

Thank you, my name is JT Haines, I'm an attorney in Duluth and the northeastern MN director for the Minnesota Center for Environmental Advocacy. I have two comments to offer.

(1) The Minnesota Government Data Practices Act or "DPA", under Ch. 13 of Minn Statutes, is the state version of what many know as FOIA. It's a tool by which citizens can request and receive public data from their governments. It is a useful tool, but it is also a limited tool, and it is important that it not be thought of as a substitute for real time transparency. DPA requests often take months to complete, sometimes they involve complicated questions, and in all cases they require commitment of staff time. Each of these can have the effect of limiting the ultimate utility for the public, especially when there are comment deadlines that may be approaching or even passing.

For a pertinent example, my firm submitted a data request to the City of Hermantown in May for data related to the Hermantown AUAR that the public now knows is about a potential data center. The City took 4 months to share documents, after a process that involved each of the City Clerk, Administrator, Communications Director, City Attorney, as well as staff. We finally received data on September 18 - these were the documents incidentally, that confirmed that "Project Loon" is a proposed data center. By that date, the public comment periods surrounding the mystery AUAR had already ended. After a process that has involved a dozen email exchanges over nearly 5 months, there are still aspects of our original request even today that have not been fully completed. And now, the public is attempting to catch up to what their government has apparently been discussing for quite some time.

In other words, Minnesota's DPA is a good law and it should be embraced, but data requests fill gaps. The DPA should not be held out as a substitute for real time transparency.

(2) On the topic of the NDAs signed by individual members of this Board, I ask you to vote yes on the policy Prohibiting Commissioners From Entering into NDAs. Frankly, I was very surprised to learn about the signing of these NDAs. To purport to legally bind oneself as a member of this board without the knowledge or approval of the other members of this Board strikes me as a significant breach of trust and violation of the Board's stated values of integrity and transparency. Furthermore, the MN Commissioner of Administration has made it clear that government entities may not limit access to public data by signing an NDA.¹ This arguably goes double for elected officials. Elected officials are required to conduct business openly. It is difficult to imagine how a commissioner can engage in open conversations about the issues they are voting on, as state law requires, while also signing contracts that purport to keep information secret from the public. I appreciate Commissioner Grimm bringing this matter forward and encourage you to vote yes on the policy. Thank you.

¹ <https://mn.gov/admin/data-practices/opinions/library/opinions-library.jsp?id=36-536273>