



TOWN OF WELLFLEET

300 MAIN STREET WELLFLEET MASSACHUSETTS 02667

Tel (508) 349-0300 Fax (508) 349-0305

www.wellfleetma.org

To: Selectboard
From: Courtney Butler, Executive Assistant,
Date: September 18, 2020
Re: Board and Committee Meetings During COVID-19

On March 12, 2020, Governor Baker issued guidance that allows public bodies to hold meetings remotely. Since then, the Town has been conducting all meetings virtually, using the platform Zoom. Many boards and committees, 23 exactly, have been meeting virtually and conducting their business in this manner for the last 6 months with little to no issue. Additionally, staff have worked with board members to either host their meetings for them or teach them how to host themselves, when staff are unavailable.

Thus far, we have had a very successful run with Zoom. I commend the citizens of Wellfleet, as well as our volunteer board and committee members, for being able to quickly pivot to and learn how to use a new technology to ensure Town matters can continue being handled accordingly. While many have been successful, some still have their reservations about the platform and technology. With this, some committees have asked to meet in-person, outside. I have received a response from the Attorney General's Office regarding in-person meetings:

"Access, if not provided by remote means in accordance with the Governor's executive order, must include the opportunity to be physically present as well as to see and hear what is being discussed by the members of the public body. In addition, for a meeting to be truly open to the public, we have determined that it must be held at a location that is compliant with the Americans with Disabilities Act. The meeting space must be sufficiently large to accommodate anticipated crowds, and a public body must make reasonable efforts to accommodate unexpectedly large turnouts.

A public body may not cap the number of attendees for purposes of complying with the Governor's orders regarding gathering size and physical distancing. Public bodies may consider holding meetings outdoors, if they can ensure that attendees will be able to see and hear the discussions, such as through the use of adequate audio systems. A public body that wishes to hold a meeting outdoors must post notice as they would for any other meeting, which is 48 hours prior to such meeting and include on the notice the date, time and location of the meeting. The location on the notice should be specific, such as the parking lot at a specific town building and if there is more than one parking lot then the notice must identify the specific parking lot where the meeting will be held."

This means that while public bodies may meet outside, in person, that there are requirements and accommodations that must be adhered to. It should also be noted that anyone may record a meeting so long as they notify the Chair first, and do not disturb the meeting in doing so. As we head into the fall and winter months, it is staff opinion that the most accessible and safe option for board and committee members to meet is to use

Zoom. While the COA has the large meeting room, with capability to live-stream meetings, staff at the COA are not comfortable hosting meetings there.

I would like to remind Boards and Committees to please reach out to me at Courtney.butler@wellfleet-ma.gov to schedule their Zoom meetings. If you are nervous or wish to learn more about how to use Zoom, as a participant or host, please know that I welcome your questions and am here for support.

I want to reassure everyone that we take every measure we can to ensure meetings that take place on Zoom are safe from hackers, publicly accessible, and as easy to attend and participate in as possible. I thank you all for your patience and understanding during these last 6 months and look forward to continuing the good work we all do.

Sincerely,



Courtney Butler
Executive Assistant

CC:

Board and Committee Chairs
Wellfleet Residents

From: OpenMeeting (AGO) <openmeeting@state.ma.us>
Sent: Friday, September 11, 2020 11:15:40 AM
To: Courtney Butler <Courtney.Butler@wellfleet-ma.gov>
Subject: RE: OML Question - Wellfleet

Good Morning Courtney,

Thank you for contacting the Division. Public bodies may hold in-person meetings, if they are able to do so in a way that complies with the Governor's current orders regarding gathering size and physical distancing, yet also complies with the Open Meeting Law's requirements regarding access to the public. The Open Meeting Law requires that meetings of public bodies be open to the public. Access, if not provided by remote means in accordance with the Governor's executive order, must include the opportunity to be physically present as well as to see and hear what is being discussed by the members of the public body. In addition, for a meeting to be truly open to the public, we have determined that it must be held at a location that is compliant with the Americans with Disabilities Act. The meeting space must be sufficiently large to accommodate anticipated crowds, and a public body must make reasonable efforts to accommodate unexpectedly large turnouts.

A public body may not cap the number of attendees for purposes of complying with the Governor's orders regarding gathering size and physical distancing. Public bodies may consider holding meetings outdoors, if they can ensure that attendees will be able to see and hear the discussions, such as through the use of adequate audio systems. A public body that wishes to hold a meeting outdoors must post notice as they would for any other meeting, which is 48 hours prior to such meeting and include on the notice the date, time and location of the meeting. The location on the notice should be specific, such as the parking lot at a specific town building and if there is more than one parking lot then the notice must identify the specific parking lot where the meeting will be held.

The public body is not required to record its own meetings. However, a public body must "create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes." G.L. c. 30A, § 22(a). Minutes should contain enough detail and accuracy so that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. While minutes must include a summary of the discussion on each topic, a transcript is not required, and the minutes do not need to include every remark or opinion presented.

Sincerely,
Kerry Kilcoyne
Assistant Attorney General
Division of Open Government
Office of the Massachusetts Attorney General
One Ashburton Place, 20th Floor
Boston, MA 02108

Ph: (617) 963-2540
openmeeting@state.ma.us



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”); and

WHEREAS, many important functions of State and Local Government are executed by “public bodies,” as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention (“CDC”) and the Massachusetts Department of Public Health (“DPH”) have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.


(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in cursive script that reads "Charles D. Baker". The signature is written in dark ink and is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts