



To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager
Date: June 18, 2021
Initiated By: Jennifer Readler, Law Director
Re: Virtual attendance at public meetings after the expiration of HB 404.

BACKGROUND

In response to the COVID-19 pandemic, the Ohio General Assembly passed House Bill 197 which became effective on March 27, 2020.¹ That legislation permitted public bodies to hold meetings virtually.² The provision permitting virtual meetings was set to expire no later than December 1, 2020.³ The General Assembly then passed House Bill 404, effective November 22, 2020, which permitted the continuation of virtual meetings for public bodies.⁴ This provision is set to expire on July 1, 2021.⁵

Prior to the pandemic-related legislation, Ohio Revised Code Section 121.22 regulated meetings of public bodies. Section 121.22 had several requirements for these meetings including: that they be open to the public, that minutes of the meetings be prepared, filed, and maintained, that notice be given, and that certain requirements be met for an executive session.⁶ Notably, Revised Code 121.22(C) requires members of a public body to be present in person at meetings for their vote to be counted and to count toward a quorum.⁷ All requirements under Revised Code 121.22 will be effective again after July 1, 2021.

SUMMARY

Staff would like to obtain Council direction as to how meetings should be structured after July 1, 2021. Fundamentally, Council has the option of returning to fully in-person public meetings (the status quo pre-COVID) or a hybrid model whereby certain individuals (either including public body members or not) can choose to attend meetings in-person or virtually. Generally, the City is free to permit members of the public, applicants and other participants to attend and participate virtually. Permitting members of the public body to attend virtually could potentially lead to legal challenges.

¹ Am. Sub. H.B. No. 197.

² *Id.*

³ *Id.*

⁴ Sub. H.B. No. 404.

⁵ *Id.*

⁶ R.C. 121.22.

⁷ *Id.*

The Home Rule Amendment (Section 3, Article XVIII) of the Ohio Constitution grants Ohio municipalities the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws. The Ohio Supreme Court has defined matters of local self-government as those actions in which “the results affect only the municipality itself, with no external effects.”⁸

There is a Home Rule argument that the way a charter municipality operates its meetings is a matter of local self-government and therefore beyond the power of the Ohio General Assembly to regulate. Municipalities have suffered Home Rule setbacks at the Ohio Supreme Court in recent years so there is always the possibility that a challenge to permitting virtual attendance of public body members could be successful. And, if this challenge was brought after a significant period of time, and the ruling was unfavorable, it could cause issues for any legislation passed while out of compliance with R.C. 121.22.

Ultimately, so long as the City is aware of the potential for a legal challenge, it has the authority under its Charter and the Ohio Constitution to dictate the manner of its meetings. If the City wishes to do so, it would need to pass legislation permitting such attendance for members of the public body. The City of Cleveland has passed such legislation, but Columbus, Canal Winchester, Grove City, Hilliard, and Pickerington are, at this point, going to require the physical presence of all public body members after July 1.

CAPABILITY

Currently, the new Council Chambers is being outfitted with network hardware, provided by Cisco, that is fully compatible with the WEBEX conferencing platform. This combined with the Crestron audio-visual package being installed by New Era (formerly Real Life Pros) will provide a robust capability to facilitate the conduct of “hybrid” meeting in which participation can occur in person while allowing remote participation as Council deems appropriate. This complete package will also provide the capability needed to live stream all Council meetings without the need for external cameras and sound equipment being brought into Council Chambers. A demonstration of the equipment and rehearsals are planned for mid-July for the members of Council to undergo a hands on experience in understanding the usage and capability of the equipment. The Director of Information Technology will also provide a brief overview of capabilities during the June 28th Council meeting. (See Exhibit A)

RECOMMENDATION

Staff requests general direction at the June 28th meeting as to whether Council would like to consider hybrid meetings and, if so, whether the ability to attend virtually should be extended to members of the public body. Presumably, Council would want the same protocol to also apply to its boards and commissions. After receiving that direction, Staff will prepare a more detailed analysis on the Code or Rules of Council, Board, or Commission provisions that would require amendment, if any, and provide more background on the technological requirements for implementing Council's direction. Staff recommends that Council discuss these materials at the Council work session scheduled for August 9, 2021.

If you have any questions, please do not hesitate to reach out.

⁸ *Beachwood v. Board of Elections*, 167 Ohio St. 369 (1958).



Hybrid Virtual Meetings **New Council Chambers**

June 28, 2021

Michael Farrar
Director of Information Technology

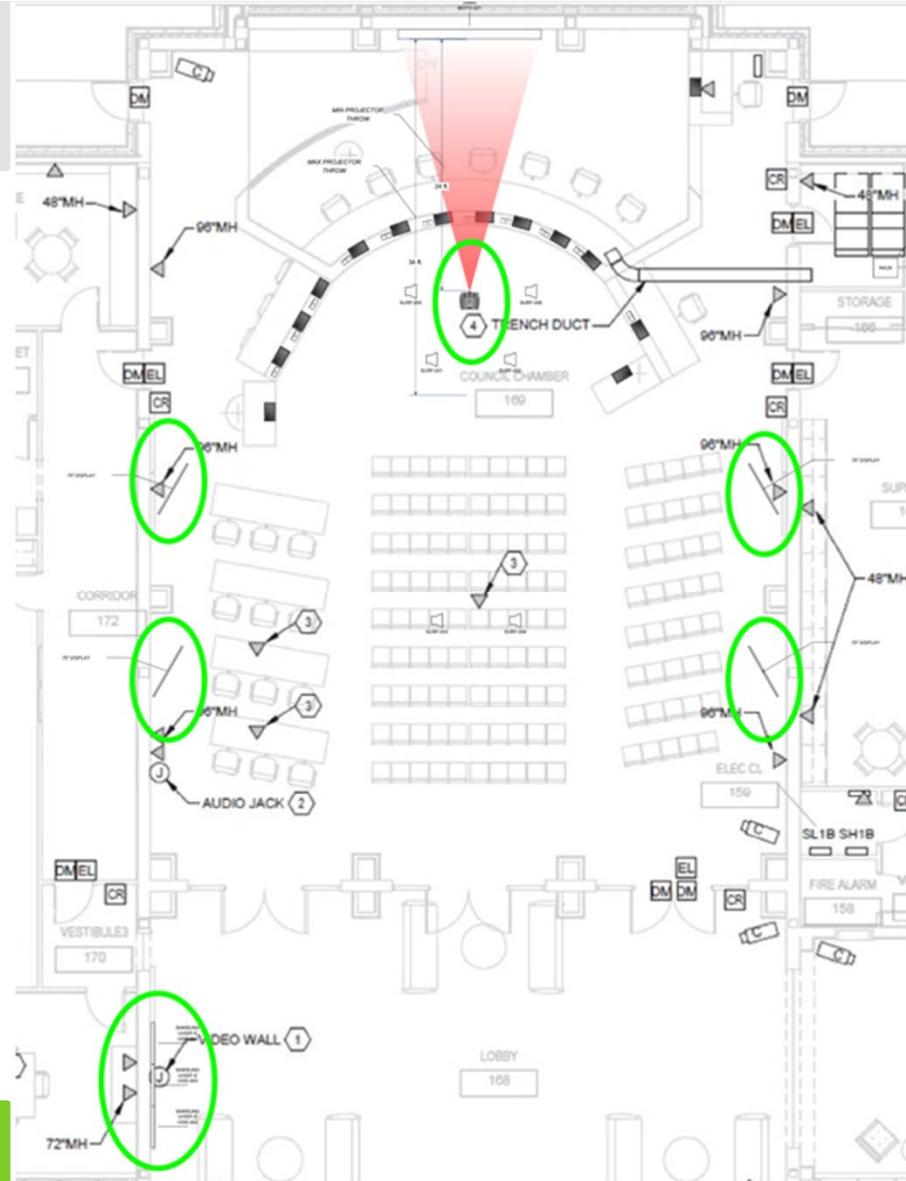


EVERYTHING GROWS HERE.

Technology

- Same solution as in previous Council Chambers, however enhanced:
 - Integrated with WebEx
 - In person meeting platform with virtual capability
 - Live streaming
 - Auto focus cameras feeds based on push button technology
 - Greater content visibility and interaction
 - Video wall
 - Gallery monitors
 - Projection screen





Layout

