

**CITY COUNCIL SPECIAL WORK SESSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey City Council conducted a City Council Special Work Session on Tuesday, August 23, 2021, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Mark Kuzma
Councilmember Ryan Heineman
Councilmember Chelsea Howell
Councilmember Debra Musgrove
Councilmember Chris Riley
Councilmember Dan Specht
Councilmember Matt Woestehoff

Also Present: City Administrator Kurtis Ulrich
Administrative Services Director Colleen Lasher
Interim Community Development Director Bruce Westby

1. CALL TO ORDER

Mayor Kuzma called the City Council Work Session to order at 5:30 p.m.

City Administrator Kurt Ulrich stated City Staff sent out 11 questions for City Council review. He added there will be 40 minutes scheduled for each of the candidates.

Councilmember Heineman requested the addition of 2 questions, to be asked to each candidate, to be fair and consistent. He read his proposed questions:

- Please describe all factors that you would consider in regard to advising the city on how to respond to a Governor's Executive Order. What options are available to a City Council if they disagree with a Governor's Executive Order?
- The City of Minneapolis has chosen not to enforce certain laws such as marijuana laws and immigration laws, and recently schools in Texas have countermanded Executive Orders related to school safety. How do these examples reinforce or contradict your stance on the last question related to Executive Orders?

The consensus of the City Council was to add Councilmember Heineman's questions to be considered as Questions #7 and 7a.

Councilmember Riley requested clarification regarding a requirement for City Council attendance.

City Administrator Ulrich stated attendance was suspended due to Covid, as well as office hours on Wednesdays. He added office hours is an efficient way for City Staff to have access to the City Attorney to review legal issues. He added it is not always needed.

City Administrator Ulrich stated Mr. Langel started with a retainer of \$4,000/month, which was negotiated to a reduced retainer and a flat \$500 for attendance at City Council meetings. He added City Staff does not see the need to have him at every meeting, but may want to start that again, especially with a new attorney.

Councilmember Musgrove asked whether the City Attorney reviews cases and makes comments, even if they are not attending the meeting. She added it is not always noted on the case whether or not they have reviewed it.

City Administrator Ulrich confirmed that the City Attorney reviews all legal issues. He added it would be good practice to have the City Attorney note on the case that he reviewed it.

2. TOPICS FOR DISCUSSION

2.01: Interview Law Firms for City of Ramsey Legal Services

RATWIK, ROSZAK & MALONEY

Please describe the backgrounds of attorney(s) from your firm who will be assigned to Ramsey.

Joe Langel, Ratwik, Roszak & Maloney, stated his function has been as primary City Attorney for the City of Ramsey for the last 8 years. He added he has 26 years of legal experience, 99% of which has been government law. He noted he represents cities, counties, developers and individuals.

Christian Schafer stated he has been a lawyer for 14 years, all of it at Ratwik, Roszak & Maloney. He added he started his career in City law with the City of Golden Valley for whom he wrote an Ordinance that is still being used today. He noted he does mostly labor and employment law and has worked closely with Administrative Services Director Lasher, City Administrator Ulrich and department heads on a variety of issues, including revision of the City personnel manual, which he assumes is still in place, and a Resolution allowing Councilmembers to participate in the City health care plan.

Mr. Langel stated the team of 15 lawyers in the firm has worked on routine research matters and election law issues for Ramsey and other cities. He added the whole firm works together behind the scenes, shares insights and expertise, which is helpful for them as well as the client. He noted when you hire us, you hire the whole team.

How will your law firm make Ramsey a priority and meet the terms outlined in the RFP for meeting attendance, response time for council/staff inquiries, document review turn-around, and office hours?

Mr. Langel stated he receives emails and phone calls from department heads on various issues, and gets back to them as soon as possible, often immediately, with an answer. He added an issue may require more research, but they still try to get back to City Staff as soon as possible. He noted, with regard to office hours, which were stopped during the pandemic, he is flexible and will try

his best to accommodate the needs of the city. He noted, however, office hours can be unnecessary when there is not much to talk about

If your firm is not located locally, how do you intend to manage drive time and attending meetings in the city?

Mr. Langel stated he represents a lot of cities and that has never been an issue. He added Ramsey is within the metro area and getting to Ramsey for meetings is not a problem.

Do you feel it is appropriate for city staff to draft legal documents such as ordinances, purchase agreements, development agreements? If not, why? If so, what is your role to ensure the city's interests are protected?

Mr. Langel stated it depends upon the City. He added some cities do not have the knowledge base, but the City of Ramsey has historically been able to produce documents based on boiler plate templates that were created for individual projects. He noted templates are a good place to start and they can be revised or expanded as necessary.

Mr. Schafer stated he has worked on separation and settlement agreements, which also start out as a template. He added he agrees it is great to have a place to start.

Describe the most challenging municipal issue you have faced during your legal career? What were the circumstances and what was the outcome?

Mr. Langel stated he has had challenges in the past with Charter Commissions, but to be honest, the most challenging issue he has faced involved the Ramsey City Council in February 2021, when there was a strong disagreement between himself and the City Council over a Resolution. He added the City Attorney should handle it as best they can based on their legal background and expertise, and come up with what they feel is the best response. He noted his job is ultimately to represent the City Council and through them the City of Ramsey. He noted he does not always give an answer that people like, but that is not the ultimate goal.

If you did not list a monthly retainer as an option, please indicate why not, and whether your firm is open to such an agreement.

Mr. Langel stated his firm has had a retainer agreement with the City of Ramsey for years. He added there was an analysis of the retainer earlier this year, as there are months when it comes out as a losing proposition for him and his firm, although it depends upon what is going on, and there is always an ebb and flow. He noted he and his firm try to come up with an amount that is fair to both sides, which gives the City some sense of consistency in terms of cost.

Please describe all factors that you would consider in regard to advising the city on how to respond to a Governor's Executive Order. What options are available to a City Council if they disagree with a Governor's Executive Order?

Mr. Langel stated it depends on the nature of the Executive Order, which is based in State statute, granting the Governor broad authority with respect to emergency authority. He added a review of other Executive Orders gives a good idea of where the State stands in terms of their authority, and the City's authority, and potential impacts to the City. He noted cities have passed Resolutions expressing disagreement with Executive Orders. He stressed the importance of ensuring that the City does not get into potential legal difficulties based on a disagreement with an Executive Order.

The City of Minneapolis has chosen not to enforce certain laws such as marijuana laws and immigration laws, and recently schools in Texas have countermanded Executive Orders related to school safety. How do these examples reinforce or contradict your stance on the last question related to Executive Orders?

Mr. Langel stated it is his understanding that Minneapolis prosecutors have chosen not to force certain laws and that is persecutorial discretion, which does not have an impact on the law itself which still exists and is valid. He added, regarding immigration law, that is a 10th Amendment issue, and the feds cannot force local governments to assist them in enforcing federal law. He noted Minneapolis has instructed City employees not to cooperate with federal officers in enforcing immigration laws, and they have the right to do that.

Mr. Schafer stated, with regard to the issue in Texas, he works with many School Districts, and they can be in a precarious situation with these types of decisions and could risk losing their funding. He added there may be requirements attached to a source of funding.

Under Minnesota Statute (216B.36), cities can impose a fee on utility companies that use the public rights-of-way to deliver service. What advice or caution would you give the city in regard to the use of franchise fees?

Mr. Langel stated franchise fees can be contentious, although some cities find that they are a straightforward funding mechanism to raise funds for roads or building improvement purposes. He added there are arguments that it is an unfair tax that hits certain demographics harder than others and is not appropriate, but those are policy issues. He noted, from his perspective, this is a matter of knowing what arguments are out there and having a policy discussion at the City Council level.

Mr. Langel stated there are other ways besides the franchise fee to find money for roads, including raising taxes. He added the role of the City Attorney is to frame it in terms of legal requirements. He reiterated it is a policy issue.

How would you describe the role and relationship the City Attorney has with individual City Council Members?

Mr. Langel stated the City Attorney should respond to communications from the City Council and City Staff as quickly as possible. He added they do not get much communication directly from the City Council, as most contact is through City Staff. He noted Councilmembers have very limited individual authority, and the City Council acts as a group to direct the City Attorney's actions.

Mr. Schafer stated several of their clients have policies dictating who can contact the City Attorney, outside of the retainer. He added they usually ask City Councilmembers or City Staff whether they have such a policy, but they are always happy to answer any questions.

Do you have any concerns with any of the terms outlined in the RFP?

Mr. Langel stated he does not have any concerns with the RFP.

Any other questions and/or concerns?

Mr. Langel stated he does not have questions or concerns. He added he is curious about the need to go out for RFPs, as he has been the City Attorney for 8 years. He asked, going forward, what the City Council is looking for in a City Attorney.

Councilmember Musgrove stated the City had a Joint Powers Agreement (JPA) that was neglected, and she is interested in a City Attorney that would represent the City and its residents with twice-yearly JPA reviews.

Mr. Langel stated, as City Attorney, he does not take any action or spend public funding unless he is directed to do so. He added, with respect to the JPA, his firm has created and revised hundreds of JPAs.

Councilmember Heineman stated he would want the City Attorney to be proactive with current events, including crime prevention and law enforcement at the state or federal level, so that when issues arise there is a general breadth of knowledge and understanding that is already available.

Councilmember Howell stated she is looking for a City Attorney that will bolster the City Council's position even when he might not agree with it. She added the City Attorney can give advice and direction, but when the City Council gives direction, the City Attorney should remain neutral but also proactive.

Mr. Langel stated, as he indicated when the Resolution was passed, he will give advice based on his knowledge and what he thinks is appropriate, to provide alternatives and options, and to protect the City. He added, when the City Council makes a decision, he will defend their position, even if he thinks they are wrong. He noted, for example, after the City Council's Resolution, it would have been his job to lead the City in any potential litigation from the Attorney General's office, even if he did not agree with the City's position.

Mr. Schafer stated an organization's director contacted him regarding a Covid safety-related question and indicated he did not agree with a decision that was being made. He added he provided information about what the governing body needs to do, and what factors to consider and legal details to provide.

Mayor Kuzma stated he has worked with Mr. Langel since he became the City Attorney. He added he has had a good working relationship with Mr. Langel and the firm, and they represent the City well. He noted he is very happy with the service they provide.

Councilmember Riley stated what he is looking for in a City Attorney is flexibility and availability, to be able to provide what the City wants from the City Attorney. He added he would like to have a City Attorney that would attend Council meetings and get the right fit and provide sound advice.

Councilmember Musgrove stated the RFP says Timothy Sullivan will also serve on the team. She requested background on Mr. Sullivan.

Mr. Langel stated Timothy Sullivan currently does labor and employment work as well as general counsel for the City of Isanti. He added Mr. Sullivan provides back-up for him on a number of cities as well as being a City Attorney in his own right.

ECKBERG LAMMERS, P.C.

Please describe the backgrounds of attorney(s) from your firm who will be assigned to Ramsey.

Pam Whitmore, Eckberg Lammers, stated she will serve as City Attorney with back-up from Chris Nelson and Lida Bannink. She added Ms. Bannink is the firm's employment law specialist.

Ms. Whitmore stated she began her career in litigation 30 years ago defending municipalities in all types of civil litigation matters. She added she worked for the League of Minnesota Cities, first as General Counsel and then transitioned to Insurance Trust. She noted she handled cases from member cities who were experiencing conflict between the City Council and City Staff or the public and spent five years working with cities all across Minnesota. She noted she brought that spirit of collaboration when she moved to a law firm.

Ms. Whitmore stated Chris Nelson works for several different cities, and Blaine currently takes up most of his time. She added he has expertise in development.

How will your law firm make Ramsey a priority and meet the terms outlined in the RFP for meeting attendance, response time for council/staff inquiries, document review turn-around, and office hours?

Ms. Whitmore stated she will be the lead contact, dedicated to the City of Ramsey, mindful of City Staff and City Council's schedules. She added she is very relationship-based and collaborative in her approach. She stressed the importance of responsiveness and spending time in the community.

If your firm is not located locally, how do you intend to manage drive time and attending meetings in the city?

Ms. Whitmore stated she lives in Plymouth, although the firm is in Stillwater. She added she is focused on western and southwestern cities based on her home location. She noted many people

have learned to be productive while working remotely, and her firm makes arrangements with offices when staff do not want to travel to Stillwater.

Do you feel it is appropriate for city staff to draft legal documents such as ordinances, purchase agreements, development agreements? If not, why? If so, what is your role to ensure the city's interests are protected?

Ms. Whitmore stated it depends upon the situation and what type of document or ordinance. She added a developer agreement from scratch is different from a standard Ordinance, especially if there is a good template that can be used. She noted it is a wise practice for the City Attorney to take a look at the final document so City Staff can address any advisable changes.

Describe the most challenging municipal issue you have faced during your legal career? What were the circumstances and what was the outcome?

Ms. Whitmore stated her most difficult challenges have been with development. She added sometimes projects are started before a road was developed or infrastructure approved. She stressed the importance of working through the emotional aspects of development and being responsive to residents.

If you did not list a monthly retainer as an option, please indicate why not, and whether your firm is open to such an agreement.

Ms. Whitmore stated a monthly retainer was listed as an option.

Please describe all factors that you would consider in regard to advising the city on how to respond to a Governor's Executive Order. What options are available to a City Council if they disagree with a Governor's Executive Order?

Ms. Whitmore stated the role of the City Attorney is to understand and advise the City as a whole. She added that can be a difficult role as there are many different goals and objectives that are important to people. She noted it is important to do the research and provide advice and information for the City Council with regard to a sound decision. She noted she is not afraid to have difficult conversations, and provide advice on recommendations that may lead to additional issues later.

The City of Minneapolis has chosen not to enforce certain laws such as marijuana laws and immigration laws, and recently schools in Texas have countermanded Executive Orders related to school safety. How do these examples reinforce or contradict your stance on the last question related to Executive Orders?

Ms. Whitmore stated her previous statement covers this question. She added she reviews pros and cons and does the research on the decision. She noted she has had a lot of experience in engaging with the public, and she has experience with holding listening sessions with the public, if the City Council would want to get public input and feedback in an efficient way.

Under Minnesota Statute (216B.36), cities can impose a fee on utility companies that use the public rights-of-way to deliver service. What advice or caution would you give the city in regard to the use of franchise fees?

Ms. Whitmore stated that is an evolving area and she would need to look into it. She added she knows there are a lot of concerns about franchise fees and what they are ear marked for, but she would need to review the statute to see how other cities and public organizations have handled this issue.

How would you describe the role and relationship the City Attorney has with individual City Council Members?

Ms. Whitmore stated the City Attorney's role is to be an advisor to the City Council and City Staff. She added it is important to listen openly and hear various perspectives. She noted some cities have policies regarding whether City officials can talk to City Attorneys.

Do you have any concerns with any of the terms outlined in the RFP?

Ms. Whitmore stated she does not have any concerns.

Any other questions and/or concerns?

Ms. Whitmore stated she is curious to know what has gone well with the current City Attorney, and what the City Council feels is a good productive relationship.

Mayor Kuzma stated the current City Attorney has been with the City for 8 years and has a good working relationship with the City Council. He added the City Council has agreed that it is time to see what else is out there.

Ms. Whitmore stated her firm offers proactive governance training, focused on education and relationship building, as well as grooming a good working relationship with the cities they work for.

Councilmember Riley asked whether there is benefit in having both attorneys from one firm. Ms. Whitmore stated there is more opportunity for the attorneys to be able to work together in an integrated manner.

Councilmember Specht asked whether the City Council would go through City Staff with any questions for the City Attorney, or whether individual communication would be welcome.

Ms. Whitmore stated she would ask what the City Council and City Staff are comfortable with. She added she did not see a policy about that in place. She noted the City's Charter and Ordinances are well-written and detailed. She noted she would follow policy first for communication with Councilmembers keeping the City Administrator in the loop.

City Administrator Ulrich stated, with regard to ordinances, a City objective is to simplify the Ordinance process for public understanding. He asked about the process for getting a simple Ordinance that is easy to understand.

Ms. Whitmore stated Ordinances must be reviewed in their entirety, and feedback and comment received from the people who are charged with enforcing it. She added other jurisdictions should be consulted to determine whether there is an existing template that can be used and simplify the process. She noted she would base the process on her analysis of her review of the Ordinance.

FREDERICK “FRITZ” KNAAK (HKB Law)

Please describe the backgrounds of attorney(s) from your firm who will be assigned to Ramsey.

Fritz Knaak stated he is bidding this aggressively, and he would represent the City of Ramsey. He added he wants to represent cities that he finds interesting. He added he has decades of municipal law experience in a variety of areas of expertise. He noted the bottom line is that he is very good at this, and he will be very involved with the City Administrator and City Staff, including weekly meetings on Zoom, on Mondays for a flat fee. He noted he shows up for City Council meetings.

Mr. Knaak stated the advantage with him is that he believes it is a good idea to get problems solved right away. He added developing a relationship with the City Council is important. He noted, if questions are asked early in the decision-making process, the difficult issues are easier to resolve.

Mr. Knaak stated the City will receive answers from him very quickly. He added he does not juggle multiple cities at one time, and he tries to focus his energy. He noted it is very satisfying to work with public clients, and he used to be in the legislature, and he has a lot of admiration for people who serve their communities at the City level.

Mr. Knaak stated he has a lot of experience teaching open meeting law, data practices, and other types of training for lawyers all across the country.

How will your law firm make Ramsey a priority and meet the terms outlined in the RFP for meeting attendance, response time for council/staff inquiries, document review turn-around, and office hours?

Mr. Knaak stated his assistant will always answer the phone, and it will go straight to him. He added he is always on top of things that need to be done, especially with new technology and Zoom meetings.

If your firm is not located locally, how do you intend to manage drive time and attending meetings in the city?

Mr. Knaak stated he has been doing this for a long time, and he figures out drive time. He added the priority is to get here.

Do you feel it is appropriate for city staff to draft legal documents such as ordinances, purchase agreements, development agreements? If not, why? If so, what is your role to ensure the city's interests are protected?

Mr. Knaak stated he does not have a problem with experienced staff drafting ordinances. He added he would be responsible for reviewing the draft for legality. He added he can also provide Ordinances unless they are radical.

Describe the most challenging municipal issue you have faced during your legal career? What were the circumstances and what was the outcome?

Mr. Knaak stated the really hard issues are related to personnel. He added he has had a few situations with police chiefs and allegations of inappropriate conduct with staff. He noted those are difficult situations.

Mr. Knaak stated he was involved in an RDF for the City of Newport that was very complicated but also interesting.

If you did not list a monthly retainer as an option, please indicate why not, and whether your firm is open to such an agreement.

Mr. Knaak stated he is proposing a flat fee, so no one will have to worry about costs. He added, more importantly, the City will not feel any kind of adverse influence about using his services. He noted he believes in having contact with individuals at the City through the City Administrator.

Mr. Knaak stated he may have conversations with the City Council outside of the City Administrator, but he will notify the City Administrator that there has been a conversation.

Please describe all factors that you would consider in regard to advising the city on how to respond to a Governor's Executive Order. What options are available to a City Council if they disagree with a Governor's Executive Order?

Mr. Knaak stated, regarding executive orders, a City can choose to defy a Governor's order. He added the issue is how much authority the governor has over the actions of a City. He noted a number of cities have done this, but it remains an unresolved judicial issue. He noted it is not for him to judge one way or the other.

The City of Minneapolis has chosen not to enforce certain laws such as marijuana laws and immigration laws, and recently schools in Texas have countermanded Executive Orders related to school safety. How do these examples reinforce or contradict your stance on the last question related to Executive Orders?

Mr. Knaak stated there is a lot of controversy and things are done differently in Minneapolis. He added he believes people are irritated by the City pushing its problems elsewhere. He noted how the City of Ramsey reacts to these issues is entirely up to you.

Under Minnesota Statute (216B.36), cities can impose a fee on utility companies that use the public rights-of-way to deliver service. What advice or caution would you give the city in regard to the use of franchise fees?

Mr. Knaak stated he has read that Ramsey is talking about a franchise fee. He added franchise fees were discussed in Fridley, and it was decided that they should only be applied to matters directly related to television programming and the internet. He noted his opinion was that there was no restriction in the law in terms of how fees can be applied, although Fridley decided they were not interested in potential controversy, even though the revenues were attractive.

How would you describe the role and relationship the City Attorney has with individual City Council Members?

Mr. Knaak stated the City Attorney should know what he is doing and offer sound advice, and the City Council will gain confidence in him. He added the rest of it is individual relationships. He noted, in his experience, the best way to deal with City issues is through the City Administrator, although it is fine to have friendships with Councilmembers.

Do you have any concerns with any of the terms outlined in the RFP?

Mr. Knaak stated he does not have any concerns.

Any other questions and/or concerns?

Mr. Knaak stated going through the RFP process on a regular basis is a very good idea. He added he is curious about the process, and he would really like to be Ramsey's lawyer.

Councilmember Specht asked him what it is about Ramsey that gets Mr. Knaak so excited.

Mr. Knaak stated Ramsey is what he calls a "cusp" city, on the edge of development, experiencing pressure from people who don't want development, but also encouraged by people who support development. He added this has happened all over the Twin Cities, and as a City Attorney, this is where the most interesting situations arise.

Councilmember Riley asked whether Mr. Knaak would give the City Council advice on important issues such as an executive order or franchise fees. He added Mr. Knaak indicated that it is up to the City Council.

Mr. Knaak stated he would not interfere with a decision of the City Council. He added, in his opinion, one of the worst things a lawyer can do is offer a personal political view, as it should be the City Attorney's job to show the City all possible ramifications. He noted the bottom line is that it is the City Council's call.

KENNEDY GRAVEN

Mayor Kuzma stated, for purposes of clarification, Kennedy Graven is one of his clients. He added he does not have anything to do with attorneys. He noted he checked to make sure there is no conflict of interest.

Please describe the backgrounds of attorney(s) from your firm who will be assigned to Ramsey.

David Anderson stated Kennedy Graven is a 35-attorney firm in downtown Minneapolis, representing public clients, including townships and cities. He added he has been at the firm for about 5 years, and also works for a handful of other cities in Minnesota, as well as a Joint Powers Watershed District in Hennepin County. He noted a big selling point for his firm is that they have so many attorneys specializing in a variety of different areas, and there is always someone in his office who has seen an issue before. This provides clients with an efficient work product, which they will see on their bottom line, because it will not be necessary for him to spend time doing research.

Mr. Anderson stated Joe Sathe is another attorney at Kennedy Graven who will work with him for Ramsey. He added Mr. Sathe also focuses on municipal law and specialized over the past year on Covid-19 related issues like CARES funding.

How will your law firm make Ramsey a priority and meet the terms outlined in the RFP for meeting attendance, response time for council/staff inquiries, document review turn-around, and office hours?

Mr. Anderson stated his goal will be to provide extremely high-level communication and response times. He added the RFP has set up reasonable expectations, and he appreciates having that figured out on the front end. He noted it all comes down to open communication.

If your firm is not located locally, how do you intend to manage drive time and attending meetings in the city?

Mr. Anderson stated his firm is located in Minneapolis, and he will bill his drive time, because when he is travelling to City Council meetings that is time that he is unable to work for other clients. He added he lives in Arden Hills, which is closer to Ramsey, and that will be where he bills his drive time from. He noted other cities have asked about that, and he is willing to discuss it.

Mr. Anderson stated he is available for all City Council meeting nights, on the 2nd and 4th Tuesday of the month. He added he will also be available for special meetings and Planning Commission meetings. He noted, if he is not available, another attorney from his firm will be able to attend.

Do you feel it is appropriate for city staff to draft legal documents such as ordinances, purchase agreements, development agreements? If not, why? If so, what is your role to ensure the city's interests are protected?

Mr. Anderson stated larger cities like Ramsey, with sophisticated staff, can draft initial documents, and that can be a very efficient practice. He added he works with Community Development

Directors and Planning Directors who will take a first crack at a development agreement. He noted it is important to have a City Attorney's eyes on it eventually, but he would never discourage a City from drafting ordinances and agreements.

Describe the most challenging municipal issue you have faced during your legal career? What were the circumstances and what was the outcome?

Mr. Anderson stated he dealt with a personnel issue involving open meeting law that got very contentious and lasted over 4 months. He added most people can work through differences, or agree to disagree. He noted his role as City Attorney was to ensure that the City did not do anything to get itself into trouble, and the outcome was okay in this case.

If you did not list a monthly retainer as an option, please indicate why not, and whether your firm is open to such an agreement.

Mr. Anderson stated he did not list a monthly retainer, although his firm does have some retainers with clients, and he is open to discussing it. He added it is difficult with new clients to come up with a retainer number until it is determined how much work there will be. He noted he would request that the City have a review after 6 months or a year for potential adjustment, to ensure that the hours match the retainer.

Please describe all factors that you would consider in regard to advising the city on how to respond to a Governor's Executive Order. What options are available to a City Council if they disagree with a Governor's Executive Order?

Mr. Anderson stated many cities were navigating new situations during the pandemic with regard to executive orders. He added it is important for cities to consider the legal authority of the governor to enact the order and its underlying purpose, if they intend to disregard or not enforce the order at City Hall. He noted Governor's Orders are meant to regulate all cities, and it comes down to what is practical and enforceable.

The City of Minneapolis has chosen not to enforce certain laws such as marijuana laws and immigration laws, and recently schools in Texas have countermanded Executive Orders related to school safety. How do these examples reinforce or contradict your stance on the last question related to Executive Orders?

Mr. Anderson stated a number of factors go into making these kinds of decisions. He added Minnesota cities can make legislative and policy decisions that are afforded immunity from liability. He noted every situation is different, and there may be reasons for not enforcing a rule or taking a different policy approach.

Under Minnesota Statute (216B.36), cities can impose a fee on utility companies that use the public rights-of-way to deliver service. What advice or caution would you give the city in regard to the use of franchise fees?

Mr. Anderson stated he advises cities that increasing franchise fees really only passes the costs on to your residents. He added, however, it is a tool that cities can use, although it can be seen as raising taxes in a roundabout way. He noted it is important for cities to keep that in mind.

How would you describe the role and relationship the City Attorney has with individual City Council Members?

Mr. Anderson stated every city is a little different, and the relationship starts with mutual respect. He added City Councilmembers have an important role, serving their communities and protecting the city. He noted Councilmembers can call him and ask questions, although he respects that many cities have policies about that.

Mr. Anderson stated City Councilmembers have a difficult job, and he respects and admires their dedication. He added as long as there is mutual respect and support, everything will go smoothly between the City Attorney and City Councilmembers.

Do you have any concerns with any of the terms outlined in the RFP?

Mr. Anderson stated he does not have any concerns about the RFP. He added, if he were lucky enough to be appointed as Ramsey's City Attorney, he would be open to whatever kind of contract the City Council is comfortable with. He noted he is open to a retainer if that is the preference, but he would like to talk about that beforehand.

Any other questions and/or concerns?

Mr. Anderson stated he does not have any more questions.

HOFF BARRY, P.A.

Please describe the backgrounds of attorney(s) from your firm who will be assigned to Ramsey.

Sarah Schwarzhoff, Hoff Barry, stated she would be assigned to be the City Attorney for Ramsey. She added she has been practicing municipal law for 13 years, since she graduated from law school in 2008. She noted she attends City Council meetings, Planning Commission meetings and works with City Staff on resolutions and ordinances, works with City Councilmembers when necessary, and sometimes even works with residents.

How will your law firm make Ramsey a priority and meet the terms outlined in the RFP for meeting attendance, response time for council/staff inquiries, document review turn-around, and office hours?

Ms. Schwarzhoff stated the City of Ramsey would be her primary responsibility and her priority, and she has some other clients but they are smaller than Ramsey. She added she would attend all City Council meetings unless she is on vacation or ill, and then someone else from her office will be ready and prepped on all the issues. She noted she returns phone calls within 1-2 hours, responds to emails right away, and meets document review deadlines. She noted there are 3 other

attorneys in her office, and they all do municipal law as well as some litigation for the League of Minnesota Cities.

If your firm is not located locally, how do you intend to manage drive time and attending meetings in the city?

Ms. Schwarzhoff stated her firm is located in Eden Prairie, and it took her 40 minutes to drive to Ramsey, and drive time would be billed. She added she does not generally go out to cities except for City Council meetings except upon request. She noted she has found that office hours are not cost effective, and with technology there are many other options.

Do you feel it is appropriate for city staff to draft legal documents such as ordinances, purchase agreements, development agreements? If not, why? If so, what is your role to ensure the city's interests are protected?

Ms. Schwarzhoff stated some documents, like resolutions, can be drafted by staff. She added she has template documents for ordinances and contracts that work well in certain situations. She noted she always reviews the agenda packet before going into a City Council meeting, to ensure that all legal documents are acceptable.

Describe the most challenging municipal issue you have faced during your legal career? What were the circumstances and what was the outcome?

Ms. Schwarzhoff stated she dealt with issues related to the street fee, similar to water or sewer collector fees, which used to help develop the network. She added street fees were overruled by the Supreme Court, which has been a big issue for growing cities.

Ms. Schwarzhoff stated another challenging issue has been e-cigarette stores, which have been heavily debated. She added one of her cities prohibited them, but a lease had already been signed for a storefront, and the business owner went out of business and sued the City. She noted she cannot stop the City from getting sued, but she can make the City Council fully aware of the risks.

Ms. Schwarzhoff stated the solution was to work with the City Council to apprise them of all risks and conditions, and then build a defense if the City gets sued.

If you did not list a monthly retainer as an option, please indicate why not, and whether your firm is open to such an agreement.

Ms. Schwarzhoff stated her firm did not list a retainer, but they are open to it. She added bills are very standard after a few months and are fairly detailed. She added attorneys often ask for a retainer if they believe a client is not going to pay.

Please describe all factors that you would consider in regard to advising the city on how to respond to a Governor's Executive Order. What options are available to a City Council if they disagree with a Governor's Executive Order?

Ms. Schwarzhoff stated her job is to provide legal advice, and she does not get into politics. She added she does not care what the City Council's decision is. She noted her job would be to do some research and investigation, review options, and potentially challenges in court, and provide legal advice, whether or not she agrees with the City Council.

The City of Minneapolis has chosen not to enforce certain laws such as marijuana laws and immigration laws, and recently schools in Texas have countermanded Executive Orders related to school safety. How do these examples reinforce or contradict your stance on the last question related to Executive Orders?

Ms. Schwarzhoff stated this is two separate issues, and the Minneapolis City Council wants to take a stand.

Under Minnesota Statute (216B.36), cities can impose a fee on utility companies that use the public rights-of-way to deliver service. What advice or caution would you give the city in regard to the use of franchise fees?

Ms. Schwarzhoff stated she has another city that is increasing their franchise fees. She added I have another city that is increasing their franchise fee, and they are a great source of revenue. Noted the City Councils and councilmembers are careful to stress that the fee has simply moved to the water bill, and it can be used as a good source of money.

Ms. Schwarzhoff stated this would also tax churches, which are not normally taxed, although they use the electrical grid. She added most franchise fees are a good tool to use for dedicated funds.

Ms. Schwarzhoff stated the franchise fee just makes sense as a source of money.

How would you describe the role and relationship the City Attorney has with individual City Council Members?

Ms. Schwarzhoff stated it depends upon the city. She added some City Councilmembers call her all the time, but some cities have restrictions on who can contact the City attorney. She noted it makes the most sense to go through city staff, although she is happy to talk to City Councilmembers and answer questions. She noted she loops in the City Administrator.

Do you have any concerns with any of the terms outlined in the RFP?

Ms. Schwarzhoff stated the RFP appears to be reasonable, and City work is standard across the board, in her experience. She added her firm represents both big and small cities, and what matters is how the City attorney interacts with them.

Any other questions and/or concerns?

Ms. Schwarzhoff stated she bills hourly, but client's bills tend to go down after she has worked with them. She added efficiency is incredibly important to her, and she is able to do excellent

quality work in a much shorter period of time by using standard contracts for staff. She noted her firm is small but efficient, and they have the experience and backup if needed.

Councilmember Riley asked whether Ms. Schwarzhoff's firm represents Elk River and Dayton, two cities that are close neighbors of Ramsey.

Ms. Schwarzhoff stated her firm does not represent those cities as city attorney, but rather has done legal work for them through the League of Minnesota Cities. She added her firm does not represent any cities that share a border with Ramsey.

Councilmember Heineman asked whether there are any parallels between street fees and franchise fees, and whether franchise fees could be challenged at that level.

Ms. Schwarzhoff stated franchise fees have a long history and are subject to different statutes and rules. She added street fees are more of a development issue with a whole list of related fees including trunk charges for water and sewer. She noted, even when street fees were being charged, they were considered questionable due to a lack of obvious authority to charge them.

Ms. Schwarzhoff stated there has been a lot of push back from developers regarding fees and requirements, which they say prevents affordable housing. She added she believes that to be nonsense, but she is biased, and in most cases, the fees are related to what the City actually expends for services.

COUNCIL DISCUSSION

Mayor Kuzma requested a recap from the Councilmembers.

Councilmember Specht stated he liked Mr. Knaak, who had the side of experience and a smaller firm, as well as more access for the City Council. He added he felt like some of the others were too big.

Mayor Kuzma stated he has no problems with the current attorneys. He added he really liked Ms. Whitmore of Eckberg Lammers, even though she danced around the 7th and 8th questions. He added he felt that Mr. Knaak's firm was too small. He noted Kennedy Graven would be okay, but their firm is very large, and Hoff Barry would be okay too.

Councilmember Riley stated he did not care for Kennedy Graven as they are a big firm and the attorney is fairly new, backed up by an even newer attorney. He added he also did not like Ms. Whitmore from Eckberg Lammers, as she talked a lot and had broad experience, but no expertise. He noted Mr. Langel scored highest with him, along with Ms. Schwarzhoff, who was very knowledgeable.

Councilmember Riley stated he did not get a strong impression of Mr. Knaak, although he made it clear he wants to work with Ramsey. He added he would need to hear more from Mr. Knaak.

Councilmember Howell stated Mr. Anderson from Kennedy Graven seemed very inexperienced. She added she was not impressed with Ms. Whitmore who did not give direct answers. She noted Mr. Knaak was in the top two for her, along with Ms. Schwarzhoff.

Councilmember Woestehoff stated Ms. Schwarzhoff was his number one, with Mr. Langel at number 2, Eckberg Lammers at number 3, Mr. Knaak at number 4, and Kennedy Graven in last place. He added he liked Ms. Whitmore's willingness to participate in public comment, and her experience with education. He added he would support a lawyer who knows a little about everything, which seems to be Ms. Schwarzhoff from Hoff Barry.

Councilmember Musgrove stated she scored Eckberg Lammers as the lowest. She added she is looking for more legal answers. She noted she ended up with a 3-way tie between Mr. Langel, Mr. Anderson and Mr. Knaak, although she does have concerns with Mr. Anderson's lack of experience. She noted she gave highest points to Mr. Knaak, even though he has a smaller law firm, because he gave supportive legal answers.

Councilmember Heineman stated, in his opinion, experience is important, but the size of the organization is even more important than experience. He added he scored Kennedy Graven the lowest due to the size of the law firm, but also because the attorney was inexperienced and seemed concerned about billing.

Councilmember Heineman stated his next choice would be Mr. Langel and his firm, as they do an adequate job, although there seems to be a sense of entitlement about why the City is looking for outside counsel. He added Ms. Whitmore indicated that she is open to new perspectives, and wants to get entrenched with the City, and he liked that. He noted his last choice was Kennedy Graven, but he supports Eckberg Lammers and Mr. Knaak. He noted the flat rate makes sense economically.

Councilmember Heineman stated Ms. Whitmore and Mr. Knaak both put a lot of emphasis on working closely with the city, being on site and having a relationship with city staff and the City Council. He added he believes that attitude can help stop problems before they happen.

Mayor Kuzma stated he liked Ms. Schwarzhoff's comment about reviewing City Council meeting agendas before they go out. He added he thought that was the smartest answer of the whole night.

Councilmember Specht asked for City Staff's feedback and comment.

City Administrator Ulrich stated he thought Kennedy Graven could do the job, but it comes down to what type of relationship the City Council wants to have with the attorney, as their primary legal advisor. He added he tends to shy away from large firms, and Kennedy Graven's attorneys are not experienced. He noted he likes that Hoff Barry has 4 attorneys with ample coverage, and her answers were very direct.

City Administrator Ulrich stated Mr. Knaak seems to be a solo practitioner, and he is concerned about backup. He added he liked Ms. Whitmore as she is experienced in open meeting law, advising other Councils, data practices, and it is not a big firm.

City Administrator Ulrich stated Mr. Langel has been very solid for the City for 8 years. He added he can see that it is not a good fit for the City Council right now, and trust and confidence are vital. He noted there will be a transition cost to the City, but he sees opportunities to improve service, such as having the City Attorney at City Council meetings, which will greatly help to build trust and understanding. He noted Hoff Barry came out strong at the end.

Administrative Services Director Lasher stated she would work with any of them, but the two she would take off the list would be Mr. Knaak because the firm is too small, and Kennedy Graven, which is too big, and he was concerned about money up front.

Administrative Services Director Lasher stated she has a great working relationship with Mr. Langel for general City issues and Mr. Schafer for employment law, as well as Nathan for elections. She added she concurs with City Administrator Ulrich that from a City Council perspective maybe it is time for a change. She noted Ms. Whitmore has experience with the league, but she was not concrete, but Ms. Schwarzhoff by comparison was quite to the point. She expressed support for either Ms. Schwarzhoff or Ms. Whitmore in a tie, and Mr. Langel in third.

Interim Community Development Director Westby stated he agrees with the comments of his colleagues, that Kennedy Graven would be at the bottom of the list due to its size and the attorneys' lack of experience. He added Mr. Knaak has a lot of experience, but he does not know who his backup would be. He noted Ms. Schwarzhoff really impressed him with her general knowledge. He expressed support for Hoff Barry, then Eckberg Lammers or Mr. Knaak, and Kennedy Graven at the bottom.

Councilmember Woestehoff stated it felt like 20 hours per month seemed fairly average, with an uptick for the first few months to get to know a new lawyer. He added one issue that muddies the water is that there is not a consistent parameter in terms of hours vs. retainer, and it is difficult to determine costs. He noted Hoff Barry would be slightly cheaper than Mr. Knaak but more than Eckberg Lammers, but not everything is included in the retainer for Eckberg Lammers.

Councilmember Riley stated he would support 20 hours. Councilmember Woestehoff agreed, adding a few extra hours a month could be added until the new City attorney is up to speed, and then drop it down to 20 hours or below.

Councilmember Heineman stated the flat rate would be more economical if the City Attorney will be required to be present at City Council meetings.

Councilmember Howell stated she really liked Ms. Schwarzhoff, but Mr. Knaak has a wealth of experience, and there is a lot of value in that. She added he will be very neutral. She noted she likes the flat rate.

Councilmember Musgrove stated there is a consensus not to go with Kennedy Graven. She asked what the process would be for getting a comparison with regard to proposals that do not have a retainer.

City Administrator Ulrich stated Ms. Schwarzhoff stated she would be open to a retainer, so a retainer number could be provided for her. He added he would like to get some feedback from other city clients.

Councilmember Woestehoff stated Mr. Langel scored high for him, but he is okay with taking him off the list, as well as Kennedy Graven. He added he does not believe Mr. Knaak is the top choice, but keep it open for discovery.

Mayor Kuzma stated he is concerned that Mr. Knaak is a small firm, with one man, and he agrees that could be an issue.

Councilmember Musgrove stated there are more people in his firm. She added she is unsure why everyone thinks he is the only one, when there are 4 attorneys and a paralegal listed for his firm in the RFP.

Councilmember Heineman stated Mr. Knaak indicated he was a one-man show, and that he would be handling everything. He added he had other people outside of his organization as backups but would not involve other people in his firm. He noted he referred to himself as the sole proprietor that Ramsey would be dealing with, but he did say there were a few other people.

Councilmember Specht stated it seems that the consensus is Hoff Barry, so that is something to look into. He added more information could be gathered about Mr. Knaak, even though some people may be unsure about him.

Councilmember Musgrove stated she would support a retainer with Hoff Barry. She asked whether it would be appropriate to let Hoff Barry know that there could be reconsideration regarding retainer vs. hourly rate.

City Administrator Ulrich stated a full definition of what is included in the retainer in the RFP should be included, and references should be contacted. He added a 30-day notification of termination of contract will be required for the current City attorney.

Mayor Kuzma stated the City Council should decide who to pursue, and whether to ask for 20 hours or 25 hours.

City Administrator Ulrich stated a contract will be required, which will include a retainer and evaluation after 6 months, as well as an adjustment provision.

Councilmember Woestehoff stated this is where he struggles. He added he understands the point of a flat rate during a transition period, but the flat rate encourages the absolute minimum amount of work to increase profitability. He noted he would prefer to see an hourly rate, but he is happy to do a retainer. He expressed concern that an hourly rate will be more representative in 6 months of what the city is getting from the City Attorney.

Councilmember Heineman stated he agrees a flat rate is cheaper. He added his concern about Mr. Knaak is who will be the backup if something were to happen. He stressed the importance of having a concrete second.

Councilmember Heineman stated he would support contacting Hoff Barry to find out what their retainer rates would be if Ms. Schwarzhoff comes to City Council meetings. He noted references for both Ms. Schwarzhoff and Mr. Knaak should be contacted to alleviate the City Council's questions.

Councilmember Howell stated Mr. Knaak lists Donald Kohler as his proposed assistant. She added City Staff can confirm whether that person will be available.

Mayor Kuzma stated Mr. Langel has given good advice during the time that he has been the City Attorney.

Councilmember Heineman stated Mr. Langel has given good advice, but what he is looking for is not only good advice but follow it up with a proactive approach. He added he mentioned Ms. Whitmore and Mr. Knaak because they both expressed that they would be doing a lot of work to understand the "why" of what the City Council does. He noted the current City Attorney implied that he was done after the Resolution was passed, even after the City Council had additional questions for him.

Councilmember Heineman stated Mr. Langel reaffirmed this today when he answered questions regarding what the City Attorney should do when the City Council brings up issues. He added he gave good advice to City Administrator Ulrich, but he did not dive deeper or come up with a plan, especially with regard to potential action from the Attorney General.

Councilmember Riley stated it does not matter anymore because the relationship broke down. He added one of the things he liked about Ms. Schwarzhoff was her statement that she provides advice to the City Council to help them make a decision, and after the decision is made, she will make it as defensible as she can because that is the City Council's decision.

Mayor Kuzma confirmed the two candidates to pursue are Mr. Knaak and Ms. Schwarzhoff.

City Administrator Ulrich stated this issue will be reviewed by the City Council again at their September 14, 2021 meeting.

Councilmember Woestehoff stated he would be interested in learning about the retainer option from Eckberg Lammers, because her retainer was drastically less than Mr. Knaak's retainer. He added he would not like to exclude her if it will save the City money for the same level of attorney.

Councilmember Specht stated he was not impressed with Ms. Whitmore. Councilmember Howell agreed.

3. ADJOURNMENT

The Special Work Session of the City Council was adjourned at 9:30 p.m.

Respectfully submitted,

Kurtis G. Ulrich
City Administrator

ATTEST:

Katie M. Schmidt
Deputy City Clerk

Drafted by Mary Mullen
TimeSaver Off Site Secretarial, Inc.