



Capitol Area Architectural and Planning Board

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Date: March 28, 2022 (*for April 5, 2022 Board meeting*)
To: The Capitol Area Architectural and Planning Board (CAAPB)
From: Merritt Clapp-Smith, CAAPB Executive Secretary
Subject: **Update on Rulemaking Hearing and Rule Revisions Based on Input**

On March 14, 2022, Administrative Law Judge (ALJ) Ann O'Reilly presided over a public hearing on proposed amendments to Minnesota rules governing commemorative works on the Minnesota Capitol grounds. The hearing went smoothly and lasted two and half hours. Seventeen people spoke at the hearing and eight people submitted written comments on the OAH eComments website.

The Judge opened the hearing with an explanation of procedures, invited a formal presentation of the proposed rules by CAAPB representatives, and then opened the floor to public comments. The hearing concluded after the final comment. During the hearing, the judge asked a few questions and made a few suggestions about the rules. The hearing [video](#), [transcript](#), and [presentation](#) are available on the CAAPB website at <https://mn.gov/caapb/>.

With the hearing complete, CAAPB has one more step before the ALJ begins her review and recommendation on the proposed rule amendments. The agency must submit a "Response to Comments" letter to the Administrative Law Judge. The letter contains our written response to public hearing comments and identifies additional revisions to the proposed rule amendments.

Please review the proposed letter to the ALJ and the proposed rule revisions (items a. and b.) that accompany this memo in advance of the Board meeting. Items c. and d. are informational.

- a. Proposed "Response to Comments" letter to ALJ – for review and approval by the Board
- b. Revisions to proposed rule amendments – prepared by CAAPB staff, with rationale for each
- c. Comments and Replies – the 25 hearing comments and CAAPB reply to each
- d. Rulemaking Manual Chapter 9 – steps after the public hearing

Board approval of item a. is a vote on proposed rule language for the judge's review. It is not a Board vote on final rule amendments for commemorative works. That vote occurs after the judge submits her report and recommendations to the Board in mid-May to early June.

The next steps in the rulemaking process are shown on page 2 of this memo, as well as a draft resolution to approve submittal of the "Response to Comments" letter to Judge O'Reilly.

Draft Resolution authorizing CAAPB Executive Secretary to submit Response to Comments

Under rulemaking protocols, the CAAP Board should authorize issuance of the Response to Comments letter to the Administrative Law Judge, which includes updates to the proposed rule amendments. This requirement is explained in MN Rulemaking Manual Chapter 9 - item d.

The following resolution is recommended for Board approval:

The Capitol Area Architectural and Planning Board (CAAP Board) approves the submission of the Response to Comments letter, which includes revisions to the proposed rule amendments, to Administration Law Judge Ann O’Reilly for her review and consideration of proposed amendments to MN Rules 2400.2040 through 2400.2705. Executive Secretary Clapp-Smith is authorized and directed to act as the Board’s representative in submitting the Response to Comments.

Anticipated* Schedule of Rulemaking Steps

CURRENT AND FUTURE RULEMAKING STEPS <i>(already completed steps are not shown)</i>	EARLIEST POSSIBLE DATE / TIME PERIOD	STATUS
CAAPB Public Hearing; chaired by ALJ	March 14, 2022 10:00 a.m. - 12:33 p.m.	Complete
Hearing comment period	Thru April 4 @ 4:30 p.m.	
Draft Response to Comments letter to the ALJ	April 4 by 4:30 p.m.	
CAAPB Meeting – Review and vote on Response to Comments letter, which includes rule revision updates	April 5, 2022	
Rebuttal comment period	April 5 to April 11 @ 4:30 p.m.	
Final Response to Comments letter to ALJ	April 11 by 4:30 p.m.	
Admin Law Judge (ALJ) reviews all material and prepares recommendation to the CAAPB	April – May 2022	
CAAPB Meeting – Board considers ALJ recommendation and votes on rules for adoption	TBD – pending timeline and outcome of recommendation	
Adoption of amended rules into MN State Statute	TBD – after CAAPB vote	
Applications for Commemorative Works can be accepted if they meet the criteria of the amended rules.	TBD – following completion of CAAPB vote	

**Schedule above is subject to change based on decisions of the Board regarding when to proceed with certain rulemaking steps, or subject to unforeseen administrative delays in the rulemaking steps.*