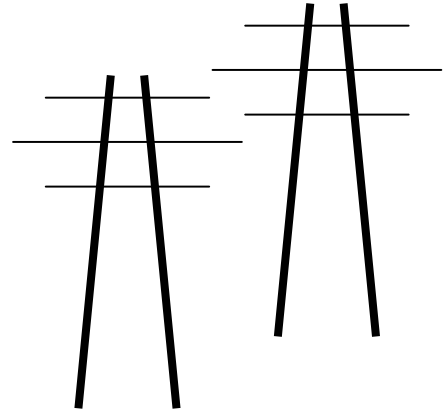


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## OPTIONS FOR LEGAL INTERVENTION OPPORTUNITIES TO INFLUENCE OUTCOME

### APPLICATION FOR A PROJECT

- **Notice of Application – Project is proposed**
  - There are usually pre-application meetings between project developer and staff. Keep in touch with staff to get heads up on applications coming up, and express concerns to increase standard for production of information in application.
  - When application is made, review for completeness, do your research..
  - Work directly with applicants to improve project specifications, i.e., greater setbacks, avoidance areas,
  - Intervene in county/city/township proceeding for more input and status
    - MN Environmental Rights Act, Minn. Stat. § 116B.09, Subd. 1
    - Gives you seat at the table in someone else's permit application
  - Public hearing before Planning Commission
    - Spread the word & offer guidance on comments
    - Request time to make presentation
  - County Board – typically allow public comment (always request it)
- **What does Zoning Ordinance Allow?**
  - Most Zoning Ordinances are online – review
  - If use is not permitted, request change before it can be permitted
  - Project is typically bifurcated – zoning first, then project permit

### ZONING ORDINANCE CHANGE – anyone can request a change of Zoning Ordinances

- Zoning Ordinance change is initiated with application or by government proposal.
- Typically project applicants apply for a zoning ordinance change
- **YOU** can apply for a zoning ordinance change
  - Fill out form, pay fee, and provide supporting information
  - Applicant makes the proposal and shepherds it through the process
  - First goes before Planning Commission and has public hearing
    - Planning Commission can approve, modify, or deny to recommend
  - County/City – Comments

## **LOCAL GOVERNMENT ZONING AUTHORITY AND PROCEDURE**

- Town – Planning & Zoning -- Minn. Stat. §§366.10 – 366.181
- Municipalities
  - Charter City – that City’s Charter rules
  - Statutory City – state statutes rule
    - Comprehensive Plan, Interim Ordinance Minn. Stat. §462.355
- Counties – Planning & Zoning – Minn. Stat. Ch. 394.

## **ADMINISTRATIVE – STATE AGENCIES**

- State agencies have jurisdiction over some permits or environmental review
  - EQB – Petition for EAW (100 signatures), EQB designates RGU for environmental review, typically County/City
    - Thresholds for EAW, EIS (rarely get EIS, but permit on hold until need for EAW/EIS is determined.
    - EAW = a public hearing & 30 day comment period, then decision.
    - EIS very rare. Multi project EIS in southern MN 1<sup>st</sup> of its kind
    - Comments, and opportunity to speak before RGU
  - DNR – water appropriation permits, public waters permit, trout stream setbacks. Comment periods, request hearing/contested case, but...
  - MPCA – air emissions, water emissions. Comment periods, opportunity to speak to Citizens Board, request hearing/contested case, but...

## **Minnesota Environmental Rights Act – Minn. Stat. Ch. §116B – cause of action for anyone**

- Rulemaking by agencies has several origins
  - Legislative mandate – agency initiates rulemaking, statutory directive
  - Agency can initiate rulemaking for new or modification of existing rules.
  - Petitions for Rulemaking – form Minn. R. 1400.2500.
    - Any person – Minn. Stat. §14.09; Local Gov’t – Minn. Stat. § 14.091
    - Always request an Advisory Committee – Minn. Stat. §14.101, Subd. 2.
    - Rulemaking is long and complicated – see Minn. Stat. §§14.05 – 14.47.

## **LEGISLATIVE – LOBBYISTS ‘R’ US!**

Yes, YOU! Registration and rules: [http://cfboard.state.mn.us/lob\\_overview.htm](http://cfboard.state.mn.us/lob_overview.htm)

## **WHO NEEDS AN ATTORNEY ANYWAY?**

Much of the above can be done by anyone, pro se, you don’t need to be represented. But if you’re headed to court, if it’s an issue you want to push as far as you can, consult with an attorney sooner rather than later, because what happens during the permitting process, PRIOR to issuance of a permit, how it’s handled, what issues are raised, will determine your options and odds when you hit the courts. The early stages are the basis for your case. Consider hiring an attorney knowledgeable in this area as a consultant to help frame your case during those parts you can handle pro se, and who would know the case if you need to go to court.

It’s difficult to find an attorney you can afford who knows this area inside and out. When it’s time for an attorney, ask around, spend some time on google, look up their registration, and call state Bar Association for referrals. Search state court site for appellate and district court cases they’ve worked on to get a feel for their experience. If they know the field, you’ll find it online!