

Meetings After COVID

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How Meetings Will Take Place After COVID

Governing Body In Person Presumed

Short Term: Hybrid (What does that
Mean)

Who is in Person? Staff? Public?



Long Term Remote participation After COVID



Members of the Governing Body: Before and After COVID



Opportunity for Public Participation Remotely:
Before and After COVID



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General Policy Issues to Consider

1. Accountability of Individuals when Remote
2. Public Expectation of Availability of Remote Participation



Legal Constraints/Issues to Consider



Basic guarantee of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.



So the question is does this require in person hearings post-COVID?



Quasi-judicial v. legislative



And what about executive sessions?



Different commentators have stated the following:

“Virtual hearings inevitably skew the perceptions and the behavior of the involved parties by either removing or over-emphasizing non-verbal cues, failing to properly simulate normal eye contact, or exaggerating features. This can obstruct the fact-finding process and prevent accurate assessments of credibility and demeanor based on common in-person experiences.”

“Remote experiences diminish the court’s ability to assess matters such as credibility, competence, and understanding”



Remote participation by a board member in a quasi-judicial proceeding – during COVID emergency plus often waivers from participants

- Now?
 - Value of ability to see and hear witnesses and other board members directly, assess credibility and deliberate candidly and contemporaneously with other board members
 - Body language, facial expressions, and other nonverbal communication that goes along with live participation





“As Chief Judge Wilkinson has appropriately observed, “virtual reality is rarely a substitute for actual presence and ... even in an age of advancing technology, watching an event on the screen remains less than the complete equivalent of actually attending it.” *United States v. Lawrence*, 248 F.3d 300, 304 (4th Cir.2001) (discussing video conferencing in sentencing proceedings). More specifically, video conferencing may render it difficult for a factfinder in adjudicative proceedings to make credibility determinations and to gauge demeanor. *United States v. Baker*, 45 F.3d 837, 844–46 (4th Cir.1995); *Edwards v. Logan*, 38 F.Supp.2d 463, 467 (W.D.Va.1999) (“Video conferencing ... is not the same as actual presence, and it is to be expected that the ability to observe demeanor, central to the fact-finding process, may be lessened in a particular case by video conferencing....”

Rusu v. S.S. Immigration and Naturalization Service, 296 F.3d 316, 322 (4th Cir. 2002).



Issues to Consider (Quasi-judicial Public Hearings)



Comments in writing?



Chat during remote participation – What is the record?



Risk of Technical Difficulties



Risk of bad decision-making

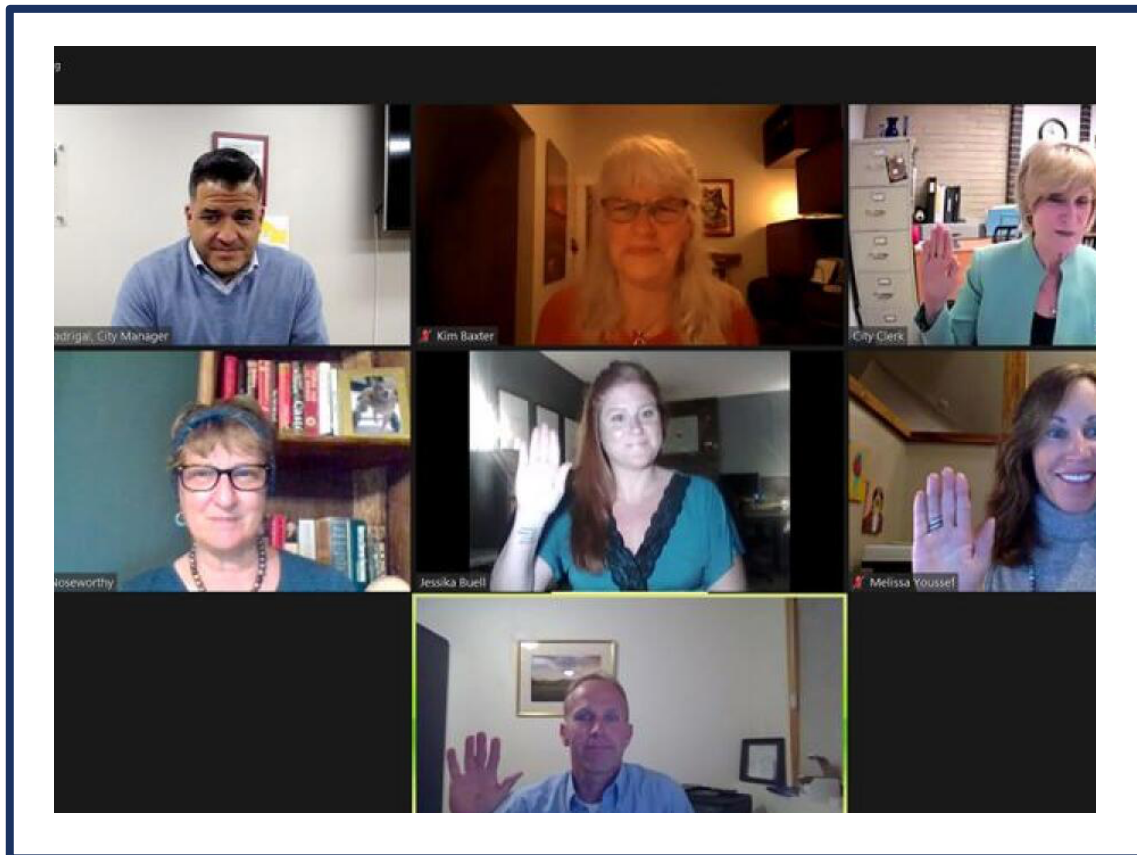


And finally, executive
sessions.....



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VIRTUAL PARTICIPATION – PUBLIC EXPECTATIONS



- José R. Madrigal, City Manager for the City of Durango



Increases Diversity in Public Participation

- Parents with small children or taking care of a family member
- Marginalized populations who have difficulty securing transportation to access meetings in person

Promotes Environmental Sustainability

- Reduces the number of cars needing to drive to City Hall
- May decrease need to build a bigger Council Chambers to accommodate growth

Inclement Weather

- Heavy snow days no longer an issue for travel to the Council Meeting

Reduces Costs of Traveling

- City no longer needs to incur costs for consultants to travel to present

VIRTUAL PARTICIPATION IS HERE TO STAY