



Advisory Opinion 13-009

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2012). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On February 6, 2013, the Information Policy Analysis Division (IPAD) received an advisory opinion request from David Decker, Finance Manager for the City of Cohasset, dated February 1, 2013. In his letter, Mr. Decker asked the Commissioner to issue an advisory opinion regarding the City Council of Cohasset's conduct under Minnesota Statutes, Chapter 13D, the Minnesota Open Meeting Law (OML).

A summary of the facts as provided by Mr. Decker follows:

[The Cohasset City Council] recently held a City Council meeting utilizing Skype on the City's computer which was projected on a large screen television in the City Council Chambers in order to include a council member at a remote location outside the State of Minnesota. We followed the relevant state statute, Minnesota Statutes Section 13D.02, in preparing for this meeting...

We made sure that all members of the City Council could hear and see one another. Members of the public at the council's regular meeting location could see and hear all discussions, etc. There were four (4) members of the council at the regular meeting location. The council member at the remote location posted notice at that location and that location was accessible to the public. We also posted notice at the regular meeting location stating that a council member would be participating from a remote location. The member at the remote location did participate in the City Council proceedings, but all formal action which was taken at the meeting was passed with a unanimous vote, so the vote of the member at the remote location was not required for passage of any item.

After the meeting, an article appeared in a local newspaper suggesting that the meeting violated the OML because the remote location of the member participating via Skype was not accessible to residents of Cohasset.

Mr. Decker wrote, "[w]e continue to contend... that the reference to 'the public' in the statute is not restricted to the residents of the City of Cohasset."

Issue:

Based on Mr. Decker's opinion request, the Commissioner agreed to address the following issue:

Did the City of Cohasset comply with Minnesota Statutes, section 13D.02, when it held a meeting at which a city council member attended via Skype from a remote location?

Discussion:

Minnesota Statutes, section 13D.02, subdivision 1, states:

A meeting governed by section 13D.01, subdivisions 1, 2, 4, and 5, and this section may be conducted by interactive television so long as:

- (1) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;
- (2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of members of the body;
- (3) at least one member of the body is physically present at the regular meeting location; and
- (4) each location at which a member of the body is present is open and accessible to the public.

The Commissioner has not had the occasion to opine on the meaning of "interactive television," as it is used in section 13D.02. However, the Commissioner has opined previously on other questions about use of technology as it relates to an entity's obligations under Minnesota Statutes, Chapter 13. The issue Mr. Decker raised is analogous.

For example, in Advisory Opinion 00-043, the Commissioner was asked, pursuant to Minnesota Statutes, section 13.04, subdivision 4, what a government entity's obligation is to include a data subject's "statement of disagreement" regarding the accuracy and/or completeness of data when the entity discloses the data in dispute on its website. The Commissioner opined:

Regarding data that exist in electronic form ... the Commissioner again recommends a common sense approach. The Commissioner's understanding of web-based technology is that in most situations when a document(s) or database is posted to a website, it is possible to create a link in that document or database directly to another document. This process seems akin to physically attaching a paper copy of a disagreement statement to a paper copy of data in dispute.

Also, in Advisory Opinion 97-049, the Commissioner stated:

The Commissioner is of the opinion that in the electronic age, a public employee's e-mail address is also part of the employee's work location. An employee's e-mail address simply provides another means, in a different medium, for the public to communicate with its government.

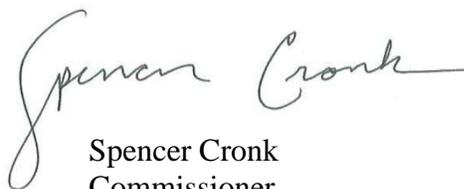
See also Advisory Opinions 03-040, 07-004 and 11-006.

Here, the Council used Skype, as it might have used interactive television, to conduct its meeting in a manner that allowed it to meet its obligations under section 13D.02. Further, the plain language of the statute does not forbid a member of a public body from “attending” a public meeting at a location “open and accessible to the public” outside of the entity’s geographic area, as long as all other conditions of that section are met.

Opinion:

Based on the facts and information provided, the Commissioner’s opinion on the issue Mr. Decker raised is as follows:

The City of Cohasset complied with Minnesota Statutes, section 13D.02, when it held a meeting at which a city council member attended via Skype from a remote location, because the meeting met each of the four requirements in section 13D.02.



Spencer Cronk
Commissioner

March 19, 2013