

Board and Commission Meetings in the COVID-19 Era: A Practical Guide
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On March 14, 2020, Governor Lamont issued Executive Order 7B authorizing Town Boards and Commissions to hold public meetings via conference call, videoconference or other technology provided certain conditions are met. On March 22, Governor Lamont issued Executive Order No. 7I, suspending requirements for in-person attendance and reconfirming the authority of municipal agencies to meet and act by videoconference or teleconference as set forth in Executive Order 7B. Executive Order No. 7I also extends any deadline established under the land use statutes that otherwise would have passed during the public health emergency declared on March 10 by 90 days, and modifies notice requirements. In this article, we seek to provide a practical guide that land use boards may follow to continue to conduct business.

We believe it is important for land use boards and commissions do what they can to continue to conduct business within permitted parameters to help support our local economies. The restrictions imposed in Connecticut and other states to curtail the spread of COVID-19 are placing a severe strain on small businesses and local economies. In early spring, many land use boards and commissions are busy with applications tied to renovation or new developments. If action on these applications is delayed by 90 days or more, some projects may miss the 2020 construction season entirely.

So how do you move forward?

As noted above, Executive Order 7B allows Boards and Commissions to hold “virtual” meetings.

1. The technology used must allow the public to view or listen to each meeting or proceeding in real time, by telephone, video or other technology;
2. The meeting must be recorded or transcribed, and the recording or transcription must be posted on the agency’s website within seven days and be made available within a reasonable time in the agency’ office;
3. The required notice and agenda must be posted on the agency’s website and must include information about how the meeting will be conducted and how the public can access it;
4. Any materials relevant to matters on the agenda must be
 - (a) submitted to the agency at least 24 hours prior to the meeting and
 - (b) posted to the agency’s website for public inspection prior to, during and after the meeting
5. Any exhibits to be submitted by members of the public shall, to the extent feasible,
 - (a) be submitted to the agency at least 24 hours prior to the meeting and
 - (b) be posted to the agency’s website for public inspection prior to, during and after the meeting
6. All speakers taking part in any such meeting or proceeding shall clearly state their name and title, if applicable, before speaking on each occasion that they speak.

Service Providers

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In order to fulfill the first two requirements, you need a system that (i) works with any type of computer or phone, regardless of operating system; and (ii) allows recordings to be made and downloaded. Functionality that allows you (or a third party moderator) to mute individual lines is also helpful, as it will allow you to minimize “noise” on the call and prevent untimely interruptions. We have reviewed the information provided on websites of a number of service providers, and have identified several providers that appear to be able to meet these requirements. They include:

1. Gotomeeting. www.gotomeeting.com. Works with any device and any operating system; supports up to 250 participants. Allows document sharing, so all participants can see documents presented. Meetings can be recorded and participants who do not have computers or mobile devices may join on a traditional land line phone.
2. Cisco Webex. www.webex.com. Works with any device and any operating system; supports up to 100,000 participants. Allows document sharing, so all participants can see documents presented. Meetings can be recorded and participants who do not have computers or mobile devices may join on a traditional land line phone.
3. Zoom videoconferencing. www.zoom.us. Works with any device and any operating system; includes close captioning and keyboard shortcuts; supports up to 1,000 participants and 10,000 viewers. Allows document sharing, so all participants can see documents presented. Meetings can be recorded and participants who do not have computers or mobile devices may join on a traditional land line phone.
4. Connex. www.connexintl.com. Offers both audio only and web and video conferencing. Also offers coordinator assisted meetings. Works with you to develop a solution tailored to your needs. Some solutions allow document sharing and do not limit number of participants. Meetings can be recorded or transcribed.

There are numerous other services that may meet your town’s needs; we include these four because (i) three are among the top rated vendors and are likely familiar to at least some of your townspeople, the fourth, Connex, is Connecticut based and has additional services, such as coordinator assistance and the ability to dial out to attendees that may be helpful in some cases; and (ii) they are companies focused on providing teleconferencing services, not bundling those services with other services. If you are already running an enterprise software system, however, you may prefer to use a video conferencing solution offered by that software provider. The two most common are Google Meet (formerly Google Hangouts) and Microsoft Teams. Both appear to meet the criteria for public meetings outlined above and may be the most cost effective solution for towns that are already using GSuite or Microsoft 365, respectively.

Security

There have been a number of reports of security issues with webconferences, particularly with Zoom. In selecting your system, consider whether due to security or privacy concerns, participants will be unwilling or even unable to use the system you have selected (we have recently heard that some law firms will not allow use of their equipment for participation in Zoom meetings due to security concerns).

You also should be aware that some online meetings have been disrupted by participants posting inappropriate material, or talking over others. Before selecting a system, we recommend you talk to the provider, or review their materials online, to determine what features they have in place to protect this. Remember that, because you are running public meetings, you cannot limit access to a meeting to prevent this type of conduct. You can, however, limit who can post materials and you can mute phone lines. Most systems

allow the moderator or meeting organizer to control who can post materials or provide written comment, and also allow the moderator to mute all lines. To avoid disruptions caused by the posting of inappropriate materials, we recommend that the ability for participants to post materials or written comments be turned OFF. We also recommend that most lines be muted and that the meeting moderator know how to mute all lines in case that becomes necessary.

Notice

Once you have selected a service provider, you will need to publish the notice and agenda for your meeting. Pursuant to Executive Order No. 7I, notice does not have to be published in a newspaper, posted on a physical sign or filed in the office of the Town Clerk. Instead, notice and agenda may be published electronically on a municipality's or agency's website. The notice must:

- include information about how the meeting will be conducted and how the public can access it;
- be published by the deadline set for newspaper publication
- remain visible on the website until completion of the action, meeting or proceeding
- and, if it is a notice of decision, remain visible on the website for the duration of the applicable appeal period.

We recommend that Towns proceeding with virtual meetings include a notice to that effect on the Town home page and that notices and agendas for specific meetings be posted wherever on your website your Town has historically published meeting agendas and minutes for the relevant Board or Commission. (For example, if you publish meetings and agendas for your Zoning Commission on a Zoning Commission page, we recommend you follow that practice for publication of the Notice and Agenda. If you have a general Agenda and Minutes section of your website for all Board and Commission meetings, we recommend you publish the Notice and Agenda there.)

You will need to schedule the meeting with your service provider before you issue the notice; when you do that, you may also wish to invite the commissioners, applicants, and any known participants to the meeting. This will give them a link they can use to join (though they also can follow the instructions provided in the Notice).

For your Notice, the information about how the meeting will be conducted and how the public can access it should be very simple and direct. If, for example, you were going to hold a videoconference using Zoom, your notice could read as follows:

The Meeting will be held by videoconference via Zoom. The Meeting ID is XXXXXXXX

To join the meeting:

1. go to zoom.us on your computer or mobile device.
2. Click "join a meeting"
3. Enter the Meeting ID

If you prefer to join by phone, dial XXXXXXXXXX and enter the Meeting ID at the prompt.

The meeting will be recorded.

We recommend you join the meeting 10-15 minutes ahead of time, in case you have difficulties and need assistance.

Most service providers have brief tutorials and troubleshooting guidance on their websites; you may wish to add a statement to that effect with the appropriate link in your notice or share the guidance as an attachment to your notice.

We recommend you also include in your notice a statement regarding meeting materials such as the following:

Meeting materials will be posted on the Town website at least 24 hours prior to the meeting and will be available on the website before, during and after the meeting. If you wish to provide written comments, please send them to [name] at [e-mail] for posting.

Remember that Executive Order 7I requires that all materials relevant to matters on the agenda should be posted to the Town website at least 24 hours prior to the meeting, so your meeting materials will include the agenda, any pending applications, staff reports, written comments, correspondence, draft minutes for approval, and any other documents that have been shared with commissioners or will be shared at the meeting.

Conduct of Meeting

To have an effective meeting, and to satisfy the legal requirements set forth in Governor Lamont's Executive Orders, it is important to establish the meeting protocol at the outset. You may wish to put together written guidelines and include those with your notice and agenda, post them separately on your Town's website and/or have the Chair review the protocol at the outset of every meeting. When establishing your meeting protocol, bear in mind that the Executive Orders do not change the rules for public meetings and public hearings: a public meeting must be open to the public, but the public is not entitled to comment on matters presented at a public meeting except under privilege of the floor. If you want public comment on a specific agenda item, you should note on the agenda that you will provide an opportunity for comment. At a public hearing, you **must** provide the public with a reasonable opportunity to provide comment.

We recommend that your meeting protocol include the following:

1. Before calling the meeting to order, we recommend the Secretary or Chair take a roll call to determine which commissioners are present and also to identify interested parties who are present.
2. When calling the meeting to order, state the date and time of the meeting, and state how the meeting is being held (e.g., by videoconference via Webex). Then identify those seated for the meeting.
3. If the system you are supporting allows you to mute certain lines, use this feature so that only the Commissioners and presenters can speak on a particular issue; you would then open lines for two way calling when calling for comments from the public or during privilege of the floor. If your system does not allow you to mute lines, and during two way calling, ask participants to mute their phones when they are not speaking. These steps will minimize background noise, making it easier for everyone to hear what is said.
4. Encourage participants to use headsets if they have them, as this also will help minimize background noise.
5. Remind participants that each speaker should identify himself or herself every time he/she speaks, and, where appropriate, give his or her title (e.g., "Planning Commissioner").
6. Remind those present that only one person should speak at a time. Some systems allow a person to raise a virtual hand. Note whether you will be using this system to identify those who wish to speak.
7. **Even if you are using a virtual hand raising system, before closing any public hearing, remember to unmute all lines and ask whether there is anyone else who wishes to speak. Remember to pause to allow people time to respond.**

8. Similarly, remember to ensure lines of your seated commissioners are unmuted at that you ask whether there is any further discussion before calling for a vote or moving to the next item on your agenda.
9. Conduct any votes by roll call of seated members.

Conclusion

Teleconferences and videoconferences can be an effective way to meet, but to work well, they require planning and preparation. We hope this guide will help Connecticut Towns adapt quickly, so that business can move forward while COVID-19 restrictions remain in place.