

The Coronavirus and Board Meetings

MMA Legal Services has received several inquiries concerning remote participation at selectboard and council meetings in light of the coronavirus (COVID-19).

Maine law does not directly address remote participation by municipal board members. The Legislature's repeated refusal to authorize public board members to participate in meetings remotely by telephone or video conferencing has led to the clear inference that remote participation in public meetings is not currently allowed under Maine's "Right to Know" law (see "Remote Participation in Meetings Rejected, Again," Maine Town & City, Legal Notes, July 2019). As not all attorneys may share this view, boards may wish to consult their municipal attorney as well.

Aside from the board itself, the safety of members of the public attending municipal board meetings should be considered. Although the legality of remote participation by board members is questionable, Maine law does not prevent the board from encouraging the remote participation of the public through electronic means. See below.

Some considerations for board meetings:

- Consider postponing non-essential meetings and agenda items, limiting business at board meetings to items necessary to continue municipal operations.
- Consider the feasibility of live streaming or televising board meetings.
- Consider allowing public comments at board meetings via video-conference, speaker phone or email, assuming that technology is available at the local level and not prohibited by local charter, ordinance or board bylaws.
- Members of the public can be strongly encouraged to participate "remotely," but because board meetings are public proceedings under the Maine Freedom of Access Act, members of the public cannot be prohibited from attending in person. (Note that remote participation by witnesses or parties in a quasi-judicial proceeding, such as a licensing or permitting proceeding, is generally not advised).
- Take measures to protect persons who choose to attend a board meeting in person, such as meeting in a larger space, dispersing seating to allow greater distance between attendees and following CDC recommendations for sanitation.

Members are encouraged to contact MMA Legal Services for specific advice on these topics at 800-452-8786 or legal@memun.org. Additional guidance is located on MMA's "Coronavirus Updates and Resources" page at www.memun.org.

Maine Municipal Association
Legal Services Department
March 13, 2020