

April 7, 2020

Dear Municipal Leader:

Two weeks ago, as you know, Governor Raimondo issued an Executive Order (EO 20-05) temporarily suspending certain provisions of the state's Open Meetings Act, and specifically allowing members of public bodies to participate in meetings remotely – *under certain conditions*. In response to that Order, we have found that many municipal public bodies have begun holding their meetings remotely. I am writing to ask that you make sure that any public bodies within your jurisdiction that are meeting in this fashion are doing so in full accordance with the conditions imposed by both the Order and by supplemental guidance issued by the Department of Administration (DOA).

First, a key limitation in the Order itself is that any meeting involving remote participation must be for an "essential purpose," i.e., a meeting "which is *necessary* for continued government operations or to ensure compliance with statutory or regulatory deadlines." (emphasis added)

Second, the DOA's supplemental guidance memo, a copy of which I have attached, contains a number of important additional standards for the conduct of meetings that are occurring remotely in order to ensure that members of the public can properly monitor them. Among those standards: requiring audio and/or video coverage and suspending a meeting when that coverage is interrupted; having public body members identify themselves before speaking; and, where possible, posting on the public body's website in advance any documents to be presented at the meeting.

The ACLU of RI fully appreciates the need for some flexibility in governance during this difficult period, but at the same time the public's right to oversee the work of its government officials and municipal bodies remains more critical than ever. We therefore hope you will work to ensure that all of your municipality's public bodies are fully aware of, and conform to, these state-promulgated standards of transparency.

Thank you for your attention to this matter.

Sincerely,



Steven Brown
Executive Director

Enclosure



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION

Brett P. Smiley, Director
One Capitol Hill, Fourth Floor
Providence, RI 02908

Office: (401) 222-2280
Fax: (401) 222-6436

INTEROFFICE MEMORANDUM

TO: Agency Directors
Chairpersons of Boards and Commissions

FROM: Brett P. Smiley *BPSmiley*
Director
Department of Administration

DATE: March 24, 2020

RE: **Guidance with Respect to Executive Order 20-05 (OMA)**

In response to community concerns raised with respect to Executive Order 20-05 as issued by the Honorable Governor Gina M. Raimondo (see attached), I provide the following guidance for public meetings which cannot be delayed or continued:

1. In the event that a public body meets in-person, and the public body has the capability of providing remote audio and/or video access by the general public, it should do so. For Executive Branch agencies, such capability may be available through services that the Division of Information Technology ("DOIT") can identify for you.
2. In the event that a meeting is held at a physical location, the media, on a pool basis if appropriate, and the public should be permitted to attend, while being mindful of the attendance limitations set forth in Executive Order 20-04, as may be amended (see attached).
3. In the event that either audio and/or video coverage of a meeting is interrupted, the meeting shall be suspended, with the record reflecting such suspension, until such time as functionality is restored.
4. Should the members of the public body have the technology available to them during a remote video meeting, the members should allow themselves to be visible to the public during the entirety of the meeting.
5. At the commencement of a meeting that the record reflect which members are in attendance in-person, if any, and which members are participating remotely, if any.
6. It is important that each member identify themselves before speaking so that the record is clear as to who is discussing or questioning a matter. And, it is prudent to have all votes be taken by roll call with identification of the person voting.
7. If possible, all documents anticipated to be publicly presented at a meeting should be posted on the public body's website prior to the start of the meeting. Such posting should not be considered part of any record until admitted into evidence and/or the record by the presiding officer. In the event that an unanticipated document is introduced at the open meeting, the public body should post the document to its website as soon as practicable.

This guidance is not intended to be all inclusive. Each of us is responsible to conduct our proceedings/meetings in the interests of transparency, during this emergency period. As public servants we serve our citizens; and, they are entitled to know how government is acting on their behalf. As we adapt to new challenges, we will need to make decisions. Let those decisions always be guided by the desire for transparency.

BPS/njr

Attachments (2)