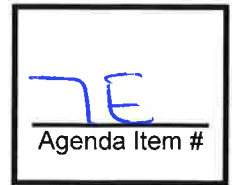




Board of County Commissioners Agenda Request



Requested Meeting Date: August 25, 2020

Title of Item: Data Recovery Fee

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft)	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <small>*provide copy of hearing notice that was published</small>
Submitted by: Rich Courtemanche		Department: Land
Presenter (Name and Title): Rich Courtemanche - Land Commissioner		Estimated Time Needed: 10 min
Summary of Issue: <p>Aitkin County has invested \$76,455.60 in direct staff time in creating the county-wide parcel mapping (approx. \$1.91/parcel). Aitkin County has also spent an additional \$85,999 in creating its 911 system (approx. \$4.51/address). In order to recoup costs of creating this dataset, individuals requesting the data are able to obtain this information by paying a data recovery fee of \$0.10/parcel for the GIS shape file and \$0.04/parcel for the accompanying tables and data associated with the feature. Any private individual making a data request of the entire County dataset would pay \$0.14/parcel or \$6,019.44 for the entire dataset. Note: MN law states that requests from state, federal, and tribal agencies is to be free of charge. The GIS coordinator states that, "requests have been infrequent (≈4-5 total requests)." Jim Ratz, the County Attorney, provided counsel on "public data requests" and directed the Land Dept. to investigate similar costs from adjacent counties. All counties surveyed (i.e., Crow Wing, Cass, Carlton, Itasca) state that they have moved away from the data recovery fee and are providing the information for free. Housing data on such servers provides some protection from liability (see attached MNGeo documentation) and reduces staff time. Aitkin County Land Dept. seeks permission from the County Board to remove the data recovery fee and to provide this information on a public facing data storage such as MN Geo or other public data server.</p>		
Alternatives, Options, Effects on Others/Comments: a) Continue with current practice of providing data with a data recovery fee, or b) Direct the GIS coordinator to provide the data for free using a public facing data server such as MNGeo.		
Recommended Action/Motion: Approve a motion to direct the GIS coordinator to provide the data for free using a public facing data server such as MNGeo.		
Financial Impact: Is there a cost associated with this request? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No What is the total cost, with tax and shipping? \$ ≈\$3,010 (\$6019.44 every two years) Is this budgeted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please Explain: Budget includes infrequent but documented income from selling GIS data. This will amount to loss income but will save on staff time and reduced liability.		

Legally binding agreements must have County Attorney approval prior to submission.

TAX PARCEL MAPPING PROJECT COST ANALYSIS

<u>YEAR</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>*COST/YEAR</u>
1998	1,560	\$13.27	\$20,701.20
1999	1,560	\$13.56	\$21,153.60
2000	1,560	\$14.64	\$22,838.40
2001	780	\$15.08	\$11,762.40
	<u>*TOTAL COST</u>		<u>\$76,455.60</u>
	<u># OF PARCELS</u>		<u>40,000</u>
	<u>COST/PARCEL</u>		<u>\$1.91</u>

*These costs only include time spent on the mapping portion of the project by the Land Records Technician. These costs do not reflect software or maintenance costs.

E-911 ADDRESSING PROJECT COST ANALYSIS

*TOTAL COST = \$85,999
OF FEATURES=18,091
COST/FEATURE=\$4.51

*These costs only include money spent on the addressing and mapping portion of the project by GeoComm. These costs do not reflect software or maintenance costs.



Free + Open Public Geospatial Data in Minnesota

Questions, Answers, Concepts, and Resources for Practitioners

Version 6.3 (Updated November 18, 2019)

Compiled and edited by:

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On behalf of the:

MetroGIS Data Producers Work Group

MetroGIS Coordinating Committee



Free + Open Public Geospatial Data in Minnesota

Questions, Answers, Concepts and Resources for Practitioners

Version 6.3 (Updated November 18, 2019)

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*This document was compiled and edited by Geoff Maas, MetroGIS Coordinator
Comments and questions are encouraged and can be directed to: maas0021@umn.edu*

Free and Open Public Geospatial Data in Minnesota

Questions, Answers, Concepts and Resources for Practitioners

I - Introduction

In Minnesota and throughout the United States, recent months and years have seen local governments—specifically county and municipal governments—begin making their public geospatial data freely and openly available without requiring a fee or license agreement. This emerging trend is a significant break from the established practices of the past three decades. This document is intended to explore and answer many of the common questions that have arisen and continue garner discussion in Minnesota as local governments express interest in the transition toward increased geospatial data availability. This document also provides several links to agency websites offering legal and technical resources.

There is a changing focus from the government perspective in its relationship to the public and the entrepreneurial community. With data producing government agencies increasingly regarding citizens and businesses as ‘partners in the process’ and the data as a form of raw material that the public and business community can leverage in new and innovative ways. Government need not anticipate every public need or eventuality, but act in partnership—as resource and data provider—for the public to explore the data, develop applications and work collaboratively.

There are numerous rationales—both broad and specific—guiding these changes. Key themes giving momentum to these new policies and practices include pro-active responses to the significant technological changes taking place, wider adoption of geospatial technologies and an ever-increasing and sophisticated demand for data of all types by citizens and businesses.

II - Trends supporting free and open data

Some general trends and rationales for this trend include the following:

The improved operational efficiency, transparency and perception of government:

- *Readily available data is a clear demonstration of an agencies desire to act openly and efficiently;*
- *To pro-actively—rather than re-actively—meeting the ever-growing and increasingly sophisticated public expectation of, and appetite for, data of all types;*
- *The enhanced ability to provide public services and efficient steward of public funds and of the public trust;*
- *More efficient use of agency staff time and resources—instead of responding to and processing requests, staff time can be directed to more productive work;*
- *The changing perception of government agencies as being resources and partners, rather than as an obstacle or ‘gatekeeper’;*
- *A free and democratic society assumes the free flow of data, ideas and transparency of its government at all levels.*

Open data is an engine for economic development:

- *The consistent availability of reliable, authoritative and ‘ready-to-use’ data is a resource of increasing importance for entrepreneurial decision making and business success;*
- *Jurisdictions with open data are perceived by a diverse set industries—utilities, real estate, manufacturing, education, transportation and delivery and so on—as being ‘open for business’.*

The changing nature and perception of ‘value’:

- *The ‘value’ of government’s data is changing to reflect the demand for—and volume of—its use, rather than the monetary figure that can be charged for it. The more citizens, businesses and interests are relying on and using a given dataset, the more utility ‘value’ it has. This change in perception provides foundational rationale for government programs to justify their continued creation, maintenance and publication of data.*

III – Concerns raised about the free and open data movement

There have been numerous concerns raised by governments producing data in regard to the transition toward the open availability of geospatial data. These concerns tend to fall into one of the following descriptive categories:

Cost recovery. Local governments take on the expense of maintaining hardware, software, training staff and committing staff time to build and maintain geospatial data. Openly publishing its data for free and open public use reduces is perceived to remove a government agency’s ability to recover its costs. Additionally, some governments use the sale of their data to fund other aspects of their public works, survey, GIS, or other departmental operations. A shortfall in this relied upon stream is a detriment to government operation.

Response: *It is in the best interest of local governments to conduct a thorough internal audit of their existing practices regarding their data handling and publication policies. Local governments have compared the actual investment in staff time used to respond to data requests, collect fees, issue and maintain license agreement documentation against the amount of revenue they actually generate from their data sales. In this comparison, they have determined that it is often cheaper operationally to simply publish their data rather than expend staff time and resources to process the many incoming requests.*

Organizations need to evaluate their associated costs in a broad perspective with the added benefit of the larger public benefits realized. In some instances, local governments were spending two to three times in staff time and resources to sell and license data than they were generating in revenue. While data sales are a perceived benefit, they actually act as a net loss, keeping staff from more productive activity and requiring additional effort that provided no net benefit to the local agency. Many local governments have revealed that they currently maintain un-even policies in dealing with data request from various interests. For example, a local government may charge a utility provider or real estate concern one rate, and a non-profit or an educational interest another rate. This mismatch in dealing with public data requestors creates an unclear precedent for the local government and may put them in a difficult position to justify. A policy of open publication of the data relieves the local government from the potential of any procedural discrepancy of this kind.

The sustained demand from the public and private sector for these data provides a sound justification for government’s continued role in producing, maintaining and publishing the data as both the course of its duties and as a public service to the taxpayers who fund the data’s creation.

Liability assumed by the data producer. Local governments produce data containing information containing the location, condition and other attributes of parcels, roads, infrastructure and other data. There are always potential for errors, omissions or mistakes in the creation of this data. If this data were to be freely available to the public, what kinds of liabilities might a government assume?

***Response:** Local governments are free from civil and tort liability for the electronic geospatial data they produce under state statutes as long as they provide a disclaimer with the data describing its accuracy and origin. Misuse of the data by the data consumer is not the responsibility of the local government producing the data. (Refer to §466.03, Subd. 21)*

Misuse of available data by ‘bad actors’ or loss of control of the data by the data producers. By making this data public, there is a perceived heightened potential for its misuse by ‘bad actors’. Specific examples include tax parcel data being searched by owner name, private entities repackaging the data and selling it, use of the data for analysis conflicting with popular or political interests and other potential uses for which the data is inappropriate due to its origin, content, accuracy or scale.

***Response:** Local governments do not incur any liability from the misuse of their data, nor do they have any proven method or experience for preventing the misuse of their data once it has been purchased under the present system of fees and license agreements. Cities and counties bear no responsibility for the misuse of their data once published; similar to a municipal public works department is not responsible for the misuse of its facilities by trespassers. Individuals or organizations that utilize the data in illegal or unsavory ways are assuming the risk of being in violation of the law; the data producer has produced the data with tax dollars for public purpose and assumes no such risk.*

Privacy issues. Issues of personal privacy—related to tax parcel data being available that contains names of the property owner and the address of their property—remains at the forefront of the open data discussion. Can this data be considered public?

***Response:** County governments are tasked by the State Legislature to gather and maintain tax parcel data for the levying property taxes. Under state law, these data are described as public documents, and as such, are to be available to all citizens and interests who wish to make use of them. Digital representations of these public documents contain the same information and are also public. (Refer to §389.03 and §505.08)*

The change of established practices. Local governments in Minnesota have operated for many years under the present set of practices, assumptions and understandings in regard to geospatial data. Why should local governments consider changing the way it treats this data or conducts its business?

***Response:** The businesses and citizens of Minnesota maintain a growing and sophisticated demand for data of this kind and are able to leverage it to tremendous benefit beyond the original purpose for which it was intended. Open publication of geospatial data helps government position itself as a partner to citizens and businesses rather than a barrier or obstacle.*

Terminology

What do the terms ‘free’ and ‘open’ mean when related to public geospatial data?

The terms ‘**free**’ and ‘**open**’ permeate all levels of this issue and its discussion. We offer the following general definitions of how these terms are applied and have come in to use around the issue.

Free. The term ‘free’ in the context of public geospatial data, simply means that no fee will be charged for **electronic geospatial data** (as defined in §16E.30, Subd. 10) in its native electronic format. If a data requestor asks for the data in a different or customized format, the local government maintains the right to charge for the time and materials required to prepare the data as requested. By making their data free, local governments are empowered to publish their data on either their own web portals or trusted geospatial data clearinghouses.

Open. The term ‘open’ carries two central implications with it regarding public geospatial data.

First, for data to be ‘open’ is an indication that there are **no legal agreements or other conditional encumbrances required to access the data**. A user or requestor is not required to sign a license agreement to access or use the data, only to agree to a disclaimer provided by the data producer about the data’s original intended use and accuracy.

Second, it indicates that there is **no constraint on the use of the data once acquired by the user**. Data consumers can freely use and re-distribute the data they acquire and even perform value-added actions to the data and re-sell the data should they so choose. Open data policies and actions by governments facilitate the ability for data producing agencies to publish their public data for widespread and immediate consumption and creative use by the user community.

Legal Context

How did city and county governments gain the right and ability to charge for data, require license agreements and limit the use of public geospatial data in the first place?

The Minnesota State Legislature adopted what is now known as the Data Practices Act in April 1974¹, codified under Chapter 13 and Minnesota Rules Chapter 1205 in statute. These rules provide the basis for understanding that all government data, with the exception of some specific data falling under certain criteria (described below) is to be considered public.

As per the specific language of §13.03, Subd. 1: “all government data collected, created, received, maintained or disseminated by a government entity shall be public unless classified by statute, or temporary classification pursuant to §13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential.”

The original Data Practices Act was composed to ensure citizens and interested parties could access these materials and to participate meaningfully in a democratic society where government transparency is assumed as a fundamental condition of its operation.

As information technology, including geospatial technologies, have advanced, matured and become more widely available, citizens, private-sector actors and other interests no longer expect to physically travel to a city hall, county court house or other public archive repository to inspect and copy physical documents. There is an increasing expectation that these data can be easily and readily available in usable, downloadable, digital formats from government websites and trusted on-line data clearinghouses. This is especially true of the kinds of data desired by and in use by geospatial professionals.

In the late 1980s and early 1990s, when GIS technology was just beginning to be widely adopted and utilized by various levels of government, it represented a substantial capital investment. Local governments needed to purchase hardware (computers, monitors, storage, digitizing tablets, plotters), expensive proprietary software, hire and train new staff and spend significant time and expense to digitize and develop data into usable datasets to meet their various business needs. To offset this significant cost, various interests lobbied the Minnesota State Legislature to modify the Data Practices Act allowing them to recoup the costs of this expense through the sale of the data.

During the Legislative Session of 1990, the Minnesota State Legislature added language to the Data Practices Act—specifically §13.03, Subd. 3(d) through Subd. 3(f)—granting the ability to counties, cities and other entities qualifying under the definition of ‘municipalities’ under §466.01, to charge fees for their geospatial data. Of note, regional and state government agencies were not afforded this right or ability. There is not an issue as to if these data are public—they are public data as per §13.03, Subd. 1—the issue has been about the ability for governments who produce this data to be able to recoup their original investment costs in GIS through the sale of that data.

¹ Gemberling, Donald A., and Weissman, Gary A (1982) 'Data Privacy: Everything You Wanted to Know About the Minnesota Government Data Practices Act – From A to Z, *William Mitchell Law Review*: Vol 8, Iss. 3, Art. 1

Defining Public Data

Tax parcel data is widely considered one of the most useful and valuable geospatial datasets for a large number of applications, analyses and uses. These data generally contain the tax parcel boundaries, the owners name, address data, value of land and improvements and amount of tax paid. Are these datasets considered public? Is there a consequence to making data containing names and addresses publicly available?

To answer this question, we need to provide the full context of what this data fundamentally is and why it is created and maintained at the county level of government.

The creation and maintenance of tax parcel data is a responsibility tasked to county governments by the State Legislature under §389.03 and §505.08 of the state's statutes. The primary intention of these laws—and of the creation and maintenance of tax parcel data—is that these data form the core materials for the accurate and proper measuring and documenting of the size, dimension, location, and characteristic attributes of real estate for their assessment of value and the value of their improvements (buildings, etc.) for levying property taxes. County governments are the responsible and authoritative level of government for carrying out this work as well as maintaining and updating the related datasets and records.

*The language in §389.03 and §505.08 of the statutes indicates that **tax parcel data are public documents**. This existing statute language governing these data was written at a time when these datasets (maps of parcels and records relevant to them) existed primarily in an analog (physical, usually paper) format. At that time, access, review and use of these data encompassed citizens and private-sector interests coming into a city hall or county courthouse archive to access the physical documents and make physical copies of them rather than the current technology which facilitates the download these data directly from on-line data portals.*

*The 2013 Minnesota law—§16E.30 Subd. 11(b)—does not authorize nor require the release of data that is **not public** or **nonpublic**. Data producing counties and municipalities are under no obligation to release data that is designated as not public or nonpublic under §13.01, Subd. 8 through Subd. 13. The state does not intend to request—nor should local governments provide—any information considered **not public** or **nonpublic** as per applicable state law.*

With the advent, rise and proliferation of the use of GIS, tax parcel data has become incredibly useful for many applications and analyses beyond the original purpose for which they were created. Making these data freely and openly available magnifies the value of the original investment in these datasets.

Geospatial data representing tax parcels—and potentially containing their attributes of land value and ownership—cannot be considered or used as a ‘legal plat’ documents or as an ‘official plat’.

Correct. There is no assertion on the part of the creators or users of GIS data which represent tax parcels and their attribute data that these data constitute or represent any kind of legal document. GIS data containing parcel data are a **digital representation** of the information contained in the original, legal survey documents. As digital representations, they can be used for a variety of useful analyses and visualization activities but they **cannot be used for the formal legal work or proceedings for which official plat maps are employed.** The disclaimer language that data users accept and agree to at the point of access, serve to indicate and acknowledge the limitations of the GIS data.

How do we know if a given geospatial dataset is public or not?

Public data. As per the specific language of §13.03, Subd. 1: “all government data collected, created, received, maintained or disseminated by a government entity shall be public unless classified by statute, or temporary classification pursuant to §13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential.”

Common datasets that are prepared and maintained by county and municipal governments that are considered public data and can be readily released through data portals include:

- Tax parcel boundaries;
- Tax parcel attribute data;
- Road centerline data and the attributes associated with it (street names, address ranges, etc.)
- Address point data (situs, building and establishment addresses);
- Data representing municipal and common jurisdictional boundaries;
- Voting precinct boundaries;
- Commissioner district boundaries;
- School district boundaries;
- Point data representing common facilities such as city halls, fire stations, police stations, boat landings, trailheads, historical markers, etc.
- Aerial imagery;
- Lakes, rivers, digital topography, park boundaries and trail networks.

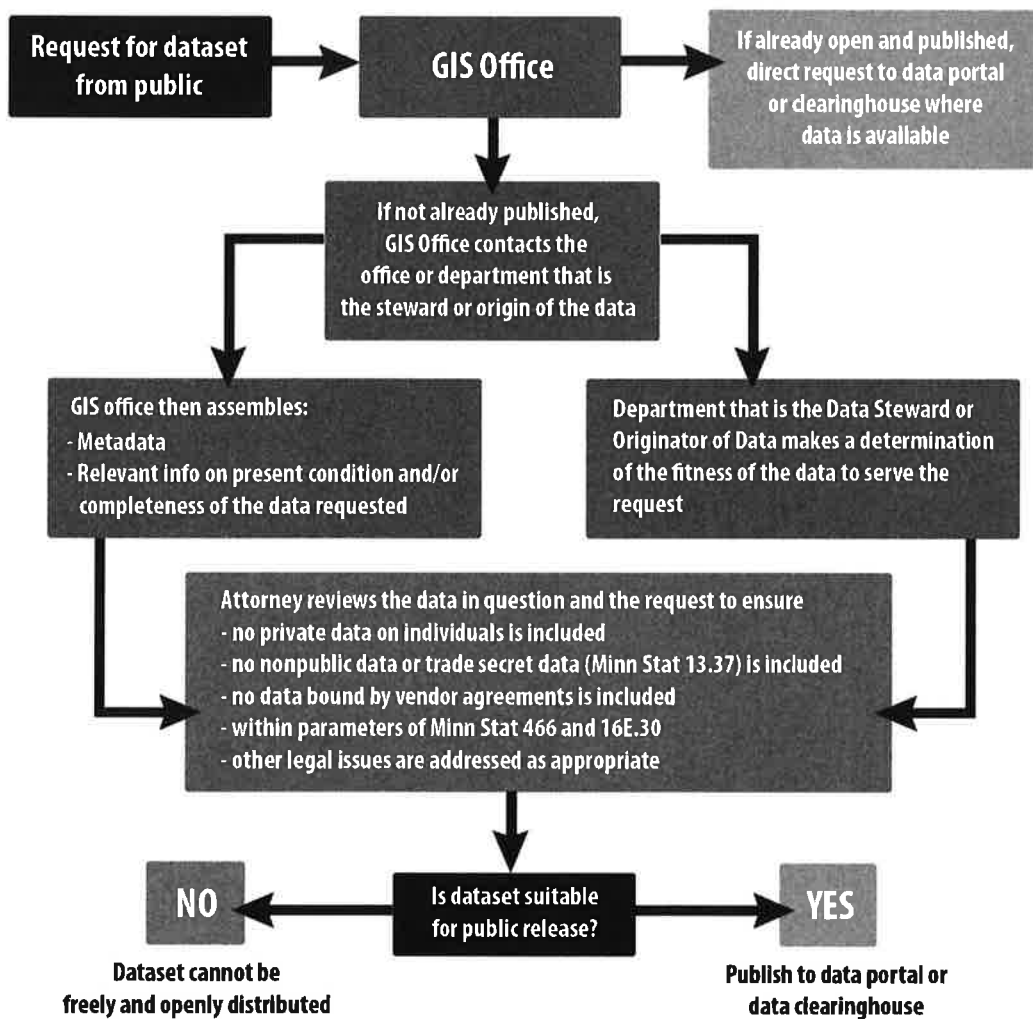
At present, there are various levels of discussion about the potential public availability of certain infrastructural datasets, including:

- Sanitary sewer and wastewater treatment systems and facilities;
- Water supply systems and facilities;
- Stormwater systems and facilities;
- Municipally-owned and managed power generation and supply facilities;
- Municipally-owned and managed telecommunications and fiber-optic networks.

Some cities and counties already make some of these data freely and openly available to facilitate the process of working with consulting engineers, vendors and other government agencies. Some cities and counties do not make this data public, citing a desire to minimize access to protect the assets and to maintain public safety.

Additional research into how to balance the demands of public safety, protection of public infrastructure assets and public access to data are set to continue by local, regional and state agencies.

Internal Data Review Process Each agency that is publishing data publicly or responding to requests for its data is advised to develop a consistent review process. A sample workflow of a local review process is offered below.



Policy Issues

Why did the state pass the 2013 law (§16E.30, Subd. 11) requiring local governments to share their data with other governments?

Lawmakers and government agencies at all levels understand that sharing data freely between government organizations and agencies is a necessary means to deliver government services effectively and make the most efficient use of tax dollars.

The citizens of Minnesota already pay to have the government run their various programs, deliver services and create the data. When one government organization charges another for its data, the citizen is, in effect, paying twice for that data. It has been revealed that government agencies in Minnesota have paid for data from other governments more than once (many different individual agencies or multiple divisions or units within an agency). In this scenario the taxpaying citizen has borne the cost of the data multiple times.

*Current public policy research studies are revealing that when data is freely and openly shared, the benefits leveraged in efficiency, staff time savings and productivity outweigh the costs associated with producing that data. In August 2014, the State of Maryland moved to an **open data initiative** and has found a significant increase in use of their data by users external to government (real estate, utilities, academia and others). A link to Maryland's data portal is provided below.*

Maryland Department of Planning

Link: <http://planning.maryland.gov/OurProducts/downloadFiles.shtml>

*Numerous counties in Minnesota have also found cost-savings and operational efficiencies by opening up their data following the recommendation and adoption of the **Resolution of Support for Free and Open Public Geospatial Data** made by the MetroGIS Policy Board in 2013.*

MetroGIS Free + Open Public Geospatial Data Page

Link: <http://www.metrogis.org/projects/free-open-data.aspx>

MetroGIS Policy Board Resolution of Support for Free and Open Public Geospatial Data

Link: http://www.metrogis.org/MetroGIS/media/qisdocuments/projects/003_MetroGISPolicyBoard_ResolutionOfSupport.pdf

Who was consulted before §16E.30, Subd. 11 was passed in 2013?

*As part of the **Minnesota Business Plan for Statewide Parcel Data Integration** the need for legislation was defined and discussed. This was also discussed with geospatial user groups, councils and advisory groups as well as legislators prior to becoming law. Our state chooses to provide geospatial data at no fee to users because, among other things, it avoids duplication, leverages the data for other uses beyond the business driver that caused it to be created, stimulates community and economic development opportunities, and leads to smarter decisions.*

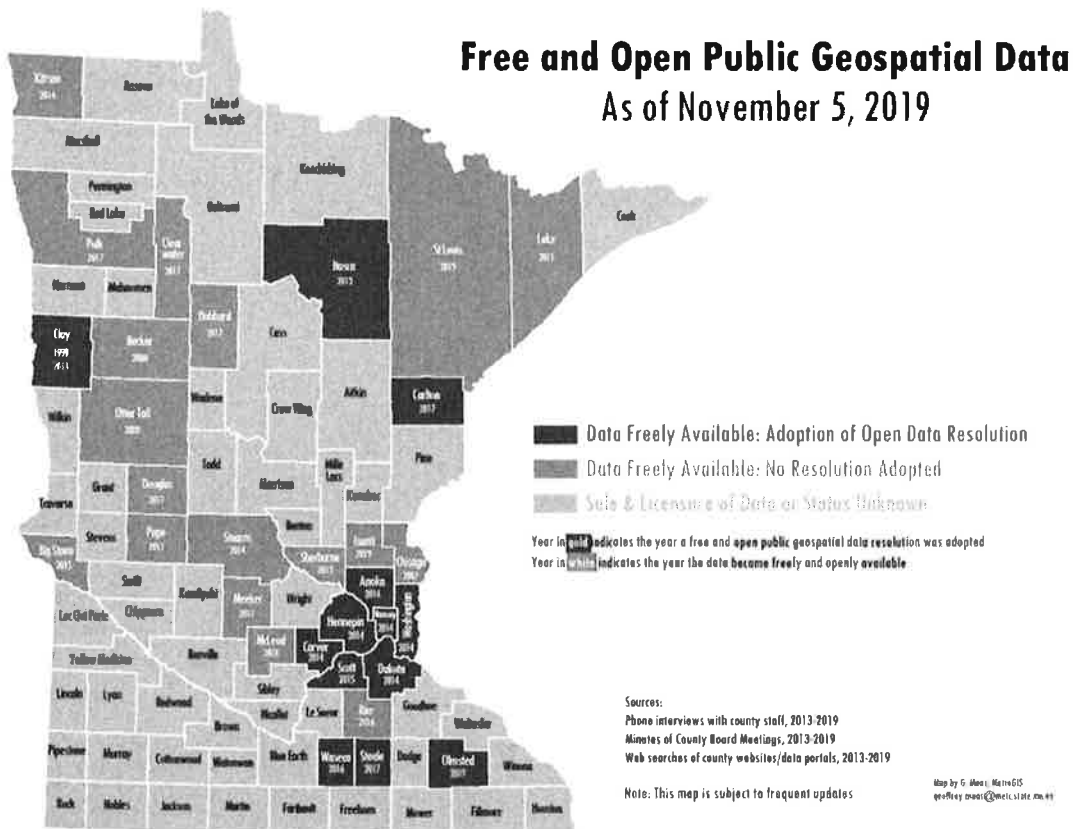
Minnesota Business Plan for Statewide Parcel Data Integration

Link: http://www.mnqeo.state.mn.us/coord/parcel_business_plan/

Several County Boards in Minnesota are formally adopting ‘free and open GIS data’ policies or resolutions. Is this a required step in moving toward free and open data?

No, it is not a requirement. Several counties—specifically the Seven Metropolitan Counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington) as well as Clay County (in western Minnesota) and Itasca County (in northern Minnesota)—in 2014-15 have found value in making a formal policy statement to open their data, and having that statement adopted by their County Board of Commissioners (shown in **dark green** on the map below). Several counties throughout the state are simply publishing their data—either through their own portal or via the Geospatial Commons—without a formal policy adoption action (these counties are shown in **light green** on the map below). While by no means required, having an adopted policy is a beneficial resource, especially to county GIS staff for the following reasons:

- An adopted policy provides **clarity and direction for the county’s GIS staff** to operate when working with the public, the business community and other entities and interests that require access to the data;
- County elected officials and leadership may turn over more frequently than county staff; having an adopted open data policy provides **continuity of practice**;
- Having an adopted a ‘free and open data’ policy signals that your county is **“open for business”** as open geospatial data is a vital resource for real estate, utilities, land development, research, and other industries and uses.



Fiscal Issues and ‘Value’ of the Data

How does a local government recoup the costs of data collection and processing when they must share it for free with other government entities?

As stated earlier in this research document, the creation and maintenance of tax parcel data is a responsibility tasked to county governments by the State Legislature under Chapters 389, 505 and 508 of the state’s statutes. Sharing data openly can directly reduce costs through more efficient use of staff time to generate and publish a single release of standardized data rather than multiple copies or releases of data in potentially different formats to different customers.

Organizations need to thoroughly evaluate their associated costs in a broad perspective with the added benefit of the larger public benefits realized. In some instances, local governments were spending two to three times in staff time and resources to sell and license data than they were generating in revenue. While data sales are a perceived short-term benefit, they can act as a net loss, keeping government staff from more productive activity and requiring additional effort that provides no net benefit to the local agency.

Partnering with adjacent and concurrent jurisdictions is another means of cost savings to produce, standardize and public geospatial data. Governments at all levels are encouraged to pursue the inclusion of shared geospatial data in the Geospatial Commons to reduce the number of individual requests that authoritative sources receive for the same or similar data. Putting data in the Geospatial Commons will help agencies and organizations that publish data to become more efficient. The Commons enables them to publish the data once at a trusted and easy-to-use site and provide reliable and consistent access to the full audience of data consumers.

Cost sharing partnerships with other organizations that can help reduce expenditures on data acquisition and data maintenance (e.g. aerial imagery or LiDAR data). Sharing data openly fosters better public relations and by provides more fertile ground for entrepreneurship and open development that can benefit the local area.

Many local governments in Minnesota are finding that the revenue generated from the sale of geospatial data to be lower than expected; costs associated with staff time processing the data requests, the handling of license agreements, and correspondence with internal departments and requestors of the data result in staff time expenses that exceed the revenue generated. Fees for access to the data limit the use of the data to only those who can justify the expense and creates a disparity in data access: a well-resourced power utility can afford to purchase the data while a non-profit community advocacy organization cannot.

An additional thought on the topic is the proposition of what “value” means. Many governments producing data ascribe the value of their data by how many users are making use of it, rather than the fee they can collect for it. A dataset that is downloaded frequently and is in use by many applications is therefore very ‘valuable’ and justifies the government’s actions and expense for maintaining and publishing it.

If we are asked to produce a map by a member of the public or a private business, can we charge for the time and materials it takes to perform that work? If we simply give away our electronic geospatial data, can we still sell our maps and plat books?

Yes. Even if you make your electronic geospatial data freely available for download through a portal or data clearing house, counties are still able to charge for the time and materials of producing and printing maps, responding to specific customer requests, preparing customized 'cuts' of geospatial data and to sell the cartographic products it prepares such as large paper maps, map books and plat books.

Liability Issues

Would we—as a data producer—incur any liability for the geospatial data we produce and release? Can we be held liable for any errors or omissions in our geospatial data?

Two Minnesota laws provide local governments protection from liability for geospatial data that they share, these are:

§16E.30 Subd. 11(b):

*“...government entities and agencies sharing and receiving electronic geospatial data under this subdivision **are immune from civil liability** arising out of the use of the shared electronic geospatial data...”*

§466.03 Subd. 21(a):

*§466.03 provides **exceptions** to section **§466.02 Tort Liability** for municipalities*

*“Any claim against a **municipality***, based on alleged or actual inaccuracies in geographic information systems data, arising from the public's use of GIS data, if the municipality provides a disclaimer of the accuracy of the information at any point of initial contact with a geographic information system to which the public has general access.”*

As per **§466.01, **municipality** means any **city** (whether organized under home rule charter or otherwise), **county, town, public authority, public corporation**, and many other categories of public organizations.*

If we provide a disclaimer with our data, are we protected from liability if any errors or omissions are later found in our data?

***Yes.** Providing a disclaimer is an important part of geospatial data delivery in Minnesota. Disclaimers generally contain statements that the data was produced at a scale and accuracy by your agency for a business purpose and that no claim is made that the data will satisfactorily meet another agencies purpose or specific needs.*

*Good data practice will have disclaimer statements at the point of download or access and as part of the metadata which accompanies the data. In state statute **§466.03, Subd. 21(a)** it states that “a disclaimer of the accuracy of the information” which is “available at any point of initial contact with a geographic information system to which the public has general access” provides protection from tort liability to the data producing agency.*

Disclaimer language that data users accept and agree to at the point of access indicates and acknowledges the limitations of the GIS data.

If we publish our tax parcel data, could we inadvertently expose sensitive, not public or nonpublic data? How do we safeguard protected or sensitive classes of citizens or individuals protected by the Safe At Home law?

This is an important and very valid concern. A common example would be the organizations that operate safe-houses and shelters for victims of domestic violence and abuse. It is imperative that the sites and facilities of these interests—and the clientele they serve and protect—remain protected. These organizations are in most cases already adept at how to maintain their records, name their businesses and manage their physical facilities, ownership records and tax records so their presence would be difficult to detect by those who would misuse this information. The state’s Safe At Home law offers a means for individuals to legally conceal their address for purposes of protection, details of which are found in the state’s statute language under §5B.01 through §5B.12.

*The following is taken from the **Minnesota Secretary of State’s** website:*

“The Safe At Home law is an address confidentially program offered through the Office of the Minnesota Secretary of State and is available to people who have personal safety concerns and who have an actual residence address in Minnesota. Safe At Home participants are often survivors of domestic violence, has been victimized by the stalking behavior of another, or has been sexually assaulted. People also enroll because they have safety concerns due to their profession such as law enforcement professionals. Whatever the reason, a person enrolls in Safe At Home because they have a significant safety concern and have decided that keeping their residential address, school address or employment address confidential is an appropriate part of their personal safety plan.”

Full information on the Safe At Home program can be found here:

*Minnesota Office of the Secretary of State, Safe At Home program information:
<http://www.sos.state.mn.us/index.aspx?page=1550>*

Statute language governing the handling Safe At Home participants and real property records are found in §13.045, Subd 4a and Subd 4b. Under this statute, it is the responsibility of the County Recorder to not disclose the program participant’s identity data in conjunction with the property identified. As per the language in the statute:

“Each county recorder shall establish procedures for recording or filing documents to comply with this subdivision. These procedures may include masking identity or location data and making documents or certificates of title containing the data private and not viewable except as allowed by this paragraph. The procedure must comply with the requirements of Chapters 386, 507, 508, and 508A and other laws as appropriate, to the extent these requirements do not conflict with this section.”

What this means for assessors and geospatial professionals in the normal course of their work is that any Safe At Home-related information is, has been or should be, removed from the record before it comes to your office for any kind of processing or publication. Consult with your County Recorder and your County Attorney to ensure your county has established necessary procedures under §13.045, Subd 4a [(a) through (d)] and §13.045, Subd 4b [(a) through (c)].

Our county maintains a geospatial data viewer through which the public can navigate an interface to view, click on, and get information about individual parcels, doesn't this satisfy making our data 'free and open'?

Counties are to be commended for publishing web-based interfaces that enable businesses, utilities, real estate professionals, elected leadership and the public at large to view, navigate and gather information.

These interfaces are tremendous resources for quickly getting information on a specific piece of property and understanding its surrounding context. Many counties include valuable supplemental information such as aerial imagery, road networks, zoning districts, park boundaries, contour maps, municipal boundaries and water features to provide additional context.

These kinds of web mapping interfaces are an important first step in demonstrating the value of the geospatial that is created and published at the county government level. However, in a web viewer environment like this, the data remains 'captive', in that, it cannot be downloaded—either in part or as a whole—for use in GIS software to perform analysis and mapping, for applications development or other various uses. Publishing and maintaining a web interface is valuable and useful; the value of the data is further enhanced by being fully downloadable and available for use.

The screenshot shows a web-based GIS interface for Wadena County. The main map area displays aerial imagery with a grid of parcels numbered 1 through 12. Parcel 10 is highlighted with a white box. A 'Single Feature' pop-up window is open on the right side of the map, displaying detailed information for the selected parcel (R223600120). Below the map, there is a table listing parcel data.

PARCEL_NUM	ACRES	Shape_Length	Shape_Area	PARCEL_NUMBER
R223600120	0.15	360.0001855604809	6500.001025233017	R223600120

The 'Single Feature' pop-up window displays the following information:

- Available Reports: Parcel Report (Go)
- Zoom to Feature button
- Feature Information:
 - Name: R223600120
 - ACRES: 0.15
 - Shape_Length: 360.0001855604809
 - Shape_Area: 6500.001025233017
 - PARCEL_NUMBER: 223600120
 - DEEDED_ACRES
 - PHYSICAL_ADDRESS: 414 BRYANT SE 56482
 - TAXPAYER_NAME: FRY/DAMIEN CRAIG
 - TAXPAYER_ADDRESS1: ANGELA MARIE FRY
 - TAXPAYER_ADDRESS2: 46 JAMES ST
 - TAXPAYER_ADDRESS3: CARNOUSTIE DD7 7JY SCOTLAND
 - TAXPAYER_CITY: UNITED KINGDOM
 - TAXPAYER_STATE
 - TAXPAYER_ZIP5
 - CITY_TOWNSHIP_CODE: 22

The example above is from the Wadena County GIS Public Map Service <http://gis.co.wadena.mn.us/link/jsfe/index.aspx>

The parcel data content is viewable in a table by selecting a parcel (or multiple parcels) but the data itself cannot be downloaded in part or as a whole for use in GIS software.

Publishing, Data Access and Data Availability

If we are willing to provide our data to the public freely and openly, but lack the resources to stand up a data portal for our agency, what options do we have?

The Minnesota Geospatial Commons has been in operation since mid-2014 and was formally and public launched in March of 2015. The Commons is a resource for geospatial data producers to publish their data and for data consumers to search for and acquire data for projects, services for applications.



The Commons is a robust data distribution site that can be used by both traditional and non-traditional GIS users, such as web developers, journalists and others. The Commons is not intended to provide web mapping functionality like "Google Maps" or "ArcGIS Online."

The Minnesota Geospatial Commons can be accessed here: <https://gisdata.mn.gov/>

The data in the Minnesota Geospatial Commons may not be as up-to-date as a given local government's data, so what is the incentive to 'warehouse it' there?

The state does not intend to "warehouse" all data for of Minnesota's data producers, but rather to provide a place that users see as the place of choice to go to find, evaluate, access, follow and stay connected with the best available data to meet their needs. In addition, we hope we have created a place that publishers want to put their data for others to discover.

For those partners that do not have their own delivery mechanisms the Minnesota Geospatial Commons is a place to publish their data and allow others access to it.

For those that do not want to provide access to their data through the Geospatial Commons we want to provide information and a metadata reference to data and point users to where the data may be obtained. Thus users would have a central location to find out if the data exists, if it is suitable and where it may be found.

Data that will be available in the Geospatial Commons is useful for many organizations as data residing there can be put together into statewide, regional, or areas that covers more than a single local government's jurisdiction.

Requiring each agency to acquire and process data from many multiple authoritative sources and governments individually is prohibitive. Bringing data to single location such as the Geospatial Commons significantly reduces the cost to the organizations and ultimately the citizen

For what reasons might any local government be concerned about what occurs in a neighboring local government?

Events, situations and the increasing complexity of work tasks assigned to government make it necessary for local governments to be aware of conditions and activities in neighboring jurisdictions. These include planning for future land use and development scenarios, activities related to utility, pipeline and transportation corridor studies, understanding watershed conditions, the sources of—and impacts from—air and water pollution, natural resource studies and events warranting mutual assistance for emergency situations such as fires, floods or other large-scale events. These types of activities are best handled through inter-jurisdictional cooperation.

Recent examples include the Pagami Creek Fire of 2011 in the Boundary Waters Canoe Area Wilderness and the flooding events in the Duluth area in 2012. These events led to the creation of the Arrowhead Regional GIS Collaboration between Carlton, Cook, Lake and St. Louis Counties in northeastern Minnesota.

Sharing data is a proven means of developing productive and efficient government. Many adjoining counties and cities throughout the State of Minnesota have—through the initial work of sharing their data—found additional opportunities to work together and leverage one-another's' expertise and technical knowledge to streamline their own efforts, reduce duplication and developing long-lasting partnerships.

I have questions about free and open geospatial data in Minnesota that are not addressed in this document, who can I contact or ask about them?

This document remains in development and we wish to continue to add new questions, ideas, and concerns to it as they arise.

Please email your question about free and open geospatial data to:

*Geoff Maas
maas0021@umn.edu
763.772.4287*

Additional Resources

INFORMATION POLICY ANALYSIS DIVISION: DEPARTMENT OF ADMINISTRATION

The Information Policy Analysis Division of the Department of Administration provides advice and assistance on Minnesota's public access and privacy laws to the public and government.

At their website, they offer a wide range of resources and information:

Information Policy Analysis Division website:

<http://www.ipad.state.mn.us/>

How to request information from government in Minnesota:

<http://www.ipad.state.mn.us/docs/datarequestmain.html>

MINNESOTA STATE LAW LIBRARY

The Minnesota State Law Library maintains up-to-date information about state and federal laws regarding public information, including the Freedom of Information Act and its reach.

Minnesota State Law Library, Freedom of Information Act page:

<http://mn.gov/lawlib/foia.html>

PUBLIC & PRIVATE DATA EXPLAINED: MINNESOTA DEPARTMENT OF HEALTH

The Minnesota Department of Health maintains an excellent website explaining the various types of public and private data as categorized and understood by state government:

The Minnesota Government Data Practices Act:

<http://www.health.state.mn.us/divs/opi/qov/chsadmin/data/mgdpa.html#c>

ADDITIONAL FREE + OPEN PUBLIC GEOSPATIAL DATA RESOURCES IN MINNESOTA

The MetroGIS collaborative has been actively researching and exploring the legal, fiscal, technical and policy implications of open data. They maintain a host of resources at their site including research and adopted free and open data policy language.

MetroGIS Free + Open Data Resource Page

<http://www.metrogis.org/projects/free-open-data.aspx>

Questions, comments or ideas on how to improve this document are welcomed, please contact:

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