



Department Source: City Manager  
To: City Council  
From: City Manager & Staff  
Council Meeting Date: October 5, 2020  
Re: Virtual Meetings

## Executive Summary

Staff has been reviewing options for virtual meetings for Boards and Commissions. Virtual meetings are allowable under the Sunshine Law, but have not been authorized for general use by all boards and commissions by the City Council. This memo sets forth the legal requirements and some of the additional cost and logistical information for Council to consider whether to authorize some form of virtual meetings for boards and commissions.

## Discussion

The City of Columbia has over 40 boards, commissions and task forces ("commissions"). Each commission has varying duties that range from being purely advisory to having quasi-judicial functions. All commissions are considered to be public governmental bodies under the Sunshine Law and thus must comply with all applicable requirements along with general legal requirements related to ADA accessibility, etc. In addition, a heightened obligation may exist for certain commissions due to the nature of their duties. This memo does not intend to seek guidance on the holding of virtual meetings by the City Council, which as an elected governmental body has separate requirements under the Sunshine Law.

In general, the Sunshine Law allows for a meeting of a public governmental body to be held completely in person, completely using electronic means or a combination of the two methods. If the meeting is held by electronic means, the Sunshine Law requires the meeting notice to identify the mode by which the meeting will be conducted and a location at which the public may observe and attend the meeting. When a body meets by "internet chat, internet message board, or other computer link," the meeting notice is required to notify the public of how to access the meeting.

If less than a quorum of the body is permitted to attend a meeting using video conferencing with a quorum of the body being present in person at the designated meeting location, no general public access to the video conferencing platform is required. This is because due to a quorum being present in person the meeting is technically being held at the fixed physical location where the quorum is located. If greater than a quorum participates via video conferencing, public access to the video conferencing platform or designation of a location where public participation via alternative methods is available also required. A copy of the Attorney General's Guidance on the Sunshine Law requirements for public governmental bodies is attached as supplemental information.

Due to the nature of the work performed by some of the commissions, there is a higher level of due diligence required when it comes to holding virtual proceedings. These requirements



# City of Columbia

701 East Broadway, Columbia, Missouri 65201

exist in addition to the Sunshine Law authority. For instance, the Board of Adjustment holds quasi-judicial hearings in which an applicant presents a case, persons are allowed to testify in favor or against and the Board renders an opinion. The Planning and Zoning Commission holds statutorily required public hearings upon which a record to support or deny an application is based. The Personnel Advisory Board holds hearings on personnel appeals that require witnesses to be sworn prior to taking testimony. For these types of commissions, a "see and be seen" standard is important to ensure all of the underlying statutory and due process requirements are met. A list of the commissions for which a due process component has been identified include: Board of Adjustment, Building Construction Codes Commission, Citizens Police Review Board, Commission on Human Rights, Firefighters' Retirement Board (appeals hearings), Historic Preservation Commission, Liquor License Review Board, Marijuana Facility License Review Board, Personnel Advisory Board, Planning and Zoning Commission, Police Retirement Board (appeals hearings), Tax Increment Financing Commission, and Tobacco Retailer License Review Board.

On the other end of the spectrum are single purpose advisory commissions such as the Mayor's Task Force on the USS Columbia (whose purpose is to maintain positive relationships between various entities) and the Railroad Advisory Board (who advises the Council on the operation and needs of the railroad). These commissions play an important advisory function within city government, but are not conducting public hearings which affect applicant property rights or serving as a final decision-making body.

The software capabilities of the vendors providing the platforms for online meetings is varied. There are completely open formats where anyone has the opportunity to follow a link to join the meeting and commission members are mixed among other attendees who appear on/off the main screen. Alternatively, there are more robust regulated formats where an individual serves as a meeting host and allows persons to raise their hand and be allowed to enter the virtual meeting room either as a participant or a guest. There are numerous decision points to be made and while it may not be a one-size-fits-all solution, in order to have base-line consistency and move forward there need to be minimum ground rules under which the commissions are authorized to operate.

Authorizing individual members, but less than a quorum to participate in a meeting via video or teleconferencing would have minimal cost as long as the meeting room utilized contains the requisite camera and video screen technology. The current technology is user-friendly and there is low risk of outside interference if the meeting link is not publicly available. The technology may be utilized immediately with minimal training. The downside is limited public access through the virtual platform.

Meetings where a majority of the members are participating via electronic means will require the purchase of the requisite meeting/webinar software licenses, the cost of an additional staff member to serve as a meeting host, plus IT support for any technology issues. Meeting participants who participate electronically would be required to provide their own equipment. Policy and procedure rules on how the public accesses the virtual platform and is granted permission to speak (or make a presentation) would be needed.



Staff seeks guidance from Council on whether to move forward with authorizing less than a quorum of a commission to attend a meeting via electronic means and whether there is interest by a majority of Council to continue to explore fully virtual meetings for future use by commissions.

## Fiscal Impact

Short-Term Impact:

Long-Term Impact: Enter the cost of proposed legislation to the city for years **beyond two**.

## Strategic & Comprehensive Plan Impact

### [Strategic Plan Impacts:](#)

Primary Impact: Not Applicable, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

### [Comprehensive Plan Impacts:](#)

Primary Impact: Not Applicable, Secondary Impact: Not applicable, Tertiary Impact: Not Applicable

## Legislative History

Date	Action
	None.

## Suggested Council Action

No recommendation.



## **Sunshine Law Guidance for Public Governmental Bodies During a Public Health Crisis or State of Emergency**

In light of current circumstances, some public governmental bodies may not wish to have in-person meetings in order to protect the public from possible transmission of a communicable disease during a public health crisis. However, it is still necessary for government agencies to conduct public business. The Attorney General's Office has prepared information for public governmental bodies seeking guidance on complying with the Sunshine Law during these times.

The Sunshine Law provides means for public governmental bodies to conduct public meetings in alternative ways, such as via video conference, online meeting, and telephone conference. A public governmental body should always ensure that it maximizes the amount of notice given to the public before hosting any public meetings, whether in-person or via alternative means. As a best practice and if possible, public governmental bodies should take advantage of their website and social media pages to post recordings or live streams of public meetings.

Along those lines, the Attorney General's Office encourages public governmental bodies to be mindful of the nature of business discussed or decided during states of emergencies, such as public health crises. For example, it would be appropriate to continue to discuss and decide routine and essential matters. However, given the Sunshine Law's goal of maximizing governmental transparency, as a best practice it may be advisable for a public governmental body to postpone discussions and votes on higher-profile matters until the state of emergency or crisis has been resolved and the public could resume attending and participating in meetings in person, if such a postponement would not jeopardize the matter.

**Meeting Notices** - If a public governmental body chooses to have a meeting by telephone or other electronic means, staff will need to ensure that the meeting notice references the change from the usual method. If the meeting will be held online, § 610.020.1, RSMo, requires that the body "**post a notice of the meeting on its website in addition to its principal office.**" Section 610.020.1, RSMo, further requires that the body "**shall notify the public how to access that meeting.**" Depending on the circumstances, this may include a phone number the public can use to dial in to listen to the meeting or the web address where a video feed can be accessed.

Meeting notices will still need to be provided at least twenty-four hours in advance of the start of the meeting, exclusive of weekends and holidays. § 610.020.2, RSMo. If it is impossible or impractical to provide a meeting notice that far in advance, the body should post the meeting notice as soon as possible.

Meeting Agenda - If a meeting will be held in an online or other electronic format, the public governmental body will need to still provide a tentative meeting agenda that is “**reasonably calculated to advise the public of the matters to be considered.**” § 610.020.1, RSMo. Bodies should create and post their tentative meeting agendas in the same manner as the meeting notice.

Voice Votes – The Sunshine Law does not preclude members of a public governmental body from participating in voice-votes during online or conference call meetings. However, the Sunshine Law does require that some votes must be held by a roll call vote, and not a voice vote, as explained below.

Roll Call Votes – Generally, under § 610.015, RSMo, an elected member of a public governmental body can only participate in a roll call vote if they are physically present or participating via videoconferencing. This also means that a quorum of the public governmental body must be present in-person or via videoconferencing for a roll call vote to be held. In addition, if a closed meeting is held, all votes in closed session must be held by a roll call vote.

However, § 610.015, RSMo, also includes special provisions for emergency situations, which may include a public health crisis or state of emergency:

When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

Emergency Public Meetings – The Sunshine Law provides for public governmental bodies to have a meeting on less than twenty-four hours of notice, at a place that is not reasonably accessible to the public, or at a time that reasonably convenient to the public. In these events, § 610.020.4, RSMo,

requires that **“the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.”** In addition, § 610.020.2, RSMo, requires that public notice of the meeting be given as soon as practicable.

The Missouri Sunshine Law is meant to be liberally construed, and the exceptions to openness are to be interpreted as strictly as possible in order to promote openness. Emergency meetings would be considered an exception to openness and should only be held when necessary.

A public governmental body should also refer to provisions its charter, bylaws, or ordinances that address governmental transparency. These documents may contain additional procedures that complement the Sunshine Law.

We hope this information is helpful. If you have any questions or concerns please feel free to visit our website at [www.ago.mo.gov/missouri-law/sunshine-law](http://www.ago.mo.gov/missouri-law/sunshine-law) or contact our Director of Sunshine Law Compliance, Ms. Casey Lawrence, at 573-751-8905.