50, which duty was coextensive with the duty of a private owner of a real-property improvement, the public-duty doctrine did not defeat the plaintiff's negligence-based claims.)

Perhaps the most common use of the public duty doctrine has been in relation to firefighting. In Minnesota, courts have generally recognized that governmental entities are not liable for fire-fighting activities. Dahlmeier v. City of Dayton, 441 N.W.2d 534 (Minn. Ct. App. 1989); Frank's Livestock v. City of Wells, 431 N.W.2d 574 (Minn. Ct. App. 1988). More recently, however, a different result was obtained in Invest Cast, Inc. v. City of Blaine, 471 N.W.2d 368 (Minn. Ct. App. 1991), where the court held that a municipality could be liable for its selection of fire-fighting methods. While the Invest Cast court noted that many of the Fire Department's decisions were protected by discretionary immunity, it also noted that decisions regarding fire-fighting methods are tactical decisions without larger policy implications. Id. at 371. In its analysis, the court placed little emphasis on the public duty doctrine, and, in an offhand fashion, dismissed the public duty doctrine with the comment that "the special duty idea is simply a way to avoid sovereign immunity." Id.

The public duty doctrine has also found application in other contexts. In Flour Exchange Building Corp. v. State, 524 N.W.2d 496 (Minn. Ct. App. 1994), the Minnesota building preference statute, which urges the use of "suitable historic buildings" for governmental

offices, did not create a private cause of action, since the statute created only a public duty. Id. at 500. The court noted that the "Minnesota preference statute is designed not for the benefit of particular land-owners, but, rather, for the benefit of the general public." Id. And in Danielson v. City of Brooklyn Park, the court held that, despite a city ordinance that requires the city to inspect and order removal of trees infected with Dutch Elm disease, a municipality could not be liable to a homeowner who injured himself while trying to remove a tree which the city had erroneously ordered to be cut down. Danielson, 516 N.W.2d at 204-05. The court observed:

We accept, in this case, that the city incorrectly diagnosed Dutch Elm disease in the Danielsons' tree. We conclude, nonetheless, as did the court in Cracraft, that because the ordinance in question was enacted for the benefit of the general public, and not for the benefit of a special class of which the Danielsons are members, the Danielsons cannot recover against the city for the injuries they suffered.

Id.

In sum, the public duty doctrine is a vital doctrine that acts to bar suits based on duties owed to the public at large rather than individuals. Whenever a claimant asserts a claim based upon violation of a particular statutory provision, careful attorneys and claim representatives will scrutinize the claim to determine whether the statute referred to creates a "special" or instead a "public" duty.

Conclusion

For those defending and prosecuting governmental claims, the numerous immunities can be difficult to navigate; for those unfamiliar with immunities, attempting to negotiate them can be a nightmare. Without careful analysis, one may confuse separate immunity doctrines, fail to apply the doctrines correctly to specific cases, and fail to recognize the unique effects that assertions of immunity can have on case procedure. The application of immunities to specific cases should be considered from the inception of the case. Governmental entities have arguable immunity defenses in many if not most cases and aggressive use of immunities in defending cases can deflect a very high percentage of claims and lawsuits brought against governmental entities.

Agenda Item #1

PROCEEDINGS OF THE COUNTY BOARD

State of Minnesota
County of Kanabec
Office of the County Coordinator

UNAPPROVED MINUTES

August 3, 2021

The Kanabec County Board of Commissioners held a Regular Board Meeting in person and via telephone/video conference call at 9:00am on Tuesday, August 3, 2021 pursuant to adjournment with the following Board Members present on-site: Gene Anderson, Rickey Mattson, Dennis McNally, Craig Smit, and Les Nielsen. Absent: None. Staff present on-site: County Coordinator Kris McNally and Recording Secretary Kelsey Schiferli. Staff present via WebEx: County Attorney Barbara McFadden.

The meeting was held in meeting rooms 3 & 4 in the basement of the courthouse to allow for social distancing due to COVID-19. The meeting was also held via WebEx for anyone wishing to attend virtually.

The Chairperson led the assembly in the Pledge of Allegiance.

Action #1 – It was moved by Dennis McNally, seconded by Rick Mattson and carried unanimously to approve the agenda as presented.

Action #2 – It was moved by Craig Smith, seconded by Les Nielsen and carried unanimously to approve the July 20, 2021 minutes as presented.

Action #3 – It was moved by Les Nielsen, seconded by Dennis McNally and carried unanimously to approve the following paid claims:

<u>Vendor</u>	<u>Amount</u>
CW Technology	1,283.40
Spire Credit Union	4,243.26
United States Treasury	3,277.12
East Central Energy	221.66
Ann Lake Twp	3,250.20
Arthur Twp	476.31
Braham Public Schools	1,140.00
Brunswick Twp	72.06
Comfort Twp	433.52
East Cent. Reg Dev Commission	90.15
East Central School District	103.05

Ford Twp	2,320.45
Grass Lake Twp	796.61
Haybrook Twp	541.60
Hillman Twp	340.32
Hinckley-Finlayson Schools	4,021.60
Kanabec Twp	943.60
Knife Lake Twp	394.61
Kroschel Twp	2,708.24
Mora Public Schools	4,920.27
Ogilvie Public Schools	3,065.96
Peace Twp	353.66
Pomroy Twp	2,283.94
Southfork Twp	66.53
Whited Twp	104.07
Kanabec County Auditor-Treas	8,117.13
Consolidated Communications	1,143.97
McNally, Kris	270.48
Minnesota Energy Resources Corp	4,974.53
MNPEIP	7,358.08
East Central Energy	1,290.46
Dearborn National Life Insurance Co	810.07
Health Partners	6,528.20
Life Insurance Company of North America	945.90
MNPEIP	158,705.48
Sun Life Financial	4,089.59
The Hartford Priority Accounts	2,249.98
VSP Insurance Co	322.24
38 Claims Totaling:	<u>\$234,258.30</u>

Action #4 – It was moved by Craig Smith, seconded by Les Nielsen and carried unanimously to approve the following claims on the funds indicated:

Revenue Funds

Vendor	Amount
Advanced Correctional Healthcare	21,547.34
Aspen Mills	130.32
Association of MN Counties	325.00
Association of MN Counties	325.00
Auto Value	29.97
Auto Value	58.95
BlueStar Graphics	65.00
Bowland, Tim	110.97

CliftonLarsonAllen	341.25
CPS Technology Solutions	3,200.00
Curtis, Michael	698.22
CW Technology	1,225.25
Department of Transportation	61,149.70
Diedrich - Von Eschen, Tina	58.08
East Central Exterminating	250.00
Forestry Suppliers	69.46
G & N Enterprises	466.08
Glen's Tire	40.25
Government Forms & Supplies	186.43
Grainger	343.52
Grainger	483.01
Granite City Jobbing Co	439.66
Hoefert, Robert	227.36
Kanabec County Information Systems	4,200.00
Kanabec Publications	16.63
Kanabec Soil & Water Cons.	5,117.88
Klodd, Annie	80.00
Knife Lake Improvement District	6,601.21
Lincoln Marketing Inc.	599.00
Lindberg, Jodi	20.00
MAAP	85.00
Manthie, Wendy	700.00
Marco	234.00
McClellan, Karen	117.60
MEI Total Elevator Solutions	451.50
MNCCC Lockvox	19,448.32
Mora Area Chamber	250.00
Motorola Solutions	4,547.50
Mora Unclaimed Freight	98.14
Navy Operational Support Center	30.00
Office Depot	60.32
Premium Waters, Inc.	23.96
Ratwik, Roszak & Maloney, PA	37.00
Rick's Home Furnishings	1,599.95
River Valley Forensic Services, P.A.	1,500.00
State of Minnesota - BCA	1,050.00
Stellar Services	168.97
Summit Food Service Management	7,422.54
Thomason, Swanson & Zahn Attorney at Law	97.75
Visser, Maurice	727.48
Van Alst, Lillian	304.08

Zamora, Ray

1,337.28

52 Claims Totaling: \$ 148,696.93
Road & Bridge

<u>Vendor</u>	<u>Amount</u>
Auto Value	1,773.49
Bjorklund Companies	102,046.54
Boyer Trucks	310.14
Brockwhite	413.75
Central McGowan	165.90
Crawford	43.08
DLL Excavating	725,634.84
Dultmeier	243.79
Granite City Jobbing	105.45
Kanabec County Coordinator Department	84.15
Kanabec County Highway Department	61.60
Knife River	737,315.18
MN Dept of Public Safety	25.00
Mora Utilities	981.93
Northern Safety	78.48
Premier Asphalt	9,496.50
Ray's Gravel	13,999.92
Sanitary Systems	140.00
USIC	30.00
Widseth Smith Nolting	1,266.00

20 Claims Totaling: \$ 1,594,215.74

Action #5 – It was moved by Rick Mattson, seconded by Craig Smith and carried unanimously to recess the meeting at 9:05am to a time immediately following the Community Health Board.

The Kanabec County Community Health Board met at 9:05am on Tuesday, August 3, 2021 pursuant to adjournment with the following Board Members Present: Gene Anderson, Rick Mattson, Dennis McNally, Craig Smith and Les Nielsen. Community Health Director Kathy Burski presented the Community Health Board Agenda.

Action #CH6 – It was moved by Les Nielsen, seconded by Craig Smith and carried unanimously to approve the Community Health Board Agenda as presented.

Community Health Director Kathy Burski gave the Director's Report.

Action #CH7 – It was moved by Craig Smith, seconded by Rick Mattson and carried unanimously to approve the following resolution:

Resolution #CH7 – 8/3/21

Grant Application for Children's Dental Services Resolution

WHEREAS, Children's Dental Services has been providing dental services for children and pregnant women up to age 27 at the Public Services Building since January, 2018; and

WHEREAS, Kanabec County Community Health is in need of funding to continue to provide this service to our community, and

WHEREAS, the Community Health Director is requesting permission to apply for grant funding and to accept such funding if approved, from agencies such as Citizens Community Bank, East Central Energy's Roundup program and other such institutions to continue the much needed dental services for community members.

THEREFORE BE IT RESOLVED the Community Health Board approves the Kanabec County Community Health Director to apply for and accept grant funds if approved, to continue having Children's Dental Services provide dental services for children and pregnant women up to age 27 here in Kanabec County.

Action #CH8– It was moved by Dennis McNally, seconded by Craig Smith and carried unanimously to approve the following resolution:

Resolution #CH8 – 8/3/21

RN to PHN Resolution

WHEREAS a Registered Nurse in the Adult Health area has her Bachelor of Nursing (BSN) degree, and

WHEREAS she is a Certified Public Health Nurse, and

WHEREAS the Community Health Director is requesting to move the Nurse to a Certified Public Health Nurse position in order to utilize the scope of practice she is licensed to provide as the Community Care Connector with South Country Health Alliance as well as serving on the Quality Assurance Team and other areas requiring this degree.

THEREFORE BE IT RESOLVED that the Kanabec County Community Health Board authorizes the Community Health Director and the County Personnel Director to promote Erika Nelson from an RN to a Certified Public Health nurse at Step A Range 15 at \$30.41 per hour.

Action #CH9 – It was moved by Les Nielsen, seconded by Dennis McNally and carried unanimously to approve the following resolution:

Resolution #CH9– 8/3/21

Public Health COVID-19 Workforce grant Resolution

WHEREAS, the State of Minnesota has been awarded grant funding to establish, train, and sustain the state, tribal and local public health workforce to support COVID-19 prevention, preparedness, response and recovery initiatives; and

WHEREAS, CHB's will have the opportunity to respond to an RFP to increase capacity to work on COVID-19 prevention, preparedness, response and recovery, which will be published the end July/early August, 2021 and the application will be due to MDH by August 24, 2021; and

WHEREAS, the Community Health Director is requesting permission to apply for this grant funding based upon the parameters set by this Board today, and to accept such funding if approved.

THEREFORE BE IT RESOLVED the Community Health Board approves the Kanabec County Community Health Director to apply for and accept these grant funds if approved. The funding will commence July 1, 2021 and terminate June 30, 2023.

Action #CH10 – It was moved by Les Nielsen, seconded by Craig Smith and carried unanimously to approve 70 claims totaling \$41,910.74 on Community Health Funds.

Action #CH11 – It was moved by Les Nielsen seconded by Craig Smith and carried unanimously to adjourn Community Health Board at 9:37am and to meet again on August 3, 2021 at 9:05am.

The Board of Commissioners reconvened.

Veteran Service Officer Erica Bliss met with the Board to present an updated MDVA Grant Agreement.

Action #12 – It was moved by Les Nielsen, seconded by Dennis McNally and carried unanimously to approve the following resolution:

Resolution #12 – 8/3/21

WHEREAS Resolution #11-7/20/21 was approved by the Kanabec County Board of Commissioners on July 20, 2021, and

WHEREAS the Kanabec County Veterans Service Officer was later notified by the Department of Veterans Affairs that the resolution language must include reference to Minnesota

Statutes 197.608 and Minnesota Laws 2021, 1st Special Session, Chapter12, Article 1, Section 37, Subdivision 2;

BE IT RESOLVED that Resolution #11-7/20/21 is rescinded.

Action #13 – It was moved by Les Nielsen, seconded by Dennis McNally and carried unanimously to approve the following resolution:

Resolution #13 – 8/3/21

WHEREAS the County Veterans Service Office recommends we apply for the MDVA Operational Enhancement Grant. This is an annual grant offered to counties, and

WHEREAS grant money must be used to provide outreach to the county's veterans; to assist in the reintegration of combat veterans into society; to collaborate with other social service agencies, educational institutions, and other community organizations for the purposes of enhancing services offered to veterans; to reduce homelessness among veterans; and to enhance the operations of the county veterans service office as specified in Minnesota Statutes 197.608 and Minnesota Laws 2021, 1st Special Session, Chapter12, Article 1, Section 37, Subdivision 2., and

WHEREAS it is approved that Kanabec County Veterans Service Officer Erica Bliss is authorized to sign the grant agreement on behalf of the county board;

BE IT RESOLVED the Kanabec County Board approves the application of the Veterans Operational Grant for FY22.

Action #14 – It was moved by Les Nielsen, seconded by Craig Smith and carried unanimously to approve the following resolution:

Resolution #14 – 8/3/21

SCORE CLAIMS

WHEREAS the board has been presented with claims for recycling efforts to be paid from SCORE Funds, and

WHEREAS these claims have been reviewed, tabulated and approved by the Kanabec County Solid Waste Officer, and

WHEREAS SCORE Funds appear adequate for the purpose;

BE IT RESOLVED to approve payment of the following claims on SCORE Funds:

Waste Management	\$1,134.52
Quality Disposal	\$3,637.80
Arthur Township	\$500.00

Total | \$5,272.32

Craig Smith led a discussion regarding organization structure options as providing by the Snake River 1W1P.

Action #15 – It was moved by Craig Smith, seconded by Les Nielsen and carried unanimously to support the organizational structure of the Snake River 1W1P as a joint power entity.

Deanna Pomije, Josh Votruba, and Jon Sanford met with the Board to discuss a proposed Fish Lake Project.

Action #16 – Craig Smith introduced a motion to support research for grant funding and to provide County in-kind support for the proposed Fish Lake Shoreline Erosion Control Project. The motion was seconded by Rick Mattson and the following voted:

IN FAVOR: Gene Anderson, Rick Mattson, Craig Smith, Les Nielsen

OPPOSED: Dennis McNally

ABSTAIN: None

Whereupon the motion was passed.

Kanabec County Assessor Tina Diedrich-Von Eschen met with the Board to discuss matters concerning her department.

Action #17 – It was moved by Les Nielsen, seconded by Dennis McNally and carried unanimously to approve the township assessment fee at \$8.00 per parcel for the 2022 and 2023 assessment year and to approve a \$3 per parcel maintenance fee for any jurisdiction employing a local assessor.

County Coordinator Kris McNally led a discussion regarding the budget work sessions schedule. The Board expressed consensus to hold budget work sessions on August 10th, 24th, and 31st at 9:00am.

The Commissioners gave reports on the boards and committees in which they participate.

10:30am – The Chairperson called for public comment three times. None Responded.

10:31am – The Chairperson closed public comment.

The Commissioners continued to give reports on the boards and committees in which they participate.

Future agenda items: Information regarding types of County-owned land for sale.
Department updates.

Action #18 – It was moved by Rick Mattson, seconded by Les Nielsen and carried unanimously to close the meeting at 10:49am pursuant to the Open Meeting Law, MN Statute §13D.03 to consider strategy for labor negotiations, including negotiation strategies or developments and discussion and review of labor negotiation proposals, conducted pursuant to sections §179A.01 to §179A.25. Those present during the closed portion of the meeting included Commissioners Gene Anderson, Rickey Mattson, Dennis McNally, Craig Smith and Les Nielsen; as well as County Coordinator & Personnel Director Kristine McNally.

Action #19 – It was moved by Craig Smith, seconded by Les Nielsen and carried unanimously to re-open the meeting at 11:02am.

Action #20 – It was moved by Les Nielsen, seconded by Dennis McNally and carried unanimously to recess the meeting at 11:03am and to meet again for a budget work session on Tuesday, August 10, 2021 at 9:00am and in regular session on Tuesday, August 17, 2021 at 9:00am.

Signed _____

Chairperson of the Kanabec County Board of Commissioners,
Kanabec County, Minnesota

Attest: _____
Board Clerk

Agenda Item #2

Paid Bills

<u>Vendor</u>	<u>Amount</u>	<u>Purpose</u>	<u>Dept</u>
Midcontinent Communications	242.61	Utilities	Transit
Mora Municipal Utilities	12,527.20	Utilities	Various
East Central Energy	84.14	Intersection Lighting	Highway
Card Services (Coborn's)	88.11	Wellness Snacks	Employee Wellness
Consolidated Communications	1,143.97	Monthly Service	Various
Further	633.20	Admin Fees	HR
Kwik Trip Inc	10,778.34	County Fuel Credit Cards	Various
Midcontinent Communications	188.53	Monthly Service	Various
Minnesota Department of Finance	7,755.00	State Fees & Surcharges	Recorder
Office of MN.IT Services	1,338.65	WAN	IS
Quadient Finance USA, Inc.	1,500.00	Postage for PSB	Unallocated
Verizon Wireless	5,055.52	Monthly Service	Various
VISA	2,136.05	See Below	
Card Services (Coborn's)	37.54	Wellness Snacks	Employee Wellness
14 Claims Totaling:	<u><u>\$43,508.86</u></u>		
VISA	359.99	SupplyHouse/Drain Clean Kit	Building Maintenance
	87.99	Nassau National Cable/Cable	Building Maintenance
	70.94	SupplyHouse/Parts	Building Maintenance
	149.77	Apex Controls/Maint Kit	Building Maintenance
	294.00	Amazon/Roof Repair Kit	Building Maintenance
	989.00	Restroom Direct/Water Cooler	Building Maintenance
	(128.06)	PWSO-LA/Washer Parts	Jail
	96.63	Target Purchase for Client	Welfare
	193.26	Target Purchase for Client	Welfare
	22.53	Target Purchase for Client	Welfare
10 Claims Totaling:	<u><u>\$2,136.05</u></u>		

Agenda Item #3a

Regular Bills - Revenue Fund

Bills to be approved: 8/17/21

Department Name	Vendor	Amount	Purpose
911 EMERGENCY TELEPHONE SYSTEM	Granite Electronics	<u>224.00</u>	Headsets (2)
		224.00	
AMERICAN RESCUE PLAN	IT SAVVY	13,299.33	Desktop Computers (10)
AMERICAN RESCUE PLAN	Clifton Larson Allen LLP	<u>150.00</u>	Auditor Services Related to Welia Health Transfer of Assets
		13,449.33	
ASSESSOR	Marco, Inc.	<u>159.00</u>	Lease Agreement
		159.00	
BUILDINGS MAINTENANCE	City of Mora	500.00	Fire Dept. Response
BUILDINGS MAINTENANCE	East Central Exterminating	125.00	Services for July
BUILDINGS MAINTENANCE	FBG Service Corporation	6,410.24	July 2021 Cleaning
BUILDINGS MAINTENANCE	Jamar Company	1,357.00	Repair Pipe and Install Pitch Pan
BUILDINGS MAINTENANCE	Quality Disposal Systems	<u>394.21</u>	July Service
		8,786.45	
COMMISSIONERS	Mattson, Rick	<u>159.68</u>	Hotel Expenses for AMC Conference 7/14-7/15
		159.68	
COUNTY ATTORNEY	RELX Inc. DBA LexisNexis	<u>189.08</u>	July Charges
		189.08	
COUNTY COORDINATOR	Association of MN Counties	100.00	MACA Tech Training 2021 KM
COUNTY COORDINATOR	McNally, Kris	281.81	Mileage, Lodging, Meal for MACA Conference
COUNTY COORDINATOR	SHI	<u>242.00</u>	Yearly WebEx Subscription
		623.81	

COUNTY CORONER	Ingebrand Funeral Home	325.00	Body Bag
COUNTY CORONER	Ramsey County	<u>1,542.00</u>	Toxicology
		1,867.00	
COUNTY RECORDER	Office Depot	<u>68.45</u>	Calcuator, Correction tape, Envelopes
		68.45	
COURT ADMINISTRATOR	Anne M. Carlson Law Office, PLLC	<u>2,524.50</u>	Court Appt Attorney Fees
		2,524.50	
ELECTIONS	SWIFT	<u>71.95</u>	PVC Mailing
		71.95	
ENVIRONMENTAL SERVICES	Bracewell, Earl	85.08	Planning Commission Per Diem & Mileage
ENVIRONMENTAL SERVICES	Hallin, Ronald	88.44	Planning Commission Per Diem & Mileage
ENVIRONMENTAL SERVICES	Kanabec Publications	119.18	Public Notice BOA, Public Notice Planning Commission
ENVIRONMENTAL SERVICES	O'Brien, Pat	90.68	Planning Commission Per Diem & Mileage
ENVIRONMENTAL SERVICES	Olson, Rhonda	83.96	Planning Commission Per Diem & Mileage
ENVIRONMENTAL SERVICES	Sabinash, Douglas	83.96	Planning Commission Per Diem & Mileage
ENVIRONMENTAL SERVICES	SHI	242.00	Yearly WebEx Subscription
ENVIRONMENTAL SERVICES	Zaudtke, Wayne	<u>81.72</u>	Planning Commission Per Diem & Mileage
		875.02	
HIGHWAY	MN Counties Insurance Trust	<u>120.00</u>	2021 PC Adj Equip JD Dozer
		120.00	
HUMAN RESOURCES	ECM Publishers	194.00	HHA/Homemaker Ad (2)
HUMAN RESOURCES	Kanabec Publications	120.00	HHA/Homemaker Ad (2)
HUMAN RESOURCES	MRA	67.50	Compensation Services
HUMAN RESOURCES	Rupp, Anderson, Squires & Waldspurger,	<u>5,013.00</u>	May Legal Services
		5,394.50	
INFORMATION SYSTEMS	KnowBe4 Inc.	2,018.25	Subscription 6 Months

INFORMATION SYSTEMS	Marco	<u>3,186.68</u>	Phone Lease Invoice
		5,204.93	
LAW LIBRARY	Thomson-Reuters-West	596.91	Law Libaray Invoices
LAW LIBRARY	Thomson-Reuters-West	139.09	Law Library Invoice
LAW LIBRARY	Thomson-Reuters-West	2,392.52	Law Library Invoices
LAW LIBRARY	Thomson-Reuters-West	<u>3,039.80</u>	Law Library Invoices
		6,168.32	
PROBATION & JUVENILE PLACEMENT	Minnesota Monitoring, Inc.	666.00	REAM GRANT
PROBATION & JUVENILE PLACEMENT	RS EDEN	<u>10.45</u>	Drug Testing July, 1 Test
		676.45	
PUBLIC TRANSPORTATION	A and E Cleaning	500.00	Cleaning Timber Trails Offices
PUBLIC TRANSPORTATION	C & D Auto	1,556.22	Bus Repairs
PUBLIC TRANSPORTATION	Curtis, Michael	834.84	Volunteer Driver
PUBLIC TRANSPORTATION	Department of Transportation, State of M	20,531.60	Repayment for Unspent Funds, 2019 Grant Year
PUBLIC TRANSPORTATION	Glen's Tire	697.00	Bus Repairs & Tires
PUBLIC TRANSPORTATION	Industrial Health Services Network Inc	229.00	Annual Fees
PUBLIC TRANSPORTATION	Kanabec County Community Health	357.00	Camera
PUBLIC TRANSPORTATION	Kanabec Publications	549.00	Advertising
PUBLIC TRANSPORTATION	Manthie, Wendy	1,042.72	Volunteer Driver
PUBLIC TRANSPORTATION	Milaca Chiropractic Center	80.00	Employee DOT Physical
PUBLIC TRANSPORTATION	Premium Waters, Inc.	23.96	Bottled Water Supplies
PUBLIC TRANSPORTATION	Quality Disposal Systems	24.15	July Service
PUBLIC TRANSPORTATION	SHAH Software, Inc.	26,840.00	Transportaion Manager System Sept 2021- Aug 2022
PUBLIC TRANSPORTATION	Van Alst, Lillian	641.76	Volunteer Driver
PUBLIC TRANSPORTATION	Visser, Maurice	536.51	Volunteer Driver
PUBLIC TRANSPORTATION	Zamora, Ray	<u>1,159.20</u>	Volunteer Driver
		55,602.96	
SANITATION	East Central Solid Waste Commission	<u>10.00</u>	Kanabec County Highway Dept - Mixed Solid Waste
		10.00	

SHERIFF	Aspen Mills	112.50	Sgt Patches
SHERIFF	AT&T Mobility	931.93	Monthly Service
SHERIFF	Braham Motor Service Inc	273.39	Oil Change, Brakes, Rear Knuckle
SHERIFF	Children's Hospitals and Clinics of MN-M	1,500.00	Comprehensive SA Consult (3)
SHERIFF	Coborn's Inc.	1,223.80	Badges 4 @ \$300 Gift Card Plus Fee
SHERIFF	Frisch, Justin	339.10	Uniform Allowance
SHERIFF	Horizon Towing	332.54	Towing Services (2)
SHERIFF	MN Secretary of State-Notary	120.00	Notary Commission - RE
SHERIFF	Northland Business Systems	6,588.02	Contract
SHERIFF	Tinker & Larson Inc	751.20	Oil Changes, Drive Belt Replacement, Rotors, Pads, Air Filter
		12,172.48	
SHERIFF - CITY OF MORA	AT&T Mobility	44.89	Monthly Service
		44.89	
SHERIFF - JAIL/DISPATCH	Ace Hardware	144.70	Misc. Supplies
SHERIFF - JAIL/DISPATCH	Advanced Correctional Healthcare	14,437.79	September 21 on Site Medical, Pharmacy Reimbursements, Credit
SHERIFF - JAIL/DISPATCH	Aspen Mills	102.71	Name Tag, Cargo Pants
SHERIFF - JAIL/DISPATCH	Department of Transportation, State of M	300.00	Communications Use Agreement
SHERIFF - JAIL/DISPATCH	FBG Service Corporation	584.80	July 2021 Cleaning
SHERIFF - JAIL/DISPATCH	Garage Door Store	3,331.28	Replaced Springs on Sally Port Door
SHERIFF - JAIL/DISPATCH	Grainger	101.40	Basin Washer & Quatern Repair Kit
SHERIFF - JAIL/DISPATCH	Haasken Dental	560.00	DOC Dental
SHERIFF - JAIL/DISPATCH	IT SAVVY	827.61	Desktop Computer
SHERIFF - JAIL/DISPATCH	J.F. Ahern Co.	580.00	Repair Leak in Fire Sprinkler System
SHERIFF - JAIL/DISPATCH	Michael Keller, Ph.D., L.P.	650.00	New Employee Psych Eval
SHERIFF - JAIL/DISPATCH	Priority Dispatch Corporation	5,276.41	System License Renewal Service
SHERIFF - JAIL/DISPATCH	Quality Disposal Systems	199.35	July Service
SHERIFF - JAIL/DISPATCH	Rick's Home Furnishings	549.95	Compact Microwave/Hood
SHERIFF - JAIL/DISPATCH	SHI	242.00	Yearly WebEx Subscription
SHERIFF - JAIL/DISPATCH	St. Louis County	367.94	2021 Regional Radio Fees
SHERIFF - JAIL/DISPATCH	Stellar Services	184.66	Canteen
SHERIFF - JAIL/DISPATCH	Summit Food Service Management	7,600.21	Inmate Meals 7/24-8/6
SHERIFF - JAIL/DISPATCH	Ziegler Inc.	5,466.45	Generator Service Contract

		<u>41,507.26</u>	
TAX & PENALTY	City of Mora	17,190.00	2020 & 2021 Refund Abatements
TAX & PENALTY	Nielsen, Terry	224.00	2020 Abatement Refund
TAX & PENALTY	Strunge, Paul	2,548.00	2021 & 2021 Abatement Refund
TAX & PENALTY	WEC Energy Group, Inc	<u>10,008.00</u>	2021 Tax Court Abatements (4)
		29,970.00	
UNALLOCATED	Clifton Larson Allen LLP	970.00	FY2020 Audit Services
UNALLOCATED	Clifton Larson Allen LLP	300.00	Auditor Services Related to Welia Transfer of Assets
UNALLOCATED	Kanabec Publications	153.74	6/15 County Board Minutes
UNALLOCATED	Minnesota State Auditor	1,240.00	2019 Audit Desk Review
UNALLOCATED	Rupp, Anderson, Squires & Waldspurger,	61.50	May Legal Services
UNALLOCATED	WEC Energy Group, Inc	<u>104.19</u>	Interest - 2021 Tax Court Abatements
		2,829.43	
VETERAN SERVICES	BlueStar Graphics	40.00	Magnet for Parade
VETERAN SERVICES	Grand View Lodge	433.32	3 Nights Lodging MACVSO Fall Conference
VETERAN SERVICES	Timber Trails Public Transit	<u>250.00</u>	10 Packs of Out of Town Tickets
		723.32	
WELFARE	SHI	<u>968.00</u>	Yearly WebEx Subscription
		968.00	
PUBLIC HEALTH	SHI	<u>484.00</u>	Yearly WebEx Subscription
		484.00	
102 Claims Totaling:		<u><u>\$ 190,874.81</u></u>	

Agenda Item #3b
Regular Bills - Road & Bridge
Bills to be approved: 8/17/21

Vendor	Amount	Purpose
A & E Cleaning	1,000.00	Office Cleaning
A & M Aggregate	1,770.95	Gravel
Ace	386.70	Shop Supplies
Aramark	868.49	Uniforms, Towels and Coveralls
Central Pension Fund	208.80	Training Center use fee
Dultmeier Sales	220.00	Repair Parts
Federated Co-ops	22,034.86	Grass Seed and Diesel Fuel
Frontier Precision	87.35	Engineering Supplies
Gopher State	18.90	Locates
Kanabec County Highway Department	46.20	Petty Cash, Postage
Kwik Trip	23.20	Fuel
Little Falls	7,906.66	Shop Supplies
Marco	312.38	Printer Fee
Mille Lacs County	510.50	Snow Plowing
MN Dept of Transportation	267.14	Material Testing
Mora Chevrolet Buick	322.32	Repair Parts
North Central International	686.90	Repair Parts
Northern Lines	362,615.24	SAP 033-610-019 CSAH 10
Nuss Truck	1,395.81	Repair Parts
Olson Power & Equipment	2,340.21	Repair Parts
Owens Auto Parts	206.50	Repair Parts
Power Plan	1,915.83	Repair Parts
Premier Asphalt	40,068.00	Patching CSAH 17
Quality Disposal	164.25	Garbage Pickup
Retriever LLC	678.00	Repair Parts
USIC	40.00	Locates
26 Claims Totaling:	<u><u>\$ 446,095.19</u></u>	

Agenda Item #4a

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Gambling Request	b. Originating Department/Organization/Person: True Directions
c. Estimated time: 2 Minutes	d. Presenter(s): None

e. Board action requested: Approve the following resolutions:

Resolution #__ – 8/17/21

WHEREAS the Kanabec County Board of Commissioners has been presented with a request for lawful gambling within Kanabec County, and

WHEREAS the application was complete, included all necessary documentation, appears in accordance with County Policies and the applicant and facility owners are in good standing with the County;

BE IT RESOLVED to approve the Application for Exempt Permit for True Directions for a raffle event to be held at True Directions, 106 Maple Ave E, Mora, MN 55051 on March 25, 2022.

f. Background:

Supporting Documents: None: **Attached:** ☒

Date received in County Coordinators Office:	8/9/21
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Coordinators Comments:

LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:

- conducts lawful gambling on five or fewer days, and
- awards less than \$50,000 in prizes during a calendar year.

If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.

Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: True Directions

Previous Gambling Permit Number: _____

Minnesota Tax ID Number, if any: 6602447

Federal Employer ID Number (FEIN), if any: 41-1239056

Mailing Address: 106 Maple Ave East

City: Mora State: MN Zip: 55051 County: Kanabec

Name of Chief Executive Officer (CEO): Jeremiah Sims

CEO Daytime Phone: 612-720-6454

CEO Email: simsjeremiah@hotmail.com

(permit will be emailed to this email address unless otherwise indicated below)

Email permit to (if other than the CEO): _____

NONPROFIT STATUS

Type of Nonprofit Organization (check one):

☐ Fraternal ☐ Religious ☐ Veterans ☒ Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)

☐ **A current calendar year Certificate of Good Standing**

Don't have a copy? Obtain this certificate from:

MN Secretary of State, Business Services Division
60 Empire Drive, Suite 100
St. Paul, MN 55103

Secretary of State website, phone numbers:

www.sos.state.mn.us
651-296-2803, or toll free 1-877-551-6767

☒ **IRS income tax exemption (501(c)) letter in your organization's name**

Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.

☐ **IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)**

If your organization falls under a parent organization, attach copies of both of the following:

1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): True Directions

Physical Address (do not use P.O. box): 106 Maple Ave. East

Check one:

☒ City: Mora Zip: 55051 County: Kanabec

☐ Township: _____ Zip: _____ County: _____

Date(s) of activity (for raffles, indicate the date of the drawing): 03/25/2022

Check each type of gambling activity that your organization will conduct:

☐ Bingo ☐ Paddlewheels ☐ Pull-Tabs ☐ Tipboards ☒ Raffle

Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LG220 Application for Exempt Permit

11/17
Page 2 of 2

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

CITY APPROVAL for a gambling premises located within city limits	COUNTY APPROVAL for a gambling premises located in a township
<input type="checkbox"/> The application is acknowledged with no waiting period. <input type="checkbox"/> The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city). <input type="checkbox"/> The application is denied.	<input type="checkbox"/> The application is acknowledged with no waiting period. <input type="checkbox"/> The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days. <input type="checkbox"/> The application is denied.
Print City Name: _____	Print County Name: _____
Signature of City Personnel: _____	Signature of County Personnel: _____
Title: _____ Date: _____	Title: _____ Date: _____
<div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>The city or county must sign before submitting application to the Gambling Control Board.</p> </div>	
TOWNSHIP (if required by the county) On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.) Print Township Name: _____ Signature of Township Officer: _____ Title: _____ Date: _____	

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: _____ Date: _____
(Signature must be CEO's signature; designee may not sign)

Print Name: _____

REQUIREMENTS	MAIL APPLICATION AND ATTACHMENTS
Complete a separate application for: <ul style="list-style-type: none"> all gambling conducted on two or more consecutive days; or all gambling conducted on one day. Only one application is required if one or more raffle drawings are conducted on the same day. Financial report to be completed within 30 days after the gambling activity is done: A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board. Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).	Mail application with: <ul style="list-style-type: none"> a copy of your proof of nonprofit status; and application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is \$100; otherwise the fee is \$150. Make check payable to State of Minnesota. To: Minnesota Gambling Control Board 1711 West County Road B, Suite 300 South Roseville, MN 55113 Questions? Call the Licensing Section of the Gambling Control Board at 651-539-1900.

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the

application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Depart-

ment of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

This form will be made available in alternative format (i.e. large print, braille) upon request.

An equal opportunity employer.

**Office of the Minnesota Secretary of State
Certificate of Good Standing**

I, Steve Simon, Secretary of State of Minnesota, do certify that: The business entity listed below was filed pursuant to the Minnesota Chapter listed below with the Office of the Secretary of State on the date listed below and that this business entity is registered to do business and is in good standing at the time this certificate is issued.

Name:	True Directions, Inc.
Date Filed:	07/17/1973
File Number:	K-1171
Minnesota Statutes, Chapter:	317A
Home Jurisdiction:	Minnesota

This certificate has been issued on: 02/13/2018



Steve Simon

Steve Simon
Secretary of State
State of Minnesota

Form ST-17
(Rev. 1-1-77)

State of Minnesota
Department of Revenue - Sales and Use Tax Division
Centennial Office Building - St. Paul, Minnesota 55145

CERTIFICATE OF EXEMPT STATUS - EXEMPT ORGANIZATION

Under the provisions of Section 297A.25, Subdivision 1 (p) of the Minnesota Sales and Use Tax Law, the organization whose name appears below is certified to be exempt from sales and use taxes applicable in purchases, rentals and leases of tangible personal property to be used solely and exclusively in the performance of charitable, religious or educational functions by that organization.

Serenity Manor, Inc.
106 East Maple Avenue
Horn, Minnesota 55051

Certificate No.
E S 25751
Date Issued September 26, 1974
Date Reissued December 16, 1977

This certificate is valid until revoked by the
Minnesota Department of Revenue.

F&D
7ed 9.D. # 41-1239056

ARTHUR C. ROEMER, Commissioner of Revenue

By: *[Signature]*
D. S. HUNDALL, Director
Sales and Use Tax Division

This exemption does not apply to purchases of motor vehicles.

DRAFT - DRAFT - DRAFT - DRAFT - DRAFT - DRAFT

WIN AN ATV!

True Directions, Inc.
Sober Living Programs
Serenity Haven | Serenity Haven | Lakeland

Raffle #
info



1



2

\$50 per ticket for a chance to win
(1) 2020 KFX50-50—Kawasaki or (2)
2020 Kawasaki BRUTE FORCE® 750
4x4 EPS or (3) Kawasaki BRUTE
FORCE® 750 4x4 EPS

ATVs Courtesy of


Caswell Cycle
Mora, MN

3



Drawing March 25, 2022

at Serenity Haven, Mora, MN

**ONE RAFFLE
TICKET FOR
A CHANCE TO
WIN
1 OF 3
AMAZING
PRIZES!**

HELP US!

The mission of True Directions Inc. is to provide a safe, structured environment that encourages positive growth and development for persons living with substance use disorders. This raffle will help support our restoration of Serenity Haven; our 1902 Victorian home on Maple Street!



This has to be wording of winner 1 receives INFO, winner 2 receives INFO, winner 3 receives INFO, from Caswell Cycle, Mora, MN (retail value listed of each item). Prizes can not be exchanged for other prizes or cash. Winner must pick up their prize at Caswell Cycle. Must be 18 years of age to enter the raffle. Chances for winning are 1/400 and individuals purchasing multiple tickets can win more than one prize. All purchase of tickets are Tax deductible donations. Winners are responsible for all taxes and fees as outlined in state law. Drawing is on March 25, 2021 at approximately 9 p.m., at True Directions, Inc., Serenity Haven, ADDRESS, Mora, MN. Need not be present to win. MN Gambling Raffle NUMBER. Raffle conducted and held on behalf of TDI and ADDRESS and EIN Number.

Agenda Item #4b

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Gambling Request	b. Originating Department/Organization/Person: Vasaloppet USA
c. Estimated time: 2 Minutes	d. Presenter(s): None

e. Board action requested: Approve the following resolutions:

Resolution #__ – 8/17/21

WHEREAS the Kanabec County Board of Commissioners has been presented with a request for lawful gambling within Kanabec County, and

WHEREAS the application was complete, included all necessary documentation, appears in accordance with County Policies and the applicant and facility owners are in good standing with the County;

BE IT RESOLVED to approve the Application for Exempt Permit for Vasaloppet USA for a raffle event to be held at Fish Lake Resort, 674 Fish Lake Drive, Mora, MN 55051 October 9, 2021 – October 16, 2021.

f. Background:

Supporting Documents: None: Attached: ☒

Date received in County Coordinators Office: 8/12/21

Coordinators Comments:

LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:

- conducts lawful gambling on five or fewer days, and
- awards less than \$50,000 in prizes during a calendar year.

If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.

Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: Vasaloppet USA Previous Gambling Permit Number: X-05462-20-011
 Minnesota Tax ID Number, if any: 5695367 Federal Employer ID Number (FEIN), if any: 41-1286376
 Mailing Address: 100 Union Street
 City: Mora State: MN Zip: 55051 County: Kanabec
 Name of Chief Executive Officer (CEO): Katie Kerr
 CEO Daytime Phone: 218-464-3569 CEO Email: kkerr@css.edu
 (permit will be emailed to this email address unless otherwise indicated below)
 Email permit to (if other than the CEO): information@vasaloppet.us

NONPROFIT STATUS

Type of Nonprofit Organization (check one):

☐ Fraternal ☐ Religious ☐ Veterans ☒ Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)

☐ **A current calendar year Certificate of Good Standing**

Don't have a copy? Obtain this certificate from:

MN Secretary of State, Business Services Division
 60 Empire Drive, Suite 100
 St. Paul, MN 55103

Secretary of State website, phone numbers:
www.sos.state.mn.us
 651-296-2803, or toll free 1-877-551-6767

☒ **IRS income tax exemption (501(c)) letter in your organization's name**

Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.

☐ **IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)**

If your organization falls under a parent organization, attach copies of both of the following:

1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted
 (for raffles, list the site where the drawing will take place): Fish Lake

Physical Address (do not use P.O. box): 674 Fish Lake Dr.

Check one:

☐ City: Mora Zip: 55051 County: Kanabec
☐ Township: _____ Zip: _____ County: _____

Date(s) of activity (for raffles, indicate the date of the drawing): October 9 to October 16, 2021

Check each type of gambling activity that your organization will conduct:

☐ Bingo ☐ Paddlewheels ☐ Pull-Tabs ☐ Tipboards ☒ Raffle

Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LG220 Application for Exempt Permit

11/17
Page 2 of 2

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

CITY APPROVAL for a gambling premises located within city limits	COUNTY APPROVAL for a gambling premises located in a township
<input type="checkbox"/> The application is acknowledged with no waiting period. <input type="checkbox"/> The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city). <input type="checkbox"/> The application is denied.	<input type="checkbox"/> The application is acknowledged with no waiting period. <input type="checkbox"/> The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days. <input type="checkbox"/> The application is denied.
Print City Name: _____	Print County Name: _____
Signature of City Personnel: _____	Signature of County Personnel: _____
Title: _____ Date: _____	Title: _____ Date: _____
<div style="border: 1px solid black; padding: 5px; text-align: center;"> The city or county must sign before submitting application to the Gambling Control Board. </div>	
TOWNSHIP (if required by the county) On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.) Print Township Name: _____ Signature of Township Officer: _____ Title: _____ Date: _____	

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: Katie Kerr Date: August 12, 2021
(Signature must be CEO's signature; designee may not sign)
 Print Name: Katie Kerr

REQUIREMENTS

Complete a separate application for:

- all gambling conducted on two or more consecutive days; or
- all gambling conducted on one day.

Only one application is required if one or more raffle drawings are conducted on the same day.

Financial report to be completed within 30 days after the gambling activity is done:

A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the

application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Department of Public Safety; Attorney General;

Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

MAIL APPLICATION AND ATTACHMENTS

Mail application with:

- _____ a copy of your proof of nonprofit status; and
- _____ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Minnesota Gambling Control Board
 1711 West County Road B, Suite 300 South
 Roseville, MN 55113

Questions?

Call the Licensing Section of the Gambling Control Board at 651-539-1900.

This form will be made available in alternative format (i.e. large print, braille) upon request.

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Business Record Details »

Minnesota Business Name

Vasaloppet, Incorporated**Business Type**

Nonprofit Corporation (Domestic)

MN Statute

317A

File Number

O-637

Home Jurisdiction

Minnesota

Filing Date

08/09/1976

Status

Active / In Good Standing

Renewal Due Date

12/31/2021

Registered Office Address100 S Union Str PO Bx 22
Mora, MN 55051
USA**Number of Shares**

NONE

Registered Agent(s)

(Optional) Currently No Agent

PresidentJon Larson
100 So. Union St.
PO Box 22
Mora, MN 55051
United States

Filing History

Filing HistorySelect the item(s) you would like to order:

<input type="checkbox"/>	Filing Date	Filing	Effective Date
<input type="checkbox"/>	08/09/1976	Original Filing - Nonprofit Corporation (Domestic)	

<input type="checkbox"/>	Filing Date	Filing	Effective Date
	08/09/1976	Nonprofit Corporation (Domestic) Business Name (Business Name: Vasaloppet, Incorporated)	
<input type="checkbox"/>	06/15/2000	Registered Office and/or Agent - Nonprofit Corporation (Domestic)	
<input type="checkbox"/>	09/20/2005	Involuntary Dissolution - Nonprofit Corporation (Domestic)	
<input type="checkbox"/>	6/18/2015	Annual Reinstatement - Nonprofit Corporation (Domestic)	
<input type="checkbox"/>	3/13/2019	Involuntary Dissolution - Nonprofit Corporation (Domestic)	
<input type="checkbox"/>	10/7/2020	Annual Reinstatement - Nonprofit Corporation (Domestic)	

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Secretary of State - Terms &
Conditions

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☒ Subscribe for email updates!

Agenda Item #4c

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Gambling Request	b. Originating Department/Organization/Person: Knife Lake Sportsman's Club
c. Estimated time: 2 Minutes	d. Presenter(s): None

e. Board action requested: Approve the following resolutions:

Resolution #__ – 8/17/21

WHEREAS the Kanabec County Board of Commissioners has been presented with a request for lawful gambling within Kanabec County, and

WHEREAS the application was complete, included all necessary documentation, appears in accordance with County Policies and the applicant and facility owners are in good standing with the County;

BE IT RESOLVED to approve the Application for Exempt Permit for the Knife Lake Sportsman's Club for a bingo event to be held at Captain Dan's Crow's Nest Resort, 2743 Hwy 65 N, Mora, MN 55051 October 23, 2021.

f. Background:

Supporting Documents: None: **Attached:** ☒

Date received in County Coordinators Office: 8/13/21

Coordinators Comments:

LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:

- conducts lawful gambling on five or fewer days, and
- awards less than \$50,000 in prizes during a calendar year.

If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.

Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: <u>Knife Lake Sportsman's Club</u>	Previous Gambling Permit Number: <u>X-02117-20-033</u>
Minnesota Tax ID Number, if any: <u>41-1350036</u>	Federal Employer ID Number (FEIN), if any: _____
Mailing Address: <u>2825 Hwy 65 PO Box 254</u>	
City: <u>Mora</u>	State: <u>MN</u> Zip: <u>55051</u> County: <u>Kanabec</u>
Name of Chief Executive Officer (CEO): <u>Ed Hamlin</u>	
CEO Daytime Phone: <u>320-703-8007</u>	CEO Email: <u>pres@knifelake.us</u> (permit will be emailed to this email address unless otherwise indicated below)
Email permit to (if other than the CEO): _____	

NONPROFIT STATUS

Type of Nonprofit Organization (check one):

- ☐ Fraternal ☐ Religious ☐ Veterans ☒ Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)

- ☒ **A current calendar year Certificate of Good Standing**
Don't have a copy? Obtain this certificate from:
MN Secretary of State, Business Services Division
60 Empire Drive, Suite 100
St. Paul, MN 55103
Secretary of State website, phone numbers:
www.sos.state.mn.us
651-296-2803, or toll free 1-877-551-6767
- ☐ **IRS income tax exemption (501(c)) letter in your organization's name**
Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.
- ☐ **IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)**
If your organization falls under a parent organization, attach copies of both of the following:
1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): Capt. Dan's Crow's Nest Resort

Physical Address (do not use P.O. box): 2743 Hwy 65 N

Check one:
☐ City: _____ Zip: _____ County: _____
☒ Township: Peace Zip: 55051 County: Kanabec

Date(s) of activity (for raffles, indicate the date of the drawing): October 23, 2021

Check each type of gambling activity that your organization will conduct:

- ☒ Bingo ☐ Paddlewheels ☐ Pull-Tabs ☐ Tipboards ☐ Raffle

Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

CITY APPROVAL for a gambling premises located within city limits	COUNTY APPROVAL for a gambling premises located in a township
<input type="checkbox"/> The application is acknowledged with no waiting period. <input type="checkbox"/> The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city). <input type="checkbox"/> The application is denied.	<input type="checkbox"/> The application is acknowledged with no waiting period. <input type="checkbox"/> The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days. <input type="checkbox"/> The application is denied.
Print City Name: _____ Signature of City Personnel: _____ Title: _____ Date: _____	Print County Name: _____ Signature of County Personnel: _____ Title: _____ Date: _____
<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p>The city or county must sign before submitting application to the Gambling Control Board.</p> </div>	<p>TOWNSHIP (if required by the county) On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.)</p> Print Township Name: _____ Signature of Township Officer: _____ Title: _____ Date: _____

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: Ed Hamlin Date: 8-12-2021
(Signature must be CEO's signature; designee may not sign)
 Print Name: Ed Hamlin

REQUIREMENTS

Complete a separate application for:

- all gambling conducted on two or more consecutive days; or
- all gambling conducted on one day.

Only one application is required if one or more raffle drawings are conducted on the same day.

Financial report to be completed within 30 days after the gambling activity is done:

A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

MAIL APPLICATION AND ATTACHMENTS

Mail application with:

- _____ a copy of your proof of nonprofit status; and
- _____ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Minnesota Gambling Control Board
 1711 West County Road B, Suite 300 South
 Roseville, MN 55113

Questions?

Call the Licensing Section of the Gambling Control Board at 651-539-1900.

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the

application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Depart-

ment of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

This form will be made available in alternative format (i.e. large print, braille) upon request.

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To: Kanabec County Coordinator's Office
Kanabec County Board of Commissioners

From: Ed Hamlin, Knife Lake Sportsman's Club President 

Date: 8/12/21

RE: Application of Exempt Permit

Good day Kanabec County Board of Commissioners!

The Knife Lake Sportsman's Club is looking forward to yet another fun event. On 10/23/21 we are planning on holding our annual Turkey/Ham Bingo at Capt. Dan's Crow's Nest. Proceeds for this event will again be used for the care and maintenance of Knife Lake and the Knife Lake Sportsman's Clubhouse, as well as the financing of future Knife Lake sportsman's Club events.

Please see the enclosed Exempt Permit Application. Please place this request for approval on the agenda of your next board meeting. If approved, please contact me. I am available to pick up the permit or you can mail it to me at: 2675 Kite Street, Mora, MN 55051, or you can also email it to me at: vp@knifelake.us.

If any questions arise, feel free to contact me at 952-250-0642.

Thank you in advance for your consideration.

Ed Hamlin, President of the Knife Lake Sportsman's Club

Agenda Item #5

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Creation of an Assigned fund for Unemployment Compensation	b. Origination: County Coordinator's Office
c. Estimated time: 10 minutes	d. Presenter(s): Kris McNally, Coordinator

e. Board action requested:

Resolution #_____ – 8/17/21

Coordinator's Office – Unrestricted- Assigned Fund

WHEREAS the Kanabec County Coordinator's Office budgets revenue each year to fund unemployment compensation expenses, and

WHEREAS the unemployment compensation expense is a highly variable number based on economic and employment factors; and

WHEREAS the Coordinator's Office believes it would be in the best interest of the County to be able to carry unspent revenue over from one year to the next in an unrestricted, assigned fund to build a fund balance and reduce future levy impact,

THEREFORE BE IT RESOLVED to approve the Coordinator's Unemployment Compensation fund as an Unrestricted-Assigned Fund for future unemployment compensation expenses effective in budget year 2021.

f. Background:

Supporting Documents: None ☒ Attached:

Date received in County Coordinators Office:

Coordinators Comments:

Agenda Item #6

August 17, 2021

REQUEST FOR BOARD ACTION

a. Subject: Legal Aid Kiosk Memorandum of Understanding	b. Origination: County Coordinator's Office
c. Estimated time: 10 minutes	d. Presenter(s): Kris McNally, Coordinator

e. Board action requested:

Resolution #____-8/17/21

WHEREAS Legal Aid Service of Northeastern Minnesota has provided Kanabec County with a kiosk to enable the public to have access to their services, and

WHEREAS Kanabec County has space, electricity, and internet access available in the Courthouse near Court Services, and

WHEREAS placement of said kiosk has the support of the Law Library Board and Information Services, and

WHEREAS all maintenance and issues related to said kiosk will be directed to Legal Aid Service of Northeastern Minnesota, and

WHEREAS the County Attorney has reviewed and approved the Memorandum of Understanding for this kiosk;

BE IT THEREFORE RESOLVED the Kanabec County Board of Commissioners hereby approves the placement of the Legal Aid Service of Northeastern Minnesota kiosk in the Kanabec County Courthouse;

BE IT FUTHER RESOLVED the Kanabec County Board of Commissioners hereby approves the Memorandum of Understanding and authorizes the Board Chair to sign said document.

f. Background:

Supporting Documents: None **Attached:** ☒

Date received in County Coordinators Office:

Coordinators Comments:



MINNESOTA LEGAL KIOSK PROJECT MEMORANDUM OF UNDERSTANDING BETWEEN

Legal Aid Service of Northeastern Minnesota with an address of 424 West Superior Street 302 Ordean Building,
Duluth, MN 55802, hereinafter referred to as the LEGAL AID PARTNER,
AND

[Community-Based Partner Name] with an address of [Community-Based Partner Address], hereinafter referred to as
the COMMUNITY-BASED PARTNER.

RECITALS

The COVID-19 pandemic and public health emergency have moved the legal system to a virtual environment, creating a digital divide that has disproportionately impacted the communities served by Minnesota Legal Aid. Access to the legal system and a chance at justice is only available to those with means and the resources to use technology.

To address this divide, the Minnesota Legal Services Coalition of providers requested funding through the federal CARES Act to give communities access to civil justice by creating a statewide network of legal kiosks to be stationed in a variety of court, agency, non-profit and other community locations. These community-based legal kiosks will help Minnesotans who face technology access and transportation barriers, to have meaningful access to legal resources and civil legal aid, as well as the administrative forums and court systems in which their cases will be proceeding.

The kiosks are a virtual access point to civil legal aid. Community-Based Partners will house a MODEL A kiosk and/or a Model B kiosk. The Model A kiosk serves as a point of access to legal information, self-help resources, and statewide intake. The Model B kiosk serves as a virtual portal to the individual Legal Aid Partner, for intake, meetings with legal aid, remote hearings, and printing and scanning of documents.

1. **TERM OF AGREEMENT:** This agreement will be effective upon execution and shall continue for at least the duration of the COVID-19 pandemic; and then beyond, upon subsequent mutual agreement of the parties. Terms of the Memorandum of Understanding may be reviewed annually at the request of the Legal Aid Partner or the Community-Based Partner.

2. RESPONSIBILITIES OF THE LEGAL AID PARTNER:

- a. For both Model A and Model B kiosks:
 - I. Provide the equipment and setup of the kiosk; including kiosk stand, computer, software and accessories.
 - II. After the kiosk is installed, provide IT support/maintenance and software licensing.
 - III. Appoint a contact person to coordinate with the Community-Based Partner on the use of the kiosk.
 - IV. Provide the contact person's name and contact information to the Community-Based Partner.
 - V. If the contact person's name or contact information changes, notify the Community-Based Partner within 15 business days.
 - VI. The contact person appointed by the Legal Aid Partner shall maintain communication with the Community-Based Partner and provide assistance related to the services that the Legal Aid Partner provides.
- b. For Model B kiosks:
 - I. Provide a multifunction device (printer/scanner/copier) and installation and maintenance of the device.

3. RESPONSIBILITIES OF THE COMMUNITY-BASED PARTNER:

- a. For both Model A and Model B kiosks:
 - I. Appoint a contact person to coordinate with the Legal Aid Partner and kiosk vendors.
 - II. Provide the contact person's name and contact information to the Legal Aid Partner and kiosk vendors.
 - III. If the contact person's name or contact information changes, notify the Legal Aid Partner and kiosk vendors within 15 business days.
 - IV. Inform the Legal Aid Partner and kiosk vendors of the physical address of the kiosk. If the kiosk is moved to a new address, notify the Legal Aid Partner and kiosk vendors within 15 business days.
 - V. Provide adequate space and accessibility to the kiosk. The kiosk shall be used as a resource for the Community-Based Partner's clients and patrons. The kiosk should not be used as a workstation for staff of the Community-Based Partner.
 - VI. Provide internet access to the kiosk on a secured network. Provide power to the kiosk.
 - VII. Provide access to the kiosk for installation and ongoing IT support.
 - VIII. Oversee that the kiosk equipment continues to function. Contact the kiosk vendors if there are issues with the equipment.
- b. For Model B kiosks:
 - I. Provide an option for the Model B kiosk to be used in a confidential setting.
 - II. Refill the multifunction device (printer/scanner/copier) with paper as needed.

4. THE COMMUNITY-BASED PARTNER AGREES TO HOST:

One Model A kiosk at the physical address of [Host Site Location].

5. TERMINATION OF AGREEMENT. This agreement may be terminated upon 30 days written notice to all parties of the agreement. The Community-Based Partner shall return all kiosk equipment to the Legal Aid Partner within 15 days after the date of termination.

6. SIGNER NAMES AND SIGNATURES.

LEGAL AID PARTNER

Organization Name: Legal Aid Service of Northeastern Minnesota

Physical Address: 424 West Superior Street 302 Ordean Building, Duluth, MN 55802

Signer Name: Dori Streit

Signer Email: dstreit@lasnem.org

Signer Phone: (218) 623-8119

Signature:

Date:

COMMUNITY-BASED PARTNER

Organization Name: [Community-Based Partner Name]

Physical Address: [Community-Based Partner Address]

Signer Name: [Community-Based Partner Signer Name]

Signer Email: [Community-Based Partner Signer Email]

Signer Phone: [Community-Based Partner Signer Phone]

Signature:

Date:

LEGAL KIOSK

MINNESOTA CIVIL LEGAL SERVICES

The COVID-19 pandemic and public health emergency has moved the legal system virtual, creating a digital divide that has disproportionately impacted the communities served by Minnesota Legal Aid. Access to the legal system and a chance at justice is only available to those with means and resources to use technology.

To address this digital divide, the Minnesota Legal Services Coalition requested CARES Act funds to give communities access to civil justice by creating a statewide network of 250 legal kiosks to be stationed in a variety of court, agency, non-profit, and other community locations. These community-based legal kiosks will help Minnesotans who face technology access and transportation barriers to have a healthy and safe experience interacting with civil legal aid experts, as well as the administrative and court systems in which their cases will be proceeding. Legal aid must work now to identify host sites for the kiosks.

To meet the unique needs of all communities across our state, the kiosks will be customizable for legal aid programs and their community partners. There are two basic kiosk models, one that is public facing and one that requires confidential setting. Model A, the public legal kiosks, can be stationed in a wide variety of settings, and will serve as access points to legal information, self-help services, and statewide intake. Model B, the program focused kiosks, serve as a virtual portal to the individual program hosting the kiosk. Applicants and/or clients can be directed to Model B kiosks for tasks such as intake, meetings with their attorneys, printing and scanning documents, and appearing virtually as needed while represented by the program.

There are two handouts that describe each model in more detail to allow programs to decide which model is the best fit for possible hosting sites. Please note that in order to access the kiosks remotely, legal aid programs will need licensure to software programs described in the handouts.

LEGAL KIOSK

MODEL A

The Model A Legal Kiosk is a public facing kiosk that will serve as a community access point to civil legal justice. These kiosks will connect users to civil legal information, self-help services, and statewide civil legal aid intake. Model A kiosks can be placed in a variety of locations and are an excellent option for Legal Aid Programs collaborating on access points.

The Legal Aid Program will provide the following components to support the Model A Kiosk:

- PC designed for reliability, ease of use, and simple accessibility;
- Specialized kiosk software, DeepFreeze that will provide:
 - A customized user experience, including the kiosk start screen, and prevent unauthorized user actions;
 - Program security by disabling USB drives, disk drives, and network based storage;
 - A secure environment by allowing limited IP addresses, URLs, and intended software functionality; and
 - A centralized, cloud-based management console.
- A kiosk stand that will ensure the equipment is physically secured in its space; and
- Supportive IT services

Community Partner Hosts of Model A Kiosks will need to provide:

- Space near 26x26x26 for the kiosk base and 48x10x10 for the stand;
- Internet access (secured wired or wireless); and
- A point person(s) for coordination of the kiosk between the Legal Aid Program and the community partner.
- Optional: accessibility to a localized printer and/or scanner. (If this is an option, the Legal Aid Program IT and host IT would coordinate, and the Legal Aid Program would coordinate if there is a cost associated with use of the printer/scanner)

Location, volume of users, staffing at host sites, and resources vary across the state. It is up to each partnership to customize an MOU for: sanitization between users, methods for waiting to use the kiosks, signage in the physical locations, local printing options, coordination of maintenance logistics, etc.

LEGAL KIOSK

MODEL B

The Model B Legal Kiosk is a Legal Aid Program focused kiosk that will serve as a virtual portal to the individual Legal Aid program managing the kiosk. Applicants and/or clients can be directed to Model B kiosks for tasks such as intake, meetings with their attorney, and appearing virtually as needed while represented by the Legal Aid Program. Model B kiosks need to be placed in locations with the ability to create a confidential space while the kiosk is in use. This model is an excellent option for Legal Aid Programs to connect service providing partners with a virtual portal to the Legal Aid Program for direct services.

The Legal Aid Program will provide the following components to support the Model A Kiosk:

- PC designed for reliability, ease of use, and simple accessibility;
- Specialized software, including:
 - Splashtop: Remote connection software that facilitates remote work with legal services staff;
 - DeepFreeze: Kiosk software that will provide a customized user experience, limitations to usability to for a secure environment, and a centralized, cloud-based management console.
 - Remote connectivity applications, such as Cisco Webex, Zoom, and Microsoft Teams (can be individually tailored); and
 - FoxIt Pro: software for document review and signing
- A color printer and a full color scanner; and
- Supportive IT services

Community Partner Hosts of Model B Kiosks will need to provide:

- A space with the option of confidentiality (does not need to be exclusive use as long as space use is coordinated by host/Legal Aid Program);
- A surface approximately 48x36 within the confidential space;
- Internet access (secure wired or wireless); and
- A point person(s) for kiosk coordination with the Legal Aid Program

Location, volume of users, staffing at host sites, and resources vary across the state. It is up to each partnership to customize an MOU for: sanitization between users, methods for waiting to use the kiosks, signage in the physical locations, local printing options, coordination of maintenance logistics, etc.

