

Virtual Meeting Options for Council Committee Meetings

BUDGET, GOVERNANCE & INTERGOVERNMENTAL RELATIONS COUNCIL COMMITTEE MEETING

OCTOBER 3, 2022

Current Law

- **Electronic meetings authorized before COVID-19** (G.S. 143-318.13)
 - Must provide *notice, location and access for public to listen* to official meetings of public bodies
- **In 2020, General Assembly adopted new “remote meetings” law** (G.S. 166A-19.24)
 - Only applicable during statewide declarations of emergency (not local declarations);
 - Made very limited changes to Open Meetings law;
 - Specifically revised **voting, quorum** and **closed session** statutes to allow for remote meetings.
- **Council’s Rules of Procedure - Rule 28** (based on G.S. 160A-71(c))
 - **Telephonic and electronic attendance at meetings** limited to:
 - Committee Meetings (due to illness or injury and may vote)
 - Council Meetings ONLY IF:
 - Emergency meetings, or
 - Regular or Special meetings where:
 - Quorum necessary;
 - Due to weather, civil unrest, emergency, etc.; and
 - Meeting needs to continue to avoid re-notice or to take action for matters that cannot be delayed.

Current Status

During the COVID 19 pandemic, the Governor issued a statewide State of Emergency (SOE) declaration which triggered the law for cities to hold official meetings remotely

On August 15, 2022, that statewide state of emergency was lifted

At Council's August 22 Business Meeting, the City Attorney's Office provided Council with an update on the lifting of the emergency order and advised that:

- Without a statewide SOE, there are **legal issues and potential challenges to quorum and voting** with conducting Council meetings as remote meetings
- This advise is consistent with state statutes, including the Open Meetings law and the Emergency Management Act laws
- This interpretation is consistent with the actions of most larger North Carolina municipalities who have opted for in-person official meetings in absence of a SOE.

At Council's September 26 Business Meeting, Council voted to allow virtual options for Council Committee meetings. City Council took no action related to virtual options for full City Council meetings.

**On September 30, due to Hurricane Ian, the Governor issued a SOE triggering the remote meetings law, but this order will likely only last for the duration of the inclement weather (~30 days).*

**Quorum and Voting statutes (G.S. 160A-74 and -75, respectively), were amended under remote meetings law – so long as participant maintains simultaneous communication. When not in a state of emergency, existing laws for both may pose potential concerns.*

3

Revision for Committee Meetings

Revise section (a) of Rule 28. Telephonic and electronic attendance at meetings

- (a) Committee meetings. Council members may attend committee meetings by telephone or other electronic means. ~~when they are unable, by reason of illness or injury, to attend in person. Members who plan to attend by electronic means shall notify City staff at least 48 hours in advance allow for arrangements to be made.~~ Members attending electronically are entitled to vote and fully participate in the business of the committee meeting.
- (b) Council meetings. Council members may attend Council meetings by telephone or other electronic means for emergency meetings. In addition, Council members may attend regular and special meetings by telephone or other electronic means where:
 - (i) necessary to achieve a quorum;
 - (ii) attendance is precluded due to weather, civil unrest, emergency, etc.; and
 - (iii) the meeting needs to be continued (e.g., need to open and continue a public hearing to avoid the need to readvertise) or to take action on matters that cannot be delayed

**Special conditions may apply for electronic attendance during closed sessions.*

4

Remote v. In-Person (when SOE lifted)

Action	Remote Meetings (during SOE)	In-person Meetings (no SOE)
Notice	Required to specify <i>means</i> by which public can access official meetings (links to meeting or dial-in number) Notice may be amended after original post to show remote accommodations	NO member participates in remote meeting If meeting live streamed → Required to state <u>location and means</u> by which public can access
Public Access	May restrict in-person public attendance Livestream meeting required if at least one Councilmembers is remote	CANNOT restrict in-person public attendance Councilmembers CANNOT attend remotely but City may livestream meeting
Attendance	Remote ok as long as “simultaneous communication” maintained → electronic/phone/video	NO specific authorization under open meetings for “remote meetings” as defined in SOE laws; ATTEND in-person required except as allowed by Rule 28 (Council’s Rules of Procedure)
Quorum	Councilmembers may attend remotely and achieve quorum by being “physically present”	CANNOT attend remotely
Voting	Councilmembers may vote remotely; MUST identify by name or roll call vote when not on camera NO secret or written votes (vote must be audible -not visible- to public)	CANNOT vote remotely NO secret or written votes
Public Hearing	May conduct public hearings during remote meeting and take action	CANNOT attend remotely
Public Comments	May allow comments to be submitted remotely or in writing before hearing	MUST allow in-person comments; May allow comments remotely or in writing
Closed Session	May enter closed session and stop live stream of meeting; must go back to open meeting after closed session ends	CANNOT attend remotely ; must provide minutes or a general account
Minutes	If remote participants, must reflect: (1) use of phone, video, and type of service (WebEx/Zoom, Facebook/YouTube) (2) Councilmembers who were remote; (3) Join/Leave time of remote Councilmembers	CANNOT attend remotely ; full and accurate minutes

Questions?