

INFORMATION MEMO

Holding Public Hearings Remotely

The COVID-19 public health emergency and Gov. Walz's Executive Order 20-20 ("Stay Home MN") requires city councils to make alternative meeting plans and still comply with the Open Meeting Law. Consult the LMC information memo City Options for Meeting Remotely for a discussion of legal requirements and technology options. At the same time, cities must comply with statutes, charter provisions, and ordinances requiring public hearings for specific action items, such as land use applications, street vacations, or special assessments. This memo suggests strategies for holding public hearings while also using remote meeting technology.

RELEVANT LINKS:

[Minn. Stat. § 412.851.](#)

[Minn. Stat. § 414.033, subd. 2b.](#)

[Minn. Stat. § 429.031, subd. 1.](#)

[Minn. Stat. § 429.061.](#)

[Minn. Stat. § 444.18, subd. 3.](#)

I. Steps for holding remote public hearings

Statutes, charter provisions, and ordinances that require public hearings generally assume that the city council, or other city board, are meeting and taking public comments in person. There is little direction on how to conduct a public hearing when a city board meets remotely.

When meeting remotely, cities have flexibility in how they will take public comments. Cities can take comments prior to and during the hearing. Cities can require those wishing to address the council during the hearing to sign up prior to the hearing.

This memo provides some suggestions for taking public comments while holding remote public hearings. For specific advice, cities should work closely with their city attorney.

A. Before the public hearing

1. Identify the law that requires a public hearing

Public hearing requirements are found in state statutes, home rule charter provisions, and city ordinances. Cities should consult those sources directly to find the specific procedural requirements that apply for the public hearing in question.

Here are some actions that require public hearings:

- Street vacation.
- Annexation by ordinance.
- Local improvement projects that will be paid for with special assessments.
- When special assessments are made to property.
- Purchase and improvement of waterworks, sewers, drains, and storm sewers by storm sewer improvement districts.

RELEVANT LINKS:

Minn. Stat. § 469.003, subd. 2.

Minn. Stat. § 469.093, subd. 1.

Minn. Stat. § 469.065, subd. 2.

Minn. Stat. § 469.105, subd. 2.

Minn. Stat. § 469.107, subd. 2.

Minn. Stat. § 340A.602.

Minn. Stat. § 275.065, subd. 6.

Minn. Stat. § 462.357, subd. 3.

Minn. Stat. § 462.358, subd. 3b.

Minn. Stat. § 462.3595, subd. 2.

Minn. Stat. § 410.12, subd. 7.

Minn. Stat. § 462.355, subd. 4.

Minn. Stat. § 15.99, subd. 2(a).

Minn. Stat. 462.358, subd. 3b.

Minn. Stat. § 13D.021.

- Adoption of a housing redevelopment authority (HRA) enabling resolution.
- Adoption of an economic development authority (EDA) enabling resolution.
- Sale of port authority land.
- Sale of EDA land.
- Increase of levy for an EDA.
- Continuation of a municipal liquor store after a net loss for two of three consecutive years.
- Truth-in-Taxation Law processes.
- Adoption or amendment of a zoning ordinance.
- Subdivision applications.
- Granting of a conditional use permit.
- Adoption of a charter amendment by ordinance.
- Certain interim ordinances.

Take note of any notice requirements in the applicable statute, charter provision, or ordinance. Common notice requirements are publishing and/or mailing notice for a specified period prior to the hearing.

Also take note of any timing requirements in the statute, charter provision, or ordinance. There may be a deadline for the city council or commission to act.

For written requests related to zoning and other land use applications, cities generally have 60 days to make a decision. For subdivision applications, cities generally have 120 days to make a decision on the preliminary plat. Public hearings are required on these issues. Keep this in mind when scheduling hearings. If the city does not act by the deadline, the application may be automatically approved.

Cities must follow all the requirements of the Open Meeting Law to hold a public hearing by telephone or other electronic means. The LMC information memo [City Options for Meeting Remotely](#) covers these requirements and provides template documents the city can use to establish the authority to meet remotely. It also provides background information on different technology solutions for remote meetings.

2. Provide notice of hearing

First, check the applicable statute, charter provision, or ordinance to find out the type and method of public notice. Sometimes, specific content is required in the notice.

Notice should also include the following, per the Open Meeting Law:

RELEVANT LINKS:

[Minn. Stat. 13D.021, subd. 4.](#)

- The regular meeting location.
- The fact that some members may participate by telephone or other electronic means.
- All of the information necessary for the public to monitor the meeting from a remote location. This could be a call-in line, access code, link, or password that will allow them to monitor the meeting.

Notices should contain clear and complete information on how the city will accept public comments and any deadlines for submitting pre-hearing comments. All methods the city chooses for accepting comments should be clearly communicated to the public.

Consider methods of notice beyond what is legally required. Cities can use the city website, newsletters, email subscription lists, or social media to provide notice. This ensures that more residents get notice of the hearing and have the ability to comment, if desired.

3. Taking comments before the hearing

State laws generally don't provide a specified way of handling public comments.

Cities should consider taking public comments prior to the public hearing. Several methods of comment can be made available, including mail, email, or voicemail. The methods should be communicated in the public notice.

Consider a deadline for submitting comments prior to the date of hearing. That way, staff have time to prepare and distribute comments to councilmembers in time for consideration before the hearing. This may provide a cleaner method of taking comment, as the council will have all comments available to it before the hearing begins.

All comments received should be attached to the public record and maintained by the city pursuant to its records retention schedule.

If it is preferred to hold hearings in person, cities can consider rescheduling or delaying public hearings that are not urgent or subject to any deadlines for action. It is assumed cities will be able to hold in-person public hearings once the pandemic ends.

B. Holding the public hearing

1. Taking comments during the hearing

In addition to taking comments prior the hearing, a city board should also provide a method to receive public comments during the hearing. Good meeting management is essential to ensure an orderly presentation of comments to the council.

RELEVANT LINKS:

[Minn. Stat. 13D.021, subd. 4.](#)

During the hearing, a staff person controlling the meeting technology platform can control who can talk at what time, and call on persons as they come up on the agenda to speak.

Alternatively, the city board can require that those wishing to make comments during the meeting make an appointment to do so. The staff person controlling the meeting technology then gives those persons a number to call or an invitation to join the meeting at a certain time. The staff person can also call on persons based on their appointments.

If time allows, a city can continue a public hearing to a future time. Doing so will allow additional time for the public to provide input based on the information presented at the original hearing.

2. Making a good record

All comments received prior to the hearing should be distributed to councilmembers or board members and made part of the public hearing record. Cities may want to acknowledge receipt of comments made prior to the hearing to ensure that people know their comments were received.

During the meeting, presiding officers may want to reiterate that all comments received prior to the hearing were distributed to all councilmembers. All comments received during the hearing should be distributed to all councilmembers.

All comments received should be maintained in the city's records and maintained per the city's records retention schedule. Comments will likely be classified as public data per the Minnesota Government Data Practices Act. Cities should have an orderly process for collecting and maintaining all comments in the event someone makes a data request for this information.

II. Conclusion

Cities are still required to have public hearings when required by state law, charter provision, or ordinance. Cities should ensure that they comply with all notice requirements of the law that mandates the public hearing as well as the Open Meeting Law. Notices should also include all of the information needed for residents to make comments regarding the public hearing.

Cities should be guided by the goals of providing as much notice as possible and flexibility in the methods by which they will receive public comments for the hearing.