



TOWN OF STRATHAM

INCORPORATED 1716

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MEMORANDUM

TO: Chairs of Stratham's Boards & Commissions

FROM: Michael Houghton, Select Board, Chair
Joseph Lovejoy, Select Board, Vice-Chair
Allison Knab, Select Board

DATE: April 6, 2020

RE: Guidance re: Public Meetings and RSA 91-A During State of Emergency

Please allow this memorandum to serve as guidance for Boards and Commissions Chairs who are considering holding meetings of their Boards and Commissions during the public health emergency. At this time there is a stay at home order in place issued by the Governor and gatherings of ten or more people continue to be banned in the State of New Hampshire. In addition, the Town Offices and other town-owned buildings are closed to the public. This is intended to protect the Town's workforce, encourage all residents to honor the stay at home order, and help avoid the risk and expense of the potential need to disinfect buildings following use by a known infected building.

Explanation of Applicable Law during for Public Meetings during the declared emergency

The State RSA 91-A has provisions for holding meetings of public bodies during emergencies, and those have been modified during the declared emergency we are currently in. In addition, the Governor recently issued an executive order on the matter of holding public meetings (Governor's Emergency Order #12 pursuant to Executive Order 2020-04). RSA provisions for emergency meetings and Executive Order #12 have both been summarized and clarified via a March 31, 2020 memo from the State Attorney General. These directives and guidance uphold important values enshrined in the RSA requirements and procedures for holding public meetings: access to any member of the public to attend and ability to access materials.

Many conveniences or technical tools have been utilized in this context to allow public bodies to meet. While technically available these pose challenges for aligning with the values and spirit of the RSA 91 -A. Videoconferencing in particular is one that is available technically but not necessarily accessible to all (without equipment, viable internet connection speeds, or technical capacity of users). Another option available, like teleconferencing (using a phone number,

conference line for all participants, with the ability of a Chair or staff member assisting the chair to manage participation.

This option makes the meeting more accessible to the public and all Board or Commission members (greater number of people with phones), but can make running the meeting especially challenging due to potential for overtalk, etc.

Recommendation from Select Board

Due to the inherent limitations of convening public meetings and in the absence of meeting in a physical space, we urge Chairs and their Boards & Commissions to think through the necessity of meeting during the public health emergency. Also, to facilitate public communication and predictability about how meetings will be held we recommend a consistent deployment of teleconferencing where holding a meeting is necessary.

For planning purposes, Chairs and Boards and Commissions should keep in mind the closure of Town Offices is expected to be extended until at least into May 2020.

Members of the public and Boards and & Commission Members should keep in mind guidance from the State may change. Also, due to certain requirements of law (such as the requirement for Planning Boards to meet once a month – only recently waived by Executive Order) some meetings may take place traditionally; though for obvious reasons we are emphasizing limiting this practice.

Procedures

For Boards & Commissions who choose to meet during the public health emergency, a summary of the required steps for complying with State Law and Attorney General Guidance of March 31, 2020 is below (and the following pages).

A link to the full guidance is here:

https://www.nhmunicipal.org/sites/default/files/uploads/documents/specific_guidance_on_holding_an_emergency_meeting.3.31-final.pdf.

**Procedures for Board Chairs for Preparing Public Meetings
during Public Health Emergency**

1. Contact Karen Richard, Executive Assistant to indicate a meeting will be held. Her number is 603 772-4741 ext. 187.
2. Create an agenda including the following language: In accordance with RSA 91-A and the March 31st Memorandum Attorney General for holding meetings during the public health emergency. This meeting will take place via teleconference. All members of the public and the Board, will access the meeting remotely via the teleconference line (and passcode) - to be provided by the Executive Assistant.
3. Per the AG guidance, submit in .pdf form materials for the meeting that will be discussed during the meeting (a draft document or some other work that will be the basis for a discussion or an action). These materials are required to be posted on the website in a location to be mentioned in the meeting notice. Please allow sufficient time to coordinate this with staff.
4. Posting time frames and requirements for meeting summaries to be posted following the meeting are still required (no change)
5. Non-public meetings, if you anticipate the need for a non-public meeting, a different procedure will need to be followed. Please contact the Exec. Assist and Town Administrator in order to plan for this. Likely it will require the use of a separate conference line and the need for establishing a new conference meeting following your public session.

**Town of Stratham Checklist/Template Comments for
Chairs holding Public Meetings for Boards and Commissions
during COVID-19 Public Emergency**

April 6, 2020

As Chair of the _____ [Board or Commission], I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting as authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

- a) Providing public access to the meeting by telephone. All members of the [Board, or Commission] have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # _____ and passcode _____.
- b) Providing meeting materials for this meeting (if any), which can be found on the Town's website (provide clarification on the location).
- c) Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting via conference call.

- d) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access please contact the Chair (or other contact for the Meeting) by e-mailing: _____ (Name) and _____ (e-mail address).
- e) Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to Know law (91-A).

Other Guidance for Meetings from the State of NH

Emergency Meeting Member Participation

To ensure public access to the meeting, the public body must also take the following steps when a public body is conducting a meeting with remote (telephonic or video conference) members and remote public access under the emergency meeting procedures outlined above:

- a) Any member of a public body participating remotely must identify any other persons present at the location from which the member is participating; and
- b) The member(s) of a public body participating remotely are deemed to be present at the meeting for the purposes of voting.

All votes taken at a meeting at which any member participates electronically must be by roll call vote. This means that the minutes need to list all members participating and their vote on each vote. A total of Yeas and Nays is not sufficient.