The Town Tea Leaves – The New NEW Videoconferencing Requirements

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Link to full recording

Pre-Pandemic Videoconferencing

- Pre-pandemic authority still in effect – members can videoconference in so long as: 1) location is noticed and public has the ability to attend from that location and 2) members of the public can observe the individual (no teleconferencing)
  - Town caveat – Town Law 62 requires meetings of town board to occur within boundaries of the town. If videoconferencing in from outside of town boundaries, adopt local law expanding authority of Town Law 62

Videoconferencing until June 8, 2022

- Until June 8, 2022 - various executive orders and Chapter 1 of the Laws of 2022 authorize public bodies to meet remotely or in person without public attendance
  - Videoconference / teleconference authorized, and notice must provide public with instructions on how to attend remotely
  - Remote meetings must be recorded and transcribed
  - No physical quorum required to conduct business

New NEW Videoconferencing Requirements Effective June 8, 2022

- 2022-2023 State Budget - "extraordinary circumstances" local law opt-in for videoconferencing – Public Officers Law § 103-a
- Allows board member to videoconference (no teleconferencing) in from an undisclosed location
- Physical quorum is still required to conduct business, although the “physical” component can be met via videoconferencing from locations that are open and noticed to the public
- Boards that opt-in have to adopt local law and provide guidelines that constitute extraordinary circumstances
  - Disability, illness, caregiving, significant or unexpected factors or events (not an exhaustive list)
- Towns MUST have a website if they opt in to videoconference under extraordinary circumstances
- Meetings must be recorded and posted within five days and retained for five years
- Videoconferencing policy must be posted on website
• Notice of meeting has to include how to view / participate remotely, as well as any locations where the quorum is occurring and how to access the documents that will be discussed
• Minutes have to reflect who participated via videoconferencing
• Towns are not required to opt-in or offer videoconferencing via extraordinary circumstances
• Does not apply to executive session – public does not have the right to attend, although an action to move into executive session must occur during an open meeting
• Public comment – not required unless the meeting is a public hearing
  o Town can / should have policy governing public comment – can impose reasonable time limits
• Videoconferencing technology must be ADA-compliant and allow members of the public with a disability to participate in a manner consistent with the ADA
• In-person quorum requirement suspended during any state-, county- or town- declared state of emergency
• Ambiguity regarding other bodies opting in outside of legislative body
  o COOG indicates legislative body must authorize other boards to opt-in
• Will be revisited in July 2024
• For more information and a sample local law, please visit AOT’s analysis of the new requirements here.