

Approved Meeting Minutes

Friday, September 19, 2008

9:30 a.m. – 3:00 p.m.

Facilitator: Anne Losby

Task force members in attendance: Steve Cawley, Brent Christensen, Tom Garrison, Jack Geller, Barbara Jo Gervais, John Gibbs, JoAnne Johnson, Jack Reis (for Gopal Khanna), Rick King, Tim Lovaasen, Mark Lofthus (for Dan McElroy), Mike O'Connor, Kim Ross, Vijay Sethi, Dick Sjoberg, Karen Smith, John Stanoch, Chris Swanson, Craig Taylor, Joe Schindler (for Mary Ellen Wells), Karen Skepper (for Robyn West)

Public attendees: Andy Schreiner, Emmett Coleman, Myron Lowe, Ann Treacy, Randy Young, Jerry Knickerbocker, Mike Martin, Tom Berkelman

Staff in attendance: Shirley Walz, Carlos Seoane from Thomson Reuters; Diane Wells and Alberto Quintela from the MN Department of Commerce.

Welcome: Rick King

Welcomed everyone to Room 5 of the State Office Building and reviewed items we did last time. Indicated that the later part of the day we would start putting ideas on a calendar. Announced substitutes in attendance.

Review meeting minutes – any adjustments?

Under the comments reflected for Tom Garrison at page 8 – add the notation that each city has the right to determine its own economic future.

Move approval – Tim Lovaasen

Second – Brent Christensen

Minutes approved as amended.

Review meeting agenda – motion for approval

Move to approve agenda – John Gibbs

Second – Tom Garrison

Request to have members of the public in attendance to sign in

Request for public comments – 10 present – no member of the public desired to provide comment

Assignment – sub-group broke out to talk about communications on September 11 with JoAnne Johnson, Jack Reis, John Gibbs, Diane Wells, Carlos Seoane and Alberto Quintela present. Mike O'Connor joined via phone.

Rick King thanked the sub-group for its work and noted that a Department of Administration advisory opinion will be sought on issues.

Diane Wells then gave a summary of the discussion of the sub-group:

- Overview of what was discussed. Alberto Quintela will hopefully attend later but this is what he advised the sub-group:
 - We should consider that the task force is a public body and it should comply with the open meeting law.



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- Can post the agenda in advance
- Meeting must be in a place that is open to the public
- Post a meeting agenda and a packet
- Can't be any private meetings of any kind with a quorum present
- Should not be private postings of task force information
- If there is a data practices request – e-mails would be public information
- Should have an extra hard copy of any documents discussed at the meeting for the public to review
- If the task force choose to set up a sub-committee – the sub-committee should follow those same rules
- Technology is way ahead of where the law is – discussed using teleconferencing – talked about if web-conferencing or telecasting is a good idea
- We discussed drafting the report – having a meeting location that at least one person would be at and everyone could be looking at a document that is distributed ahead of time. Could edit and work on the document among the people in the room and those participating via teleconference – when the meeting is over the document is frozen in its current state.
- If companies have trade secret information
 - JoAnne Johnson suggested that the format is to change the information to be something that could be shared in a public manner, such as using a statewide average rather than a specific example. This is a good way to make data available to those that are reading the report.
- Talked about the web site and how we could use it.
 - Use it to receive information from the public, but we should not use it for task force members to respond because it could be viewed as a 24/7 meeting
 - A task force member can set up a blog to hold a conversation if they desire
 - Use it to get public comments and feedback and a hard copy printed out if discussed at a meeting
 - Should not be a “members only” part of the web site; everything should be public
- Bringing speakers in
 - Concern about how they are paid for
- Subsequent to the sub-group meeting, Alberto Quintela came back with what seemed to be confining advice –
 - One recommendation – a task force member had to be in the room to participate in the meeting – if teleconferencing in, could listen, but cannot vote, speak or be considered part of the quorum.
 - Go to the Dept. of Administration and ask for an advisory opinion on this – work on formulating questions –
 - Looking at the venue – can it meet only in a public facility or in a private facility made open to the public
 - Use of teleconferencing or videoconferencing
 - How can we invite speakers? If there are costs who can cover these?
- In what ways can the task force leverage technology to get its job done
- Mike O'Connor commented that we are way ahead of the law in how we can function – sounds like we can't respond to an e-mail as it makes the task force 24x7. Thinks the legal advice is being very cautious – hoping for someone in the Dept. of Administration to give us a better idea of how we can operate



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- Steve Cawley – chaired the MN Education Telecommunications Council which was created by legislation and subject to the Open Meeting Law – they routinely operated using video-teleconferencing – none of the restrictions were on the table or understood to apply when they met (1998–2005). Encourage that we get additional advice
- Vijay Sethi - we have county board meetings that are posted, but do communicate via video. If you have a forum – putting something on the web site – could be considered a 24 x 7 meeting. What we've been given to understand – as long as there are no policy decisions via e-mail it is ok to continue the dialogue – the approval of policy should be done in the meeting.
- Rick King– told in other forums that we are progressing and moving forward. In the city of Eden Prairie – guided to not do the reply all – but when workshops are conducted – minutes are taken – votes are not done. We are seeking other opinions. We can have a resolution or motion to indicate that it is the “will of the group” that we will operate as if the Open Meeting Law applies to get past that question and go straight to operational questions.
- Tom Garrison – Section 2 on page two of the legislation – a policy and description on how to facilitate the use of broadband is currently in the scope of legislation that needs to be looked at.
- Jack Geller – His recollection is similar to Steve Cawley's regarding the MN Education Telecommunications Council. He doesn't recall meeting only electronically but there was a lot of chatter between meetings via e-mail.
 - What does make sense – while we moved our meeting place around – did not remember meeting anywhere other than a public building
 - Expressed concerns about speaker – two forms – people that have some knowledge (experts); second – take testimony--speakers for people that would be invited to give testimony – e.g., wireless, telecommunications – some speakers that we want may not have a need to pay.
 - Staff – legs on the ground to write the report – staff would give us the first cut and the task force would refine it.
- Rick King - Believe that we may have to do some writing ourselves. For example, the tax reform committee – members are actually writing themselves because of lack of staff. Task force members can use their staff to help them write.
- Alberto Quintela arrived at the meeting and gave the following comments –
 - Overview – mentioned to the Commissioner of Commerce yesterday that there has been a legal wrestling match over the task force because the law doesn't exactly define the nature of the task force
 - The legislature creates the task force, but the governor appointed its members
 - Not clear whether it is a legislative task force or if it is a task force of the Governor's office
 - When you read the mission of the task force it is to provide a report to the legislation - a list of written recommendations
 - No policy decisions, no legal decisions
 - No authority to enforce
 - Attorneys have been asking what is it and it is not clear
 - House staff opinion is that the open meeting law applies. However, the task force is looking at broadband use so it makes sense the task force would want to leverage technology. Ch. 13D does allow use of interactive TV. Teleconferencing



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is allowed for participating in a meeting but only under emergency use.

- Recommendation from the Governor's office, and taking into consideration the House staff position, for the sake of risk and the perception that you are proceeding under openness, the task force should proceed as if the open meeting law applies
- House staff has a 12 page handout explaining the open meeting law requirements
- Principles:
 - Quorums – if you have a quorum of the task force or a subcommittee, the open meeting law applies
 - Use of e-mail and e-mail communications – in violation of the open meeting law if it constitutes a quorum
 - Use of telephone conversations or serial conversations by a quorum would be considered a violation of the open meeting law
 - Social gatherings – if there is a quorum present should not have a serial conversation – could be perceived as having an open meeting
 - Procedural aspects of the open meeting law
 - Public notice of the meeting – at the location of the meeting
 - Would the State Register suffice – yes, if we are meeting in the State Office Building – must be displayed in the entry of the building and the room that you are meeting in
- In conversations with the Governor's office:
 - First – proceed as if the open meeting law applies
 - Second--public notice – notice placed at least three days prior to the meeting
 - Third – conduct the public meeting in a public place
 - Fourth - All members can see each other and hear each other. Members can listen in but not talk or vote if they are on the phone i.e. an absent member can monitor the meeting by phone, but not speak. The statutory language is that an absent member can “moderate” a meeting and this interpretation is a conservative approach. This is a topic that will be brought up in the request to the Dept. of Administration for an advisory opinion.
- Gifts/funds – the task force does not have authority to accept gifts or spend funds.
 - An entity can not put in a phone line to hear a speaker, even as an “in-kind contribution”
 - Speaker employed by one of the companies – can a speaker come in and speak?
 - If the task force decided that it needed expert advice, the task force could put the item on its agenda and interested individuals and companies could come forward and speak.
 - Comcast has an individual that knows how it works technically – can we ask or Comcast offer for this person?
 - How to comply - Schedule an open forum on the meeting notice during which experts would volunteer to come – magically experts would come – they have a great civic interest.
 - Utilization of the staff – task force members can have their staff do research – that is allowed

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- If someone is not able to attend – can they record the information and see the expert presentation? There is no interaction, so this is borderline.
- Vijay Sethi – “invited to testify” for a House hearing and was able to testify via interactive TV. Can testify this way, but task force members can’t participate this way.
- Brent Christensen– operate this as a city council meeting – solicit testimony, do not hit reply to all – run it like we run council meetings – think we have a good sense of balance here
- John Stanoch – think there should be a change in legislation. It is unfathomable that you can arraign a prisoner via interactive TV to take away the fundamental right of someone’s freedom but task force members can’t participate by videoconferencing. This should be addressed in 2009 in legislation so that everyone understands the rules under which we are operating today
- Jack Geller – can interpret policy conservatively or liberally. The task force was not appropriated money. We are writing a report with no authority that the legislature can tear apart. There is no consequence to our actions. Beg toward the liberal side for an interpretation. The consequences are small.
- Steve Cawley – His experience on the MN Telecommunications Education Council. They used video conferencing. Had 6 regions in the state and a videoconference site in each region. Locations were published, the public was allowed at the sites. Two way video conferencing using the state of MN network. There was no issue of in-kind costs. It worked beautifully. Interesting if we can think about this model and utilize this.
- Rick King– It is worth investigating if those facilities could be made available to this task force.
- Mike O’Connor – He has gotten requests from people to stream the meetings so the public can at least listen in v. driving to the location
- Vijay Sethi – county meetings are live
- Rick King– if it’s ok with the group – ask Steve Cawley to investigate
- JoAnne Johnson – agreeing subject to the open meeting law and data practices – what we disagree with is part of the interpretation.
- Alberto Quintela- Next step – obtain a recommendation from the commissioner of administration
- Vijay Sethi– when we have questions about the open meeting law – we go to the attorney general
- Rick King indicated that it is recommended that we go to the Department of Administration
- John Stanoch – couldn’t the committee just make a decision that we are governed by the open meeting law and data practices and then submit questions that are narrower?
- Rick King– Any objections to being governed by the open meeting law and the data practices act?
 - Motion by Brent Christensen
 - Second – JoAnne Johnson
 - Motion passed
- Will ask about meeting locations, testimony, video conferencing, use of Wiki
 - Tom Garrison -- Reports in draft form – everything is public?
 - Mike O’Connor – Have used Wiki, a jointly shared document. Can technologies like this be used? –

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- Brent Christensen – doesn't sound like we can
- Mike O'Connor – can the staff use this and then we can look at?
- Rick King - Seek the Dept. of Admin opinion and then make decisions
- John Stanoch suggested that the questions to go to Administration be first run by the subgroup that met on this issue
- Mark Lofthus asked if we included how testimony is solicited – task force is not fulfilling its assignment if it is not able to solicit.
- Jack Geller – we can use the primary protocol that the legislature uses. It solicits testimony. If it is good enough for the legislature it should be good enough for this group.
- Rick King – confident that we will get what we want. Any additional questions?
- Kim Ross – “reply all” to emails-- is this any different than a send all
 - What kind of information is acceptable via email?
- Alberto Quintela – if you are asking for editing a report, you cannot gain concurrence via email.
- Brent Christensen– if you wanted to send out a notice, that is ok. It is the response that is a problem.
- Alberto Quintela– Task force administrators can send out current drafts – as long as communication is one way. Do not “reply all”. Emails from one task force member to all are ok if they are operational in nature, such as “I'm not going to be able to attend the next meeting.”
- Vijay Sethi – What if a draft was sent out – stage one of the study – is there an opportunity for the task force to review and comment?
- Alberto Quintela – If a draft is sent out and you have a comment, task force members can submit comments back to the task force administrator and the comments can be compiled into a new draft. No policy discussion was had amongst task force members that way.
- JoAnne Johnson – Suggested that other ideas will occur and they should be shared with Diane Wells and she can report back.
- Rick King – other questions – none

Morning Break

- Rick King discussed a possible report creation process - as we progress we can tackle topics so that we have topics ready to write up and drop in.
 - Determine sub-teams for drafting
 - Indicate elements to include in report when we frame up the calendar
 - Suggest that we'll put some framework around the report
 - Try for consensus that we put something in the report – if there is opposition then we don't have consensus – revert to fuller discussion and a vote
 - A minority report might also adhere – it could be a minority of one
 - There will be areas where everyone agrees and others where people disagree
 - Drive towards common agreement and if we agree to disagree, then go to the will of majority and allow minority reports
 - A topic could be added
 - Example – try for consensus on the outline of the report
 - Open to ideas/comments –
 - Things will need to be voted on to go in there.



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- Jack Geller – does not necessarily need to be a whole minority report, but for some sections there may be some addendum to the particular topic – great idea
- Brent Christensen - Job is to provide the information to the legislature and governor – have no problem saying this is the majority opinion and identifying minority's points
- Rick King - Will go forward under that principle –
- Will always try to understand what it will take to gain consensus and if we can't get there, then vote
- No opposition to this plan
- Tom Garrison – noting for the record – come back with what we see some of the chapters in the report being – areas that we need to address
- Rick King – idea about sub-groups – won't be able to get our work done without them. Efficient and effective way to operate – can use when we need more information on a topic – comments about the use?
 - Rick King supports
 - Mike O'Connor – we have limited staff support – we will overwhelm staff
 - JoAnne Johnson – have our own individual staff support – have the ability to accept volunteer support – correct - yes
 - Sub-groups should be below the quorum level – the group work will come to the full group and be reported out – if it gets to a quorum level then we will have to post
 - JoAnne Johnson – subgroups could solicit and make use of outside experts –
 - Rick King – point that we heard is that a particular business or individual is not at liberty to pay – some volunteer can speak to the committee or sub-group - that is ok.
 - Seek to find the expert and not pay them to appear
 - Brent Christensen– no problem with sub-groups – use as needed – concern with out-state participation – could get into a situation
 - Could conference call into a sub group – yes as long as it is not a quorum of the task force
 - Decreed that sub groups are not a quorum – subject to administrative review.
 - Vijay Sethi – as long as it is designated by the legislation it is subject to the open meeting law – comes down to who is passing judgment
 - Rick King – if under the quorum level they can do their work and come back to the larger group – if we are going to have a standing one we may choose to post.
- Web Site overview by Carlos Seoane – one way most entities use to notify the public is through a web site.
 - Posting something to the web site
 - Having public people access it
 - Not going to move on a “member only” section
 - Not adding a forum section
 - Comments
 - Repository for information
 - Posting e-mails that the Chair sends out



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- Using it to push out information
- 30 – 40 people from the public have subscribed
- Comments section – have gotten questions
- No policy comments at this point – we will review at this meeting if we've gotten any policy comments – e-mail comments should go to Diane Wells
- Uni-directional Forum – can we do this – Rick King in favor of it
 - Others commented that it's good
 - Keep it, but do not use it as a way for any task force members to reply
- News section
 - Carlos Seoane posts what anyone forwards to him
- Mike O'Connor introduced Ann Tracy (person who publishes the Blandin on Broadband Blog) and indicated that Ann and Carlos should get together – Ann scans the national arena – good even handed editor – may be a resource that Carlos can draw on.
- Tom Garrison – requested that a document be found and posted.
- Carlos Seoane has posted numerous documents that people have requested he post and has also linked to Mike's site.
- Jack Geller –
 - Thinks the uni-directional forum is great
 - As long as the task force has an opportunity to look at the comments as stated unedited in the spirit of open access
 - Not sure exactly where the meeting place is for any given month can we ask the Admin commissioner – is the website a responsible place for us to post the meeting notice and directions.
- Rick King – told we have to post it in the physical place as well
- John Stanoch
 - The Legislature publishes a weekly calendar that looks ahead, maybe task force meeting information could be noted there
- John Gibbs
 - On the web site – have an open invitation to invite “the world” to submit things that we might post
 - Disclaimer – things posted do not reflect the views of the task force – Carlos Seoane noted we do have this
- JoAnne Johnson
 - At the front of the forum – indicate that task force members are not allowed to respond
- Rick King – if it is operational and not policy then yes, staff can respond
- Tom Garrison – concern with uni-directional – as the work of this task force goes forward he would like to be able to explain how we arrived at the area of compromise
- Chris Swanson – do we on our own time have to review
- Rick King – unfiltered is the key – if we get a lot of comments we'll have to see how we operate. Preferred way is a summary if there are a lot of comments.

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- Chris Swanson – for members that are not here – make it clear
- Rick King – one person responding is not in violation – we will circle around with those that are not here.

-LUNCH BREAK-

Meeting Guidelines

- Rick King– Task force should review the meeting guidelines and if you have comments speak up now
- Karen Smith – Number 5, “Strive for consensus” should reference the definition of consensus agreed to earlier in the meeting and so delete “the task force should define consensus”
- Mike O’Connor – Number 8, take out portion about “conduct taskforce business”
- Rick King – Take number 16 away
- Motion to approve guidelines as amended by Dick Sjoberg. Second by Chris Swanson. Guidelines approved as amended.

Task Force Schedule

- Rick King – We should create a list of the issues we want to discuss. The idea is to have 2 to 3 topics for each meeting, reserving the last couple of meetings to focus on the report. Anne will facilitate how to come up with that list.
- Anne Losby – Passed out handout that listed the 8 report requirements. Asked the group, what they needed to learn and do in order to complete the report on time including all these requirements. The task force was asked to break into small groups covering three different topic areas, with task force members deciding to join one of the small groups based on their interests or where they believed they had expertise to offer. The assignment was to generate ideas and bring them to the larger group.
 - Task Force Education: What does the group need to learn in order to be prepared to make decisions and recommendations? Group One: Karen Skepper, Karen Smith, Kim Ross, Dick Sjoberg, John Stanoch, Vijay Sethi, Brent Christiansen, Tim Lovaasen, Joseph Schindler, Mark Lofthus
 - Report Content: What needs to be in the report, how to select the content, what do we need? Group Two: John Gibbs, Tom Garrison, JoAnne Johnson, Jack Geller, Chris Swanson, Barb Gervais, Craig Taylor
 - Preparing the Report: How do we actually go about preparing the report? Group Three: Rick King, Mike O’Connor, Steve Cawley, Jack Ries

Conclusions Group #1 – Education

1. Would like to understand the fundamentals of the Internet and broadband (wireless as well); technology fundamentals (including new technologies)
2. Understand where are we today in MN
 - a. Where is broadband available?
 - b. What speeds are available?
 - c. What are the take rates and what are the barriers for people to get broadband?
 - d. What is the state budget between now and 2015 to implement this?
 - i. Other finance mechanisms
 - ii. Capital markets – what makes them open to invest?



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- e. Where are we going in terms of economic development?
- f. Where are we in terms of education, what is the status of higher education?
 - i. How do we educate the public on broadband to increase take rates?
- g. Want to see service provider roadmaps
3. What are other states doing? Status of what has already been implemented.
4. What opportunities are there with broadband, what other needs are there?
5. What are the applications that need broadband; Japan is very fast--what do they do with the speed?
6. What is the demand/need for speed? Telecommuting? Telemedicine? Need to understand current and future demand.
7. What is the capacity of future networks? XA?
8. What is web 2.0?
9. They would like to “go out there” and see how things are really being used, in rural MN, the University.
10. They would like to understand a bit better what the future holds, what’s to come, what will the needs be?
11. Understand regulatory policy, how it affects these issues; how do we set policy?
12. State of the state – demographics
13. Legal aspects – rights and responsibilities of cities, governments
14. Who is doing research on broadband? The report needs to quote which other groups are doing research. The state can facilitate by leading.
15. Need to cover Business, Education, Healthcare, and Entertainment applications

Conclusions Group #2 – Content of the Report

1. Report will begin with an Executive Summary and conclude with recommendations.
2. Framework for the report:
 - a. Statement of Values
 - i. What do we want to make sure we provide?
 - ii. Technology neutral
 - b. Where we’ve been
 - i. The history of it all, for example, how voice telecommunications evolved, how it was subsidized, etc...
 - ii. How we got to where we are today
 - c. Where we are today
 - i. unserved areas
 - ii. underserved areas
 - iii. data from mapping project
 - d. Where we want to be
 - i. For each of the 8 points from the legislation, how we pay for it, what policy changes are necessary
 - ii. How we want to take advantage of future scenarios
 - iii. How we pay for it
 - e. Define broadband by functionality: define what’s needed for each application (e-mail vs. telecommuting, vs. HDTV downloads, etc.) – similar to the California report
 - f. How are we going to get there?”
 - i. What other states have done (Utah grant program, WI tax credit)
 - ii. Comprehensive policy recommendation



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Jack Geller – this needs to be technology neutral, but keep in mind that there is no future-proof solution.

Mike O'Connor – maybe we should organize the education according to the headers created by Group 2.

Tom Garrison – also discussed that when you know you need to respond technologically, it's too late.

Conclusions Group #3 – Preparing the Report

1. Use California report as a model
 - a. Professional appearance
 - b. Graphics, maps, plots, pictures
 - c. We will seek Commerce Department funding for printing the report – task force chair will try to secure this funding
2. Coordinate with the broadband mapping project
3. Break the work up into smaller teams,
 - a. 2-3 people service as authors per chapter (chapters defined by group 2 framework)
 - b. 2-3 people take care of editorial oversight (create an editorial team),
 - c. 2-3 create style guide, report format, maybe create a template Question—were b. and c. the same 2-3 people or different people?
 - i. Recommend to start working on style guide now
4. Need to outline what points should be included in draft legislation: “we need a bill that…” Focus on points in draft legislation, not actual draft legislative language—leave that to legislative staff.

Tom Garrison – maybe we should have a glossary of terms in the report since there are so many acronyms.

Mike O'Connor – the report needs to educate and to sell what we are trying to accomplish.

Rick King—the flow of questions in the law doesn't necessarily translate well into a report format.

We could have an appendix to the report which contains direct answers from the report to the eight points.

Consensus that we want to break report writing into smaller groups.

Subcommittee on creating a style guide: Karen Smith, Tom Garrison, Rick King. Tom will lead the group.

Anne Losby handed out calendar templates to facilitate the discussion about scheduling specific topics for the coming months. The group agreed that they wanted future sessions to be interactive with time for Q&A.

Topics for October 24th Meeting

- General topic is threshold / baseline information
 - **Fundamentals of Broadband**
 - Delivery methods
 - What different speeds do we have and what do they do?
 - Need 2-3 presenters
 - **Internet 2**
 - Review content outline



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- One presenter is adequate – Steve Cawley will identify a speaker
- **Legal and regulatory environments**
 - History of regulation
 - Need 2-3 presenters
- Need to start thinking about who wants to work on/author what chapters

Topics for Nov 14th Meeting:

- Update on templates, frameworks and style guide
- **“Where we’ve been”**; what is the history of this in MN?
 - Healthcare
 - Education
 - Early Adopters (Small Businesses)
 - Large business
 - Network Development
 - “How far we’ve come” in these areas
- Start assigning who writes which chapter(s)

Topics for December 19th Meeting:

- Where are we now?
 - Providers – where they are now and where they are going (roadmaps)
 - Look at other states/the world
 - Can we find national experts?
 - International experts?
 - Gartner?

Homework Assignment

- If you know of anyone who can be one of our speakers, send name to Diane and Rick
- Need to start list for statement of values discussion to have a working draft
- Need to research state comparisons – where does MN stand?

Jack Geller – the task force needs to avoid being too dependent on the mapping project (due in Feb 09) because these things get delayed often

Tom Garrison – we need to research how MN compares to other states. Rick King noted that Shirley Walz can help with this.

Tim Lovaasen indicated that the CWA has reports out and he will get hard copies to Diane Wells for mailing.

The meeting concluded as scheduled at 3:00.

