MEMORANDUM

Ratwik, Roszak & Maloney, P.A.

TO: Kurt Ulrich

FROM: Joseph J. Langel, City Attorney

DATE: February 6, 2018

RE: Remote attendance at public meetings

You indicated that elected and/or appointed officials in Ramsey inquired about whether and how they can attend public meetings remotely. This inquiry raised some related questions as well, which are discussed below.

Issues

1. What options are available under the Open Meeting Law?
2. Are there any restrictions?
    a. How many members can be absent at the same time?
    b. Are there specific requirements at the remote location?
    c. Are there specific requirements at the regular location?
3. How does this impact voting rights and quorum requirements?
4. Are there special notice requirements if one or more members are attending remotely?

Discussion

1. Remote Options Available under the OML

The Open Meeting Law (OML), Minnesota Statutes section 13D.02, subdivision 1, allows a meeting to be conducted by interactive television. In Minnesota Department of Administration Advisory Opinion 13-009, the use of Skype was deemed suitable under the OML, given its similarity to interactive television. It is likely that software similar to Skype, such as FaceTime, would also be allowed under these provisions.

Note that the ability to use "a telephone or other electronic means" is available only to state agencies. *Minn. Stat. § 13D.015.* The League has suggested that this option be broadened to include cities, but that has not occurred. Consequently, only the "interactive television" option, or its equivalent, is available to cities, meaning combined audio-visual is required; having a member on speaker phone does not suffice.

2. Restrictions on Remote Options

a. How many members can be absent at the same time?

As long as one member is physically present at the regular meeting location, the rest of the council, board or commission can appear via one or more remote links.

b. Are there specific requirements at the remote location?

The remote location that a member is participating from is to be open and accessible to the public. *Minn. Stat. 13D.02 subd. 1(4)*. According to Advisory Opinion 13-009, this location can be outside the city. It is not required that the location be convenient for city residents; it just has to be open to the public. This can get a little awkward when the remote attendee is in a hotel room or relative's home and should be taken into consideration when choosing the remote location. Any member of the public showing up at the remote location must be able to see and hear all discussion and votes, which means the remote member may be sharing a computer screen with someone.

Note that *all* members of the body must be able to hear and see one another. This must be taken into account when considering camera and screen placement in the room. If there are two or more remote attendees, this can create substantial technical issues that must be worked out prior to the meeting.

Not only can the public be present at the regular meeting site and the remote site, the OML also allows the public to "monitor" the meeting electronically from a remote location "to the extent practical" if interactive television or its equivalent is being used. Any incremental costs incurred by the City to make that available may be charged to the person requesting it.

c. Are there specific requirements at the regular location?

At the regular location, both the public and the other members must be able to hear and see the member attending the meeting remotely. This may require more than one screen, depending on the room layout.

3. How does this impact voting rights and quorum requirements?

Voting rights are not impacted by remote attendance and a member attending remotely is considered present at the meeting for purposes of determining a quorum.

4. Are there special notice requirements if one or more members are attending remotely?

If interactive television or its equivalent are used, the city "shall provide notice of the regular meeting location and notice of any site where a member of the public body will be participating in the meeting." *Minn. Stat. § 13D.02, subd. 4.* The timing and method of notice is the same as with any other meeting of that kind (i.e., regular, special or emergency). Note, however, that if a regular meeting location changes (which would be the case if someone is attending remotely), notice must given in the same manner as a special meeting, meaning posted three days before the date of the meeting and mailed to whomever requested such notices. *Minn. Stat. § 13D.04.*

As a practical matter, this means that the member who is to appear remotely must inform City staff of the site where he or she will be for the meeting, and do so early enough that staff can post and mail a timely notice.