



Bassett Creek Watershed Management Commission

MEMO

TO: Bassett Creek Watershed Management Commission
FROM: Laura Jester, Administrator
DATE: April 10, 2013

RE: Clarification of Open Meeting Law with Regards to Electronic or Telephone Participation

The following information was provided by legal counsel LeFevere and with additional information provided by Deputy Treasurer Virnig regarding open meeting law in the electronic age. The Commission should keep these rules and guidance in mind for meeting participation.

From Charlie LeFevere:

The open meeting law allows televised participation but not simply audio or telephone participation. The requirements that must be met to allow audio-visual participation are described in Minn. Stat. Section 13D.02, Subd. 1, which is reproduced below. The State Commissioner of Administration recently ruled that Skype could be used for this purpose (that is, it doesn't have to be a traditional television that is the audio-visual instrument) as long as all of the conditions of the statute are met.

13D.02 MEETINGS CONDUCTED BY INTERACTIVE TV; CONDITIONS.

Subdivision 1. Conditions.

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.

Subd. 2. Members are present for quorum, participation.

Each member of a body participating in a meeting by electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 3. Monitoring from remote site; costs.

If interactive television is used to conduct a meeting, to the extent practical, a public body shall allow a person to monitor the meeting electronically from a remote location. The body may require the person making such a connection to pay for documented marginal costs that the public body incurs as a result of the additional connection.

Subd. 4. Notice of regular and all member sites.

If interactive television is used to conduct a regular, special, or emergency meeting, the public body 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 by interactive television. The timing and method of providing notice must be as described in section [13D.04](#).

Link to the State Commissioner of Administration Opinion on use of Skype:

<http://www.ipad.state.mn.us/opinions/2013/13009.html>

More on Skype from League of Minnesota Cities website at: <http://www.lmnc.org/page/1/ipad-skype.jsp>

IPAD Releases Advisory Opinion on Council Meetings Via Skype

The Information Policy Analysis Division (IPAD) released an advisory opinion this week that said a city councilmember can attend and participate in city council meetings from a remote location using Skype if the requirements of *Minnesota Statutes, section 13D.02* have been met.

The conditions required to have a councilmember participate using Skype include the following:

- 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.
- 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.
- At least one member of the body is physically present at the regular meeting location.
- Each location at which a member of the body is present is open and accessible to the public.
- The public body 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 by Skype. The timing and method of providing notice will depend on whether the meeting is a regular, special, or emergency meeting. In the IPAD advisory opinion, it was noted that the City of Cohasset (the city that requested the advisory opinion) provided posted notice at both meeting locations when it used Skype for a councilmember at a remote location.

A councilmember using Skype is considered present at the meeting for purposes of determining a quorum and participating in all proceedings. It is still a best practice to discuss this procedure with your city attorney prior to using Skype for meetings.