

Attending Meetings Remotely After the Pandemic

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The City of Marshfield Fire and Police Commission meets remotely for their regular monthly meeting using Zoom, a software-based conference room solution that became popular during the pandemic. Photo submitted by City of Marshfield Communications Department

Many municipal officials participated in governmental body meetings remotely for the first time during the COVID-19 pandemic. They learned how easy and convenient it can be to attend a meeting by phone or video conferencing. The pandemic has forced numerous communities to confront questions about whether and under what circumstances members of municipal governmental bodies should be allowed to attend meetings remotely after the pandemic. Many communities have adopted ordinances or policies establishing rules and procedures for permitting municipal governmental body members to attend a meeting remotely.

Does state law prohibit or otherwise address municipal governmental body members attending a meeting remotely?

No. State law does not address the issue. However, well before the COVID pandemic, the Wisconsin Attorney General had concluded that the open meetings law did not prohibit governmental body members from participating in a meeting by phone or by video conferencing. The League has also issued legal opinions over the years concluding that a member of a common council or village board may attend a meeting by phone or video conferencing, if authorized by the governing body. Although state law does not prohibit a member of a city council, village board, or other municipal governmental bodies from attending a meeting remotely, League legal opinions emphasize that remote attendance must comply with

the requirement in the open meetings law that meetings be reasonably accessible to the public. This means that members of the public attending the meeting in person or remotely must be able to hear the governmental body member attending by phone and hear and see members participating in the meeting by video conferencing. Care must be taken to set up the speaker phone, audio, or video system at the meeting site so that it allows all members of the public attending in person or remotely to hear and see the governmental body members attending remotely.

Does a remote attendee count for making up a quorum, and may a person vote by telephone or video?

State law does not address this issue. It is important to check local rules of procedure, but state law does not prohibit a governmental body from acting even if some or all of the quorum attends remotely. Governmental body members attending meetings remotely via speaker phone or video conferencing are generally recognized as in attendance and count toward making up a quorum and may vote on business before the body. Some communities explicitly state in their ordinances that a governmental body member attending a meeting remotely is counted in determining whether there is a quorum and may vote on actions before the body. See, for example, Green Bay's ordinance. (Link provided at the conclusion of this article.)

What about members of the public attending remotely?

During the pandemic, some municipalities found that the practice of conducting meetings by Zoom or other online video conferencing platforms increased public participation in public hearings and public comment periods. As a result, some communities have chosen to regularly offer the public the option of attending and participating in meetings remotely after the pandemic. For example, the City of Green Bay recently passed an ordinance relating to remote attendance at meetings, which provides that any person may appear at any meeting by telephone, video conference, or other remote method of participation.

Governmental bodies must always ensure that they follow the open meetings notice requirements of Wis. Stat. § 19.84. If citizens will be able to participate in a meeting remotely, the meeting notice should inform the public that the meeting can be attended remotely and provide all information necessary for the public to monitor the meeting. This includes providing the telephone number, video conference link, and any necessary passcodes or other login information.

Should we adopt an ordinance or policy relating to remote meeting attendance?

Yes, it is advisable to do so, and many communities are. Some communities limit the number of meetings governmental body members may attend remotely, the number of governmental body members that may attend the same meeting remotely, and the circumstances under which a governmental body member may participate remotely. Other ordinances establish a process and timeline for governmental body members to request the chair's permission to attend a meeting remotely.

The Village of Bayside's ordinance, for example, states that "in exceptional circumstances as determined by the chair," meetings may be held with remote attendance. The ordinance goes on to state that "remote attendance [is] only authorized when the chair determines that health, safety, welfare, family, or work circumstances warrant." The ordinance further provides that "remote attendance [is] not authorized solely for convenience, or due to vacation, travel, or season relocation."

Bayside's ordinance also establishes a process for seeking permission to attend a meeting remotely. Under the ordinance, a village governmental body member seeking to attend a meeting remotely must notify the village manager at least 48 hours in advance of the meeting. The village manager

must immediately inform the chair and the chair must decide whether to allow remote participation at least 24 hours before the meeting.

In contrast to Bayside's comprehensive and detailed ordinance, Green Bay's recently adopted ordinance broadly provides that "any city employee, member of a governmental body, or any other person may appear at any meeting by telephone, video conference, or other remote method of participation." The only limit provided in the ordinance is that "no member shall participate or vote on any matter that requires the visual assessment of physical evidence or exhibits that have not been previously reviewed by the member."

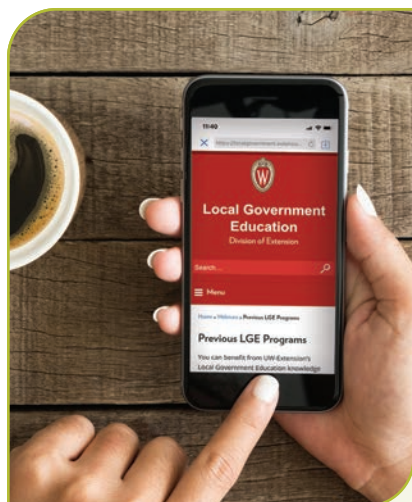
Read Green Bay and Bayside's ordinances as well as other sample remote meeting attendance ordinances on the League's website: <https://lwm-info.org/1646/Meetings-Governmental>

Conclusion

While communities are not legally obligated to allow governmental body members or the public to attend meetings remotely, many have chosen to do so because of positive experiences with remote attendance during the pandemic. Municipal governing bodies may adopt ordinances or policies outlining the circumstances under which governmental body members and the public may attend meetings remotely.

About the Author:

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