Effective Public Meetings with Remote Participation

On March 16th, Governor Gina Raimondo signed Executive Order 20-05 allowing remote participation in public meetings in Rhode Island. The original order extends until April 15th, and has since been extended until May 8th. So far 11 other governors have issued similar orders, and five attorneys general have provided guidance allowing remote participation.

Rhode Island’s executive order is similar to that of Massachusetts in that it allows for public bodies that have “economic hardship” or that “despite best efforts” cannot provide remote access to hold meetings without public access. There is no excuse for this. There are free alternatives for holding publicly accessible meetings, including Microsoft Teams, that the state government has acquired for all municipalities. Here’s a great Google Sheet that explains the pros and cons of several different platforms, including Zoom.

Some cities and towns use cable access or YouTube for broadcasting public meetings. Under normal circumstances this is fine because members of the public can attend the meetings in person. However, if the public is barred from the meeting a one-way form of communication does not allow the public to note any deficiencies in how the meeting is being run.

The executive order only allows for remote participation for an “essential purpose.” It defines that as what “is necessary for continued government operations or to ensure compliance with statutory or regulatory deadlines.” Our interpretation of that is unless the public body continues to meet in person, it should only be doing work that cannot be put off until the pandemic abates and normal meetings resume. Taken together with Executive Order 20-14 banning gatherings of greater than five people means that almost all public meetings should be at least partially remote and therefore confined to “essential purpose[s].”

The executive order allows for “telephonic or electronic communication.” We strongly suggest you use video, not just audio. Video is easier for the public to follow and easier for the clerk and presiding member to verify who is talking and how they are voting. Some video platforms, including Zoom and Microsoft Teams, also allow people who only have access to a phone to participate. Some members of our communities do not have access to the internet, and many of the places where they would normally access the internet, such as libraries, are closed. Also, phone connections provide a backup for members of a public body who have poor connectivity in their homes.

Rhode Island has less experience with remote participation than other jurisdictions. We found best practices from other states that routinely allow remote participation. Based on our advice
the Department of Administration has put out guidance to state bodies that we believe are also applicable to municipal bodies:

- If you are meeting in-person (or partially in-person) and you can provide remote access, you should. Preferably video with an audio-only option.
- If you are meeting in-person (or partially in-person) and you can abide by other requirements, allow the public and media (a pool reporter if necessary) to attend.
- If you are providing remote access to the meeting and remote access is interrupted, pause the meeting until it is restored.
- If members of the public body are participating remotely they should be visible at all times on the video.
- At the beginning of the meeting note which participants are in-person and which are remote.
- Have each participant identify themselves whenever they speak.
- Conduct all votes by roll call.
- If possible, place all documents that will be discussed at the meeting on the website of the public body prior to the meeting, just like you would provide a packet to physical attendees.
- If possible, place a recording of the meeting on the website of the public body as soon as possible after conclusion of the meeting.

Looking at agendas posted in the last two weeks we are starting to see public bodies adapting to the new environment. For example, one town council agenda contains a statement certifying the items on the agenda are deemed to be an “essential purpose.”

This meeting is being called in accordance with Governor Gina M. Raimondo’s Executive Order 20-05 dated March 16, 2020 and titled “Third Supplemental Emergency Declaration – Public Meetings and Public Records Requests”. The items on the agenda have been determined to be essential and necessary for continued government operations and/or to ensure compliance with statutory or regulatory deadlines.

Another town that has a “public comment” agenda item is providing an email option and will read submitted comments during the video conference. Another is hyperlinking to documents mentioned on the agenda. These are just some of the best practices we are seeing.

Common Cause Rhode Island welcomes your input on additional best practices. They will inform our recommendations during the current crisis as well as our advocacy once the General Assembly returns. Please contact John Marion at (401) 338-6537 or john_marion@commoncauseri.org with your observations and suggestions.