

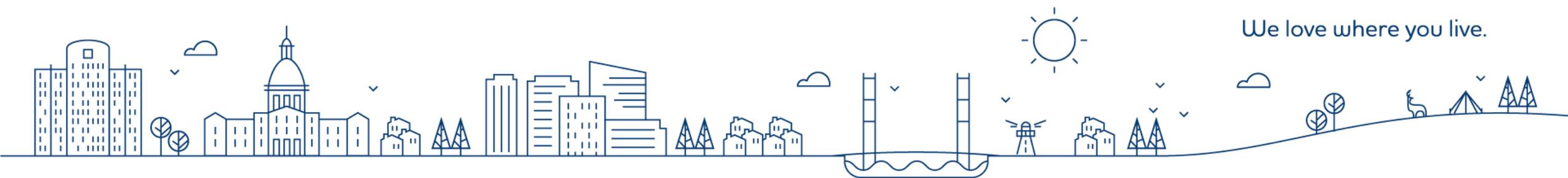


COVID-19 Webinar on Virtual Meetings

Steve Mann, Miller Canfield

Dene Westbrook, MML Director of Internal Ops.

**MILLER
CANFIELD**



Speakers



Steve Mann, Principal, Miller Canfield

Steve Mann is a principal with Miller Canfield practicing in the areas of municipal law and public finance, with a special focus on the Open Meetings Act and Freedom of Information Act. Steve serves as the City Attorney for the City of Milan and as general counsel to the Huron-Clinton Metroparks and the Michigan South Central Power Agency.



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Speakers



Dene Westbrook, Director of Internal Operations, MML

Dene Westbrook serves as director of internal operations for the League. Since joining the League in 1999, she has held a variety of positions, including IT manager, systems architect, and graphic/web designer. Through all those roles, Dene has gained a deep knowledge of League operations from a variety of perspectives. Her operational duties include overseeing the organization's technology roadmap and current infrastructure which consists of the wide area network, software applications, websites, peripherals and mobile devices.



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- Provisions of Executive Order 2020-15
- Options for Electronic Participation
- Questions



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Executive Order 2020-15



Temporary Authorization of Remote Participation in Public Meetings and Hearings and Temporary Relief From Monthly Meeting Requirements for School Boards

Issued: March 18, 2020, 4:46 pm immediate eff.

Expires: April 15, 2020 at 11:59 pm



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Purpose

- Limit in-person contact
- Promote social distancing
- Follows the ordered closure of many public places (restaurants, bars, gatherings of 50 or more people, closure of K-12 school buildings)
- EO suspends rules and procedures requiring physical presence at meetings and hearings of public bodies, and eliminates statutorily required monthly school board meetings



Purpose



“We are taking every measure we can to mitigate the spread of coronavirus and protect Michigan families, but recognize that public bodies still have an obligation to conduct business as usual”

Governor Whitmer



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Purpose



“During this crisis, we must ensure that public officials can do their job to meet the needs of residents, while also ensuring that meetings remain open, accessible and transparent to the public.”

Governor Whitmer





What is Suspended?

“...to the extent that the Open Meetings Act [citation omitted] (“OMA”) requires that a meeting of a public body be held in a physical place available to the general public or requires the physical presence of one or more members of a public body, strict compliance with section 3 of the OMA...is temporarily suspended in order to alleviate any such physical-place or physical-presence requirements, as follows:



Electronic Meetings



(a) A meeting of a public body may be held electronically, including by telephonic conferencing or video conferencing, in a manner in which both the general public and the members of the public body may participate by electronic means.





Two-Way Communication

- (b) A meeting of a public body held electronically must be conducted in a manner that permits two-way communication so that:
 - (i) members of the public body can hear and be heard by other members of the public body, and so that
 - (ii) general public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period.





Typed Public Comments

(b) (continued)

The public body also may use technology to facilitate typed public comments* that may be read to or shared with members of the public body and other participants.

*In addition to verbal public comments



Considered Present



(c) Members of a public body and of the general public participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present at the meeting.



Full Public Participation



(d) All persons must be permitted to participate in any meeting of a public body held electronically, except as otherwise provided* in the OMA.

*i.e. closed session



Special Notice Requirements



- A public body must post advance notice of a meeting held electronically, if it maintains an internet presence.
- The notice must be published on a portion of the public body's website that is fully accessible to the public.
- The notice must be included on the homepage or a separate page dedicated to public notices for non-regularly scheduled meetings or electronic meetings and accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled or electronic public meetings
- This is in addition to other OMA notice requirements.





Special Notice Requirements (Cont.)

Notice of a meeting of a public body that will be held electronically must include all of the following:

- An explanation of the reason why the public body is meeting electronically.
- Detailed procedures by which the public may participate in the meeting electronically, including a telephone number, internet address, or both.
- Procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.
- Procedures by which persons with disabilities may participate in the meeting.



Public Right to Record Meetings



(f) The right of a person to participate in a meeting of a public body held electronically includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of the public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations to minimize the possibility of disrupting the meeting.



No Registration Required



(g) A public body may not require a person as a condition of participating in a meeting of the public body held electronically to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to participate in a public comment period of the meeting.



Rules for Public Participation



(h) A person must be permitted to address a meeting of a public body held electronically under rules established and recorded by the public body. A person must not be excluded from a meeting held electronically otherwise open to the public except for a breach of the peace actually committed during the meeting.



Roll Call Voting Recommended



(i) During a meeting of a public body held electronically, members of the public body are urged to take all votes by roll call* to avoid any questions about how each member of the public body votes.

*Still required under OMA for closed sessions



Posting Agenda/Materials Urged



(j) If a public body holding a meeting electronically directly or indirectly maintains an official internet presence, the public body is encouraged to make available to the general public through the public body's website homepage an agenda and other materials relating to the meeting.



Closed Sessions Permitted



(k) Members of the general public otherwise participating in a meeting of a public body held electronically may be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of the OMA applicable to a closed session.



Electronic Side baring Prohibited



Discussions or deliberations at an open meeting that cannot at a minimum be heard by the general public participating in the meeting are contrary to these purposes. Accordingly, members of a public body must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision or deliberate toward a decision, and must avoid “round-the-horn” decision-making in a manner not accessible to the public at an open meeting.



Statute/Rule other than OMA



If a statute or rule other than the OMA requires that public comments be permitted or a public hearing be held, including in conjunction with the issuance of a permit or a hearing required under the Uniform Budgeting and Accounting Act [citation omitted], a public body or department or agency may provide a means for remote public comment or participation through the use of any technology that would facilitate a member of the general public's ability to participate remotely to the same extent as if the member of the general public appeared in person. If not expressly authorized by statute or rule, written comment, including by electronic means, also is permitted.



School Code



...strict compliance with subsection 6 of section 11a, subsection 7 of section 384, and subsection 1 of section 418a of the Revised School Code, [citations omitted], is temporarily suspended so as not to require school district boards to hold meetings at least once each month.





Facilitate Access by Press

Nothing in this order permits a public body to limit or restrict the rights of the press or other news media. Members of public bodies are encouraged to facilitate access by members of the press and other news media both to meetings held electronically and to members of public bodies.

Michigan Public Notices: mipublicnotices.com

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Supersedes Charter Requirements



A provision of this order will prevail over any conflicting provision of a local charter, ordinance, or rule.



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What Has not Changed?

- All other provisions of OMA still apply
- Remember, a remote meeting is still a meeting
 - Regular notice under OMA plus special notice for electronic meeting
 - Quorum Present to Proceed
 - Keep Minutes (Proposed minutes w/in 8 bus. days)
 - Allow for Public Comment





What Has not Changed?

Outside of a properly noticed meeting, members of the public body should refrain from discussing or deliberating business of the public body by email (or other means).

See Citizens for a Better Algonac Community Schools v Algonac Community Schools, 317 Mich. App. 171 (Sept. 8, 2016), reversed on other grounds;

Markel v Mackley, Case No. 327617 (Mich. Ct. App., Nov. 1, 2016)(Unpublished).

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Options for Electronic Participation



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Solution Qualifications

- Provides two-way communication
- Can't require registration to participate
- Allows for citizens with disabilities to participate
- Toll Free calling or local number calling options
- Can have chat capabilities but not ONLY chat capabilities as a method of two-way communication





Methods of Remote Access

Possible Uses of Video & Telephone Conferencing:

- Council located at the City/Village/Township Hall, participants are remote.
- Council located at remote locations only, participants are remote.
- Some council located at City/Village/Township Hall, some remote. Participants in attendance or remote.





Video Conferencing Solutions

- Zoom
- GotoMeeting
- WebEx
- Others
- Social media streaming or LiveStreaming? No, BUT!



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Option 1 – Zoom



- Video Capable
- Audio accessible by pc, phone app, or dial-in
- No registration required
- Live Closed Captioning
- Toll Free Calling options
- Chat Capability
- Easy Mute/UnMute
- Recording
- Screen Sharing
- Free and Tiered Pricing Available

zoom



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Option 2 – GotoMeeting



- Video Capable
- Audio accessible by pc, phone app, or dial-in
- No registration required
- No Closed Captioning, needs phone relay service
- Toll Free Calling options
- Chat Capability
- Easy Mute/UnMute
- Recording
- Screen Sharing
- Tiered Pricing Available



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Option 3 – WebEx



- Video Capable
- Audio accessible by pc, phone app, or dial-in
- No registration required
- Live Closed Captioning
- Toll Free Calling options
- Chat Capability
- Recording
- Screen Sharing
- Free and Tiered Pricing Available
- ISSUE #1: User has no mute/unmute control if only participating by dial-in
- ISSUE #2: Requires a passcode



Telephone Conferencing Solutions



- The Conference Group
- GotoMeeting OpenVoice
- Vast Conferencing
- Others

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Option 1 - The Conference Group



- 300 Callers
- Web Controls & Handset Controls
- Toll Free Numbers Available
- Recording Available
- 3.4 Cents per min/caller



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Option 2 – GotoMeeting/OpenVoice



- 500 Callers
- Web Controls
- Toll Free #'s Available
- Recording Available
- .08 Cents per min/caller



Option 3 - Vast Conferencing



- 500 Callers
- Web Controls
- Toll Free Available - .03 per min/caller
- Recording Available
- Monthly Fee



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Video Conferencing Solutions

Words of advice when using video:

- Know your internet speed ([speedtest.net](https://www.speedtest.net))
- Know your equipment capabilities (personal as well as at city hall)
- Lighting matters (don't sit with your back to a bright light)
- Check your surroundings prior to a meeting (declutter)
- Minimize disturbances (where's the dog?)





Telephone Conferencing Solutions

Words of advice when using audio:

- Arrange for a voice relay for participants with disabilities
- Check your cell phone battery, have your charging cord handy!
- Have web control and/or audio control commands ready
- Minimize disturbances (where's that dog?)



Prepare! We're in new territory.



- Talk through and document procedures for operating your meetings, whether it's a video or telephone conference.
 - Discuss public comments and how best to address them.
 - Have a staff member control the technical operations of the meeting, allowing leaders to do what they do best.
 - Practice!
- Provide early instructions for participants when posting notification of your meetings (including how to make comments).
- Start the Meeting early, and join early.
- Go over the commenting procedure again once the meeting has started.

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Questions?

