



City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 26 May 2021

Housing Committee at 5:45 pm

Special Session at 7:00 pm

**Please see the notes on the [Agenda](#) addressing public meetings during the public health emergency. For a schedule of upcoming meetings of the Council and the City's boards and commissions, please consult the City's [Calendar](#).*



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
HOUSING COMMITTEE
WEDNESDAY | 5:45 PM
26 MAY 2021

Per IC 5-14-1.5-3.7, this meeting will be conducted electronically.

The public may access the meeting at the following link:

<https://bloomington.zoom.us/j/94276666182?pwd=ZjJSaUloRzdIYmREbVhCUlZ3QUt6QT09>

Chair: Kate Rosenbarger

- I. Ordinance 21-30 - To Amend Title 16 of the Bloomington Municipal Code Entitled "Residential Rental Unit and Lodging Establishment Inspection Program"

Asked to Attend: Daniel Dixon, Assistant City Attorney
John Zody, Director of Housing and Neighborhood Development

STATEMENT ON PUBLIC MEETINGS DURING THE PUBLIC HEALTH EMERGENCY

Under Indiana Code 5-14-1.5-3.7, during a declared public health emergency, the Council and its committees may meet by electronic means. The public may simultaneously attend and observe this meeting at the link provided above. Please check <https://bloomington.in.gov/council> for the most up-to-date information on how the public can access Council meetings during the public health emergency.

Posted: 21 May 2021



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
SPECIAL SESSION
WEDNESDAY | 7:00 PM
26 MAY 2021

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I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES

- 15 April 2020
- 22 April 2020
- 29 April 2020

IV. LEGISLATION FOR FIRST READING AND RESOLUTIONS

- A. Resolution 21-17 – A Resolution Establishing an Electronic Meetings Policy

V. COUNCIL SCHEDULE

VI. ADJOURNMENT

STATEMENT ON PUBLIC MEETINGS DURING THE PUBLIC HEALTH EMERGENCY

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Posted: 21 May 2021



**City of Bloomington
Office of the Common Council**

NOTICE

Wednesday, 26 May 2021
5:45 pm – Housing Committee
7:00 pm – Special Session

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The public may access the meeting at the following link:

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STATEMENT ON PUBLIC MEETINGS DURING THE PUBLIC HEALTH EMERGENCY

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As a quorum of the Council or its committees may be present, this gathering constitutes a meeting under the Indiana Open Door Law (I.C. § 5-14-1.5). For that reason, this statement provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.



MEMO FROM COUNCIL OFFICE ON:

Ordinance 21-30 - To Amend Title 16 of the Bloomington Municipal Code Entitled “Residential Rental Unit and Lodging Establishment Inspection Program”

Synopsis

The Ordinance amends Title 16, “Residential Rental Unit and Lodging Establishment Inspection Program” by requiring annual submittal of an occupancy affidavit for certain types of residential rental units and providing notices of violation to be deemed properly served if transmitted by email to the Owner email address registered with HAND on the form described in Section 16.03.020.

Relevant Materials

- [Ordinance 21-30](#)
- Memo from staff
- Occupancy Affidavit Form

Summary

[Ordinance 21-30](#) proposes to amend three sections of Title 16 (“Residential Rental Unit and Lodging Establishment Inspection Program”) of the Bloomington Municipal Code (“BMC”), accessible online here: [BMC Title 16](#)

Section 1 creates a new section at 16.03.025 setting forth conditions for submitting occupancy affidavits to HAND.

Section II amends the table to include a penalty for (a) failure to timely submit an occupancy or; (b) for the submission of an incorrect occupancy affidavit.

Section III deletes the owner option of a designation for service of notice by email and replaces it with a provision that deems notice of violation as properly served if a copy is, “Sent by mail to the email address designated by the Owner on the registration form provided under Section 16.03.020.”

Contact

John Zody, Director HAND, (812) 349-3582, john.zody@bloomington.in.gov

Daniel Dixon, Assistant City Attorney, (812) 349-3426, daniel.dixon@bloomington.in.gov

ORDINANCE 21-30

TO AMEND TITLE 16 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED “RESIDENTIAL RENTAL UNIT AND LODGING ESTABLISHMENT INSPECTION PROGRAM”

WHEREAS, the City of Bloomington has a demonstrated problem enforcing over-occupancy in residential rental units; and

WHEREAS, over-occupancy in residential rental units presents dangers to the health and safety of the people living in and around said units; and

WHEREAS, creating and requiring completion of occupancy affidavits for residential rental units will provide necessary support to the City of Bloomington Housing and Neighborhood Development (“HAND”) and Planning and Transportation Departments in enforcing occupancy limits in residential rental units; and

WHEREAS, the HAND Department should be responsible for maintaining an occupancy affidavit as part of its residential rental unit safety inspection program under Title 16 of the Bloomington Municipal Code (“BMC”); and

WHEREAS, given the predominant use of electronic mail communication and the existing requirement for property owners and managers to provide and maintain a valid e-mail address with the HAND Department, Title 16 of the BMC should be updated to permit the HAND Department to serve notices of violation of BMC Title 16 to property owners and managers via the e-mail address provided to HAND on the residential rental property registration form.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA THAT:

SECTION I. Chapter 16.03 of the BMC shall be amended by creating a new Section at 16.03.025 setting forth conditions for submitting occupancy affidavits to HAND as follows:

16.03.025. OCCUPANCY AFFIDAVIT.

- (a) No owner of a residential rental unit containing up to four dwelling units per building shall let for occupancy or let any such dwelling unit without first submitting a fully executed occupancy affidavit for said dwelling unit to the HAND department on the form so provided by the HAND department.
- (b) For each dwelling unit, each occupancy affidavit shall include the name of each occupant and identify the familial relationships, if any, among the occupants. The owner or agent shall execute the occupancy affidavit based upon personal knowledge and only after diligent inquiry with respect to the information contained therein. Each tenant shall also sign the occupancy affidavit and affirm that information contained therein is true and accurate.
- (c) For each dwelling unit, the owner or agent shall submit an updated occupancy affidavit and each tenant shall sign the same, as set forth above, not less than once per calendar year during the month of September, and also within 15 calendar days from the date of any change in the occupancy in the dwelling unit. If there is no change in occupancy since the previously filed occupancy affidavit, the owner may indicate "no change in occupants" in space provided on the form for the occupants' names and need not include occupant signatures.
- (d) For residential rental properties containing more than four dwelling units, the requirement to submit a fully executed occupancy affidavit to the HAND department is waived unless a complaint is made about occupancy concerning the residential rental unit.

- (e) Any residential rental unit that is subject to this section but has received from the Board of Housing Quality Appeals a variance from having to obtain an occupancy permit under this Title must still fully comply with this section of this Title.

SECTION II. Section 16.10.030(b) of the BMC is amended to add the following penalty as the last row of the table:

Failure to timely submit and/or submission of an incorrect occupancy affidavit.	Flat fine not to exceed \$500.00.
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SECTION III. Section 16.10.040(c)(4) shall be amended by deleting the language “If the owner so designates on his registration form as being appropriate, sent by email.” and replacing it with “Sent by email to the email address designated by the Owner on the registration form provided under Section 16.03.020.” so that Section 16.10.040(c) reads as follows:

- (c) The notice shall be deemed properly served if a copy thereof is:
- (1) Delivered personally;
 - (2) Sent by certified or first-class mail addressed to the last known address of the responsible party;
 - (3) If the notice is returned showing that the notice was not delivered, a copy thereof shall be posted in a conspicuous place in or about the residential rental unit or lodging establishment affected by such notice; or
 - (4) Sent by email to the email address designated by the Owner on the registration form provided under Section 16.03.020.

SECTION IV. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City and approval of the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

JIM SIMS, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2021.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 16 “Residential Rental Unit and Lodging Establishment Inspection Program” by requiring annual submittal of an occupancy affidavit for certain types of residential rental units and providing for notices of violation to be deemed properly served if transmitted by email to the Owner email address registered with HAND on the form described in BMC Section 16.03.020.



MEMORANDUM

CITY OF BLOOMINGTON LEGAL DEPARTMENT

TO: Common Council
FROM: Daniel Dixon, Assistant City Attorney
RE: Ordinance 21-30 – Amendment to Title 16 related to occupancy affidavits and service of Notices of Violation
DATE: May 10, 2021

The Housing and Neighborhood Development Department (“HAND”), along with staff from the Planning and Transportation Department (“Planning”) have experienced significant difficulty for many years in enforcing occupancy limits in residential rental units throughout the City. The problem in enforcement of occupancy limits primarily arises in smaller residential rental units. These smaller units are typically in residential neighborhoods with stricter zoning limits on the number of occupants who do not share a familial relationship.

HAND staff is typically the first to identify a suspected occupancy violation during routine inspections under Title 16. Unfortunately, without any ability to confirm the identity and familial relationship of the tenants, HAND and Planning are unable to determine whether or not there is actually any violation of a unit’s occupancy limit. As a result, Planning cannot issue or enforce notices of violation for over occupancy and the problem continues to grow.

While the Planning and Transportation Department has responsibility for issuing notices of violation and enforcing occupancy limits, over occupancy in residential rental units also presents life-safety issues for tenants. Additionally, over occupancy in residential rental units is usually first discovered by or reported to HAND staff. Requiring an occupancy affidavit as part of the residential rental unit inspection and registration requirements of Title 16 would further the goals of Title 16. HAND staff would also be able to provide the affidavit to Planning to assist planning in enforcing the occupancy limit for the residential rental unit.

A Title 16 update is necessary to reflect the requirement of an Occupancy Affidavit, to be developed and maintained by HAND, wherein the property owner or manager and tenants attest to the maximum occupancy of the property. The Affidavit must be signed by the property owner or manager and all tenants. This document is necessary to demonstrate a mutual understanding of the maximum occupancy and to provide the City of Bloomington the ability to enforce over-occupancy violations. The update also provides for a fine to be issued by HAND for failure to provide an occupancy affidavit or providing a false affidavit. A draft copy of an occupancy affidavit is attached to this memo.

The second objective of the Title 16 Amendment is to permit notices of violation for Title 16 to be sent to property owners and managers through the email address they register with hand as part of the residential rental unit registration process. This amendment would increase the

efficiency of the administration of Title 16 by reducing lag time from mail. The amendment will also save HAND significant amounts of money in printing, paper, and postage costs. The current version of Title 16 permits property owners to opt-in to email service for notices of violation. The update removes the opt-in option. Providing and maintaining a valid email contact address is already required under BMC 16.03.020(b)(4) and (c).



**CITY OF BLOOMINGTON
RENTAL PROPERTY OCCUPANCY AFFIDAVIT**

**Housing & Neighborhood Development
P.O. Box 100
Bloomington, IN 47401
Phone: (812) 349-3420 Fax: (812) 349-3582
Email: hand@bloomington.in.gov**

As required by Section 16.03.025 of the Bloomington Municipal Code.

Address of Residential Rental Unit (include apt. number): _____

I have made personal and diligent inquiry into the names and familial relationships of all tenants occupying this residential rental unit and I make this affidavit based upon my personal knowledge. The names of each and every occupant residing in this residential rental unit and their familial relationships, if any, to one another (if no relationship, state none) are as follows:

Name:	Familial Relationship to other Tenants:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For each familial relationship stated above, please provide (in the space provided below) the names, addresses, telephone numbers, email addresses and the relationships of the persons through whom the familial relationship exists (Example: For sibling relationships, please state the names, addresses, telephone numbers and email addresses of their parents).

The lease for this residential rental unit is from _____ to _____.

Initial one of the following:

_____ I am the owner of this residential rental unit.

_____ I am the agent of this residential rental unit.

As set forth in 16.03.025, the owner or agent of a residential rental unit consisting of not more than 4 dwelling units per building shall submit an updated occupancy affidavit for each dwelling unit, and each tenant occupying the dwelling unit shall sign the same, not less than annually and upon any change in occupants. If there is no change in occupancy since the previously filed occupancy affidavit, the owner may indicate "no change in occupants" in space provided on the form for the occupants' names and need not include occupant signatures.

I affirm under the penalties for perjury that the foregoing representations are true.

Date: _____ Signature: _____ Printed: _____
Owner/Agent Owner/Agent

ALL TENANTS OF THIS RESIDENTIAL RENTAL UNIT ARE REQUIRED TO, AND SHALL, COMPLETE PAGE THREE (3) OF THIS OCCUPANCY AFFIDAVIT (UNLESS UNDER THE AGE OF 18 YEARS OR NO CHANGE IN OCCUPANTS SINCE MOST RECENT RENTAL PROPERTY OCCUPANCY AFFIDAVIT).

Tenant Confirmation: I affirm under the penalties for perjury that the foregoing representations are true. Under Indiana law, perjury is a Level 6 felony. A person who commits a Level 6 felony shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 ½) years, with the advisory sentence being one (1) year. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Owner/Agent Verification of Refusal to Sign: I certify under penalties for perjury that I have demanded that the tenants sign this occupancy affidavit and the following tenants have refused to do so:

Name (please print legibly):



**City of Bloomington
Office of the Common Council**

Minutes for Approval

15 April 2020 | 22 April 2020 | 29 April 2020

In Bloomington, Indiana on Wednesday, April 15, 2020 at 6:30pm, Council President Stephen Volan presided over a Regular Session of the Common Council. Per the Governor’s Executive Orders, this meeting was conducted electronically.

COMMON COUNCIL
REGULAR SESSION
April 15, 2020

Councilmembers present via teleconference: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Volan summarized the agenda and stated that the items on the agenda were matters critical to the operation of the city government.

AGENDA SUMMATION [6:32pm]

There were no reports from councilmembers.

REPORTS

Penny Caudill, Monroe County Health Department Health Administrator, gave an update on the public health emergency. Caudill discussed the COVID-19 website, testing, the importance of masks, and the importance of social distancing.

- COUNCIL MEMBERS
- The MAYOR AND CITY OFFICES

There was council discussion related to testing availability, hospitalization rates, infection rates, antibody test availability, and the impact on the Black community.

Mayor John Hamilton reported on the public health emergency, the impact on Bloomington, the importance of remaining vigilant, and social distancing.

Beverly Calender-Anderson, Community and Family Resources Department Director, gave an update on the Social Services Working Group.

Alex Crowley, Economic and Sustainable Development Director, gave an update on the Rapid Release Fund (RRF) loan program.

There was council discussion related to the RRF application process, BUEA funding, sheltering needs, short-term business assistance, and hotel rooms for essential workers.

There were no council committee reports.

- COUNCIL COMMITTEES
- PUBLIC

Jim Shelton spoke of the need for Monroe County Court Appointed Special Advocates volunteers.

Jennifer Pearl, President of the Bloomington Economic Development Corporation (BEDC), acknowledged essential workers in the pandemic.

Kelly Clark thanked various city officials for helping the Bloomington Fabric Mask Drive.

Ethan Shiman asked if it was possible for any Indiana University students in off-campus housing to be reimbursed for utility fees.

There were no appointments to boards or commissions.

APPOINTMENTS TO BOARDS AND
COMMISSIONS

LEGISLATION FOR FIRST
READING AND RESOLUTIONS
[7:38pm]

Piedmont-Smith moved and it was seconded that Ordinance 20-06 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Ordinance 20-06 – To Repeal and Replace the Official Zoning Map Within Title 20 of the Bloomington Municipal Code Entitled, “Unified Development Ordinance”

Piedmont-Smith moved and it was seconded that Ordinance 20-07 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Bolden read the legislation by title and synopsis.

Ordinance 20-07 – To Amend Title 20 of the Bloomington Municipal Code Entitled, “Unified Development Ordinance”

LEGISLATION FOR SECOND
READING AND RESOLUTIONS
[7:45pm]

Piedmont-Smith moved and it was seconded that the Council introduce and consider Ordinance 20-06 for adoption at the same meeting and on the same night it was introduced. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Ordinance 20-06 – To Repeal and Replace the Official Zoning Map Within Title 20 of the Bloomington Municipal Code Entitled, “Unified Development Ordinance”

Volan asked for clarification on the state law that allowed a council to introduce and consider a piece of legislation on the same night.

Lucas explained that state law makes an exception for planning ordinances.

Piedmont-Smith moved and it was seconded that Ordinance 20-06 be adopted.

Piedmont-Smith moved and it was seconded that Ordinance 20-06 be read by title only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title.

Scott Robinson, Planning Assistant Director, presented the legislation and explained that the zoning maps needed to be updated to reflect the change in zoning names.

There was council discussion about when the changes would be implemented, public notice, and public comment.

There was no public comment.

Piedmont-Smith thanked everyone involved in the Planning Department for their work on Ordinance 20-06.

Piedmont-Smith moved and it was seconded that Ordinance 20-06 be adopted. The motion to adopt Ordinance 20-06 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 20-06
[8:02pm]

Piedmont-Smith moved and it was seconded that Ordinance 20-07 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Ordinance 20-07 – To Amend Title 20 of the Bloomington Municipal Code Entitled, “Unified Development Ordinance”

Piedmont-Smith moved and it was seconded that Ordinance 20-07 be adopted.

Robinson spoke of the changes that would be made with the adoption of Ordinance 20-07.

Ordinance 20-07 (cont'd)

Terri Porter, Director of Planning, thanked the Council for their assistance in preparing the UDO. Porter also thanked Robinson for his work.

Piedmont-Smith moved and it was seconded that the Council introduce and consider Ordinance 20-07 for adoption at the same meeting and on the same night it was introduced. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Piedmont-Smith moved and it was seconded that Ordinance 20-07 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis.

There were no council questions.

There was no public comment.

Councilmember Susan Sandberg thanked the Planning Department for their work and to the public for being involved in the process.

Volan spoke of the importance of the updated UDO and stated his support and acknowledgement to the Planning Department for their work.

The motion to adopt Ordinance 20-07 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 20-07
[8:14pm]

There was no public comment.

ADDITIONAL PUBLIC COMMENT

Stephen Lucas, Deputy Council Attorney, reviewed the upcoming council schedule.

COUNCIL SCHEDULE

Rollo moved and it was seconded to adjourn the meeting. The motion was approved by voice vote.

ADJOURNMENT [8:16pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2021.

APPROVE:

ATTEST:

Jim Sims, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, April 22, 2020 at 6:30pm, Council Vice President Jim Sims presided over a Special Session of the Common Council. Per the Governor’s Executive Orders, this meeting was conducted electronically.

COMMON COUNCIL
SPECIAL SESSION
April 22, 2020

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith
Councilmembers absent: Stephen Volan

ROLL CALL [6:34pm]

ANNOUNCEMENT BY COUNCIL VICE PRESIDENT: In performing his duty under BMC 2.04.270 to approve meeting agendas, the Council Vice President determined that the items on tonight’s agenda are essential matters critical to the operation of the City government.

AGENDA SUMMATION [6:36pm]

Council Vice President Jim Sims summarized the agenda.

Councilmember Dave Rollo spoke about the importance of making changes to the economy that served the interests of the people while making environmentally friendly decisions to prevent further climate change.

REPORTS

- COUNCILMEMBERS [6:40PM]

Councilmember Isabel Piedmont-Smith spoke of the history of Earth Day and the need to take action to mitigate the effects of climate change.

Councilmember Matt Flaherty spoke of the most vulnerable people in society that had been affected by COVID-19. Flaherty spoke of the increasing effects of climate change.

Councilmember Kate Rosenbarger spoke of the importance of maintaining social distancing. Rosenbarger spoke of the increase of people going to trails and parks and the need to maintain safe social distancing.

Councilmember Jim Sims spoke of how COVID-19 had more severely impacted marginalized groups than the rest of the population. Sims said systemic institutionalized racism had severely impacted marginalized members of society and spoke of the need for positive change.

Mayor John Hamilton read a letter from his wife, Dawn Johnsen, who had been infected by COVID-19. Hamilton spoke of the need to maintain social distancing and to take COVID-19 seriously.

- The MAYOR AND CITY OFFICES [6:56pm]

Alex Crowley, Director of Economic and Sustainable Development, provided a status update for the Rapid Response Fund, a loan program. Crowley explained the application review process and the improvements to the program.

Beverly Calender-Anderson, Director of Community and Family Resources Department, provided an update on behalf of the Social Services Working Group. Calendar-Anderson spoke of the importance of addressing long-term issues to better help the community.

There were no council committee reports.

- COUNCIL COMMITTEES

Councilmember Susan Sandberg moved and it was seconded to appoint Tracy Gates to the Parking Commission. The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Smith moved and it was seconded to appoint Mary Morgan to the Bloomington Urban Enterprise Association Seat C-3, Zone Resident 1. The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:26pm]

Piedmont-Smith moved and it was seconded that Ordinance 20-09 be read by title and synopsis only. The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis, giving the committee do-pass recommendation of Ayes: 9, Nays: 0, Abstain: 0.

Ordinance 20-09 - To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" and to Grant Authority to Act in Accordance with Declared Disaster Emergencies - Re: Amending 2.22.030 Entitled "Employee Policies" and Complying with the State of Indiana's Declaration of Disaster Emergency under I.C. § 10-14-3-12

Piedmont-Smith moved and it was seconded to adopt Ordinance 20-09.

Philippa Guthrie, Corporation Counsel, presented the legislation. Guthrie explained the importance of adopting Ordinance 20-09 in terms of allowing leniency during the COVID-19 pandemic.

Council questions:

Sgambelluri asked if Guthrie had any predictions as to any potential issues that could arise after adopting Ordinance 20-09.

Guthrie said that it was hard to predict future issues, yet a possible example could be signing a contract for hotel space for emergency responders without receiving the Public Safety Board's approval.

Jeff Underwood, City Controller, said that the Community Foundation had recently fast tracked a proposal to allow pods for childcare facilities in several locations, as opposed to getting the Parks and Recreations Boards' approval.

Guthrie said the main point was that Ordinance 20-09 allowed for a proposal to be signed without getting a board's approval to allow for more efficiency.

Flaherty moved and it was seconded to adopt Amendment 01 to Ordinance 20-09.

Amendment 01 to Ordinance 20-09

Amendment 01 Synopsis: This amendment is sponsored by Cm. Flaherty and clarifies that Sections 2 and 3 of the ordinance only apply the statewide disaster emergency declared by the Governor Holcomb as a result of the COVID-19 pandemic and under the authority of IC 10-14-3-12. It makes clear the intent of the Council that the exercise of powers set forth in Sections 2 and 3 should follow from an emergency declaration by the Governor and a discussion between the Mayor and the Council about how the City will operate during that emergency.

Flaherty explained the importance of preventing ambiguity in Ordinance 20-09.

Piedmont-Smith asked if the Administration approved Amendment 01 to Ordinance 20-09.

Council questions:

Guthrie said that the Administration was fine with the proposed changes.

There was no public comment on Amendment 01 to Ordinance 20-09.

Public comment:

Piedmont-Smith thanked Flaherty for proposing Amendment 01, which clarified that Ordinance 20-09 only applied to the current emergency.

Council comments:

The motion to adopt Amendment 01 to Ordinance 20-09 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 20-09 [7:40pm]

Flaherty moved and it was seconded to adopt Amendment 02 to Ordinance 20-09.

Amendment 02 to Ordinance 20-09

Amendment 02 Synopsis: This amendment is sponsored by Cm. Flaherty. It adds a new, final Whereas clause, which summarizes guidance from the State Board of Accounts about how to proceed in this emergency, and adds a sentence at the end of Section 2. This sentence would require that the exercise of powers under IC 10-14-3-17(j) be done only after the Mayor or his designee has determined that the regular practices are not practicable due to the Current Declared Emergency and, in that event, the Mayor or his designee must inform the Council in writing, of what was done and why it was necessary, within a reasonable period after the action was taken.

Flaherty explained that Amendment 02 confirmed that the City was in line with the State Board of Accounts and clarified the process.

Sims asked if the Administration approved Amendment 02 to Ordinance 20-09.

Council questions:

Guthrie said that the Administration was fine with the proposed changes.

There was no public comment on Amendment 02 to Ordinance 20-09.

Public comment:

Piedmont-Smith thanked Flaherty, Council Attorney Dan Sherman, and Guthrie for their work on compiling Ordinance 20-09 and creating the various amendments. Piedmont-Smith spoke of the importance of providing flexibility to the Administration during the pandemic.

Council comments:

The motion to adopt Amendment 02 to Ordinance 20-09 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Vote to adopt Amendment 02 to Ordinance 20-09 [7:48pm]

Rosenbarger moved and it was seconded to adopt Amendment 03 to Ordinance 20-09.

Amendment 03 to Ordinance 20-09

Amendment 03 Synopsis: This amendment is sponsored by Cms. Rosenbarger and Piedmont-Smith. It addresses Section 3 of the ordinance, which allows the Controller, in accordance with State guidance, to authorize expenditures in advance of the normal review and approval by the applicable board or commission. The amendment limits these authorizations to expenditures that directly address the Current Declared Emergency and only when the regular process is not practicable due to the Current Declared Emergency. The amendment also includes one reporting requirement for authorizations that would otherwise go to the Council and another reporting requirement for authorizations that would otherwise go to another board or commission. Lastly, it recognizes the Council fiscal oversight provisions set forth in BMC 2.26.200 through 210, and reminds all that the procedures for emergency expenditures provided under BMC 2.26.200 (d), (Exceptions to the Process for Review) are available if needed during the Current Declared Emergency.

Rosenbarger explained the importance of Amendment 03 in directly addressing the emergency.

There were no council questions.

There was no public comment on Amendment 03 to Ordinance 20-09.

Smith thanked everyone involved in creating Ordinance 20-09 and stated his support for the legislation.

The motion to adopt Amendment 03 to Ordinance 20-09 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Flaherty thanked council staff and Administration for working with the council to create Ordinance 20-09 and the various amendments.

Piedmont-Smith thanked the City Administration for their work during the pandemic.

Sims thanked the City staff for their flexibility to move quickly during the pandemic, and stated the importance of accountability from the Council.

The motion to adopt Ordinance 20-09 as amended received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

There was no legislation for first reading.

Piedmont-Smith moved and it was seconded to hold a Special Session on April 29, 2020 at 6:30pm immediately followed by a Budget Advance Meeting. The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Rollo moved and it was seconded to adjourn the meeting. The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Council questions:

Public comment:

Council comments:

Vote to adopt Amendment 03 to Ordinance 20-09 [7:53pm]

Council discussion:

Vote to adopt Ordinance 20-09 as amended [7:58pm]

LEGISLATION FOR FIRST
READING

COUNCIL SCHEDULE [8:01pm]

ADJOURNMENT [8:05pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2021.

APPROVE:

ATTEST:

Jim Sims, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

For Approval

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, April 29, 2020 at 6:30pm, Council President Steve Volan presided over a Special Session of the Common Council. Per the Governor's Executive Orders, this meeting was conducted electronically.

COMMON COUNCIL
SPECIAL SESSION
April 29, 2020

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Stephen Volan summarized the agenda.

AGENDA SUMMATION [6:33pm]

Sandberg moved and it was seconded to reappoint Valeri Haughton to the Human Rights Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Sandberg moved and it was seconded to reappoint Byron Bangert to the Human Rights Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Piedmont-Smith moved and it was seconded to appoint Amelia Lahn to the Commission on the Status of Children and Youth. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Piedmont-Smith moved and it was seconded to appoint Sara Sheikh to the Commission on the Status of Children and Youth. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Sgambelluri moved and it was seconded to appoint Regan Metzger to the Environmental Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded that the Council suspend its rules to consider a board or commission appointment without first receiving an Interview Committee report or recommendation. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded to appoint Daniel Olsson to the Environmental Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded to reappoint Sarah Ryterband to the Traffic Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded to appoint Ryne Shadday to the Traffic Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded to appoint Malik McCluskey to the Traffic Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded to appoint Nicole Griffin to the Commission on the Status of Black Males. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded to appoint Jasmine Hawkins to the Martin Luther King, Jr. Birthday Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Piedmont-Smith moved and it was seconded to appoint Dairo Baez to seat C-1 on the Commission on Hispanic and Latino Affairs. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Piedmont-Smith moved and it was seconded to appoint Francisco Ruiz Lemus to seat C-4 on the Commission on Hispanic and Latino Affairs. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

ANNOUNCEMENT BY COUNCIL PRESIDENT: In performing my duty under BMC 2.04.270 to approve meeting agendas, I determined that the items on tonight’s agenda are essential matters critical to the operation of the City government.

Sandberg moved and it was seconded to adjourn. The motion was approved by voice vote. ADJOURNMENT [6:56pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2021.

APPROVE:

ATTEST:

Jim Sims, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington



MEMO FROM COUNCIL OFFICE ON:

Resolution 21-17 – A Resolution Establishing an Electronic Meetings Policy

Synopsis

This resolution adopts an Electronic Meetings Policy pursuant to newly-enacted state statutes concerning electronic meetings. The Policy establishes the procedures that apply to a member's participation in a meeting by an electronic means of communication, as well as to the participation of the public and city staff members by electronic means of communication.

Relevant Materials

- Resolution 21-17
- House Enrolled Act 1437

Summary

Resolution 21-17 establishes an Electronic Meetings Policy ("Policy") for the Council and its committees. It also provides that such a policy may serve as the policy for other governing bodies in the city until those bodies are able to adopt their own policies.

During the state-declared public health emergency, which currently extends to May 31, 2021, the Council has conducted its meetings using electronic communication. This has, until recently, been allowed under executive orders issued by the Governor. On April 20, 2021, a new state law (HEA 1437, included herein) was signed that creates a statutory framework to allow for electronic meeting participation. The law provides rules that apply when under a declared public health emergency, as well as rules that will apply during non-emergency times.

When under a declared public health emergency, the Council will be able to conduct its meetings remotely and all members may attend via electronic means. Such meetings must allow for the public to simultaneously attend and observe the meeting.

When not under a declared emergency, state law now provides for certain minimum requirements that the Council must follow. These requirements are reflected in Sections 1-6 of the Policy contained within Resolution 21-17. The Council's procedures may be more restrictive than the procedures in the state law, but may not be less restrictive. Additional limitations may include:



- (1) limiting the number of members who may participate by electronic communication in any one (1) meeting;
- (2) limiting the total number of meetings that the Council may conduct in a calendar year by electronic communication; and
- (3) requiring a member, except for certain emergency meetings, who plans to attend a meeting by any electronic means of communication to notify the presiding officer within a certain period of time before the meeting, as specified by the Council, so that arrangements may be made for the member's participation by electronic communication.

Sections 7 and 8 of the Policy address the participation by members of the public and city staff in Council meetings, respectively. These provisions are not required by state law, but reflect how the Council has operated since the beginning of the public health emergency.

The Council may amend the Policy as needed after adoption, but should consider adopting a policy before the declared public health emergency expires.

Contact

Stephen Lucas, Council Administrator/Attorney, lucass@bloomington.in.gov,
812-349-3409

RESOLUTION 21-17

A RESOLUTION ESTABLISHING AN ELECTRONIC MEETINGS POLICY

WHEREAS, the Indiana General Assembly adopted HEA 1437 in the 2021 Regular Session, which amended Indiana Code (IC) 5-14-1.5-1 et seq. (Act) by amending IC 5-14-1.5-3.5 to prescribe new requirements by which members of the governing body of a public agency of a political subdivision may participate in a meeting by an electronic means of communication; and

WHEREAS, a member of the governing body may participate by any means of communication that:

- allows all participating members of the governing body to simultaneously communicate with each other; and
- except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting; and

WHEREAS, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and allows the governing body to adopt procedures that are more restrictive than the procedures established by IC 5-14-1.5-3.5; and

WHEREAS, the Bloomington Common Council is the governing body of the City of Bloomington, Indiana and wishes to adopt such a policy;

THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Section I. The Bloomington Common Council adopts the following policy on the participation of a member of the Council, city staff, and members of the public in a meeting by an electronic means of communication:

ELECTRONIC MEETINGS POLICY

Section 1.

(a) The provisions of the Act, including definitions, apply to this resolution.

(b) This resolution shall be known as the "Electronic Meetings Policy" of the Council and applies to the Council and any of its committees, including committees appointed directly by the Council or its presiding officer.

Section 2.

(a) Subject to Sections 3 and 5, any member may participate in a meeting by any electronic means of communication that:

- (1) allows all participating members of the governing body to simultaneously communicate with each other; and
- (2) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

(b) A member who participates by an electronic means of communication:

- (1) shall be considered present for purposes of establishing a quorum; and
- (2) may participate in final action only if the member can be seen and heard.

(c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 3.

(a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

(b) A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication unless the member's electronic participation is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

(c) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

Section 4. The memoranda and any minutes prepared for a meeting at which any member participates by electronic means of communication must:

- (1) identify each member who:
 - (A) was physically present at the meeting;
 - (B) participated in the meeting by electronic means of communication; and
 - (C) was absent; and
- (2) identify the electronic means of communication by which:
 - (A) members participated in the meeting; and
 - (B) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 5. No member of the Council may participate by means of electronic communication in a meeting if the Council is attempting to take final action to:

- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) impose or increase a fee;
- (5) impose or increase a penalty;
- (6) use the Council's eminent domain authority; or
- (7) establish, raise or renew a tax.

Section 6. In the event the governor declares a disaster emergency under IC 10-14-3-12 or the executive (as defined in IC 36-1-2-5) of a political subdivision declares a local disaster emergency under IC 10-14-3-29, the Council may meet by any means of electronic communication if the following requirements of IC 5-14-1.5-3.7 are satisfied:

- (1) At least a quorum of the members of the Council participate in the meeting by means of electronic communication or in person.
- (2) The public is able to simultaneously attend and observe the meeting. However, this subdivision does not apply to a meeting held in executive session.
- (3) The memoranda and any minutes prepared for a meeting held under this section must:

- (A) state the name of each member of the Council who:
 - (i) participated in the meeting by using any electronic means of communication; and
 - (ii) was absent; and
 - (B) identify the electronic means of communication by which:
 - (i) members of the Council participated in the meeting; and
 - (ii) members of the public attended and observed the meeting, if the meeting was not an executive session.
- (4) All votes taken during a meeting under this section must be taken by roll call vote.

Section 7. Members of the public shall be able to attend and observe meetings of the Council via electronic means. Subject to the Council's rules for making public comment, members of the public may also participate in the meeting via electronic means. Meeting notices shall be posted as required by law, and will include information about how to access meetings electronically.

Section 8. Staff members may participate in meetings of the Council via electronic means, provided there is no actual need for a staff member to be physically present at a particular meeting. Such need shall be determined in the sole discretion of the presiding officer.

SECTION II. Until the respective governing bodies within the city adopt their own policies, the policy adopted herein may serve as the electronic meeting policy for each governing body. Each governing body is encouraged to adopt policies that mirror these and that conform to Indiana law at the next opportunity.

SECTION III. If any sections, sentence or provision of this resolution, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

SECTION IV. This resolution shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

JIM SIMS, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2021.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This resolution adopts an Electronic Meetings Policy pursuant to newly-enacted state statutes concerning electronic meetings. The Policy establishes the procedures that apply to a member’s participation in a meeting by an electronic means of communication, as well as to the participation of the public and city staff members by electronic means of communication.

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1437

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~For As used in the purposes of this chapter:~~

(1) **"electronic signature" has the meaning set forth in IC 26-2-8-102(10);**

(2) **"obligations" shall include any bond, note, warrant, or other obligation; and**

~~(a)~~ (3) "public entity" shall include any political subdivision as defined by IC 36-1-2, state commission, state authority, and all other public bodies corporate and politic.

~~(b) "Obligations" shall include any bond, note, warrant, or other obligation.~~

SECTION 2. IC 5-1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Whenever any existing statute requires the manual execution, attesting or authentication of any obligation issued by any public entity named in IC 5-1-1-1 by one (1) or more officials or persons, facsimile signatures **or electronic signatures** of ~~such the~~ officials or persons may be used instead of and with the same force and effect as manually executing ~~such the~~ obligations, ~~One (1) signature on the obligation shall be manual and may be either~~ **including** the signature of ~~one (1) of~~ the officials or

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persons or of any trustee, paying agent, registrar, co-registrar, transfer agent, or other fiduciary charged with authenticating the obligations.

(b) Any obligation executed by the facsimile signature **or electronic signature** of officials or persons is valid and binding, if the officials or persons satisfied the provisions of the statute under which the obligation is issued on the date that the signature was printed on the obligation, even if the obligation is delivered after the official or person whose facsimile signature **or electronic signature** appears thereon no longer satisfies the provisions of the statute.

SECTION 3. IC 5-1-14-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. As used in this chapter, "obligations" has the meaning set forth in ~~IC 5-1-3-1(b)~~. **IC 5-1-3-1(2).**

SECTION 4. IC 5-1-14-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. In connection with the issuance by the issuer of any obligation described in IC 5-1-1-1(b), the execution of the obligation (including any contract, certificate, or other document executed on behalf of the issuer in connection with the execution of the obligation) using electronic signatures rather than manual signatures shall be considered fully legal and valid for all purposes with the same force and effect as if the execution were performed with manual signatures.**

SECTION 5. IC 5-14-1.5-3.5, AS AMENDED BY P.L.154-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This section applies only to a governing body of a public agency of a political subdivision, other than a governing body of an airport authority or a department of aviation as set forth in section 3.6 of this chapter.

(b) **Subject to subsection (i)**, a member of the governing body of a public agency who is not physically present at a meeting of the governing body ~~but who communicates with members of the governing body during the meeting by telephone, computer, video conferencing, or any other electronic means of communication:~~

(1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and

(2) may not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by statute.

(c) The memoranda prepared under section 4 of this chapter for a meeting in which a member participates by using a means of communication described in subsection (b) must state the name of:

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- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in subsection (b); and
- (3) each member who was absent.

may participate in a meeting by any electronic means of communication that does the following:

- (1) Allows all participating members of the governing body to simultaneously communicate with each other.
- (2) Allows the public to simultaneously attend and observe the meeting. However, this subdivision does not apply to a meeting held in executive session.

Subject to subsection (i), a governing body member who participates in the meeting by an electronic means of communication shall be considered present for purposes of establishing a quorum but may participate in any final action taken at the meeting only if the member can be seen and heard.

(c) A technological failure in an electronic means of communication that disrupts or prevents:

- (1) the simultaneous communication between a member who is not physically present at the meeting and the governing body; or
- (2) a member of the public who is not present at the meeting from attending and observing the meeting;

does not prevent the governing body from conducting the meeting or affect the validity of an action taken by the governing body at the meeting if the sum of the governing body members physically present at the meeting and the governing body members participating by electronic communication without technological failure satisfy the quorum and (if a final action is taken) the voting requirements of the governing body.

(d) The governing body shall adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication. The governing body may establish procedures that are more restrictive than the procedures established by this section. The policy adopted under this section may include:

- (1) limiting the number of members who may participate by electronic communication in any one (1) meeting;
- (2) limiting the total number of meetings that the governing body may conduct in a calendar year by electronic communication; and



(3) requiring a member, except in the case of a meeting called to deal with an emergency under section 5(d) of this chapter, who plans to attend a meeting by any electronic means of communication to notify the presiding officer within a certain period of time before the meeting, as specified by the governing body, so that arrangements may be made for the member's participation by electronic communication.

(e) The memoranda prepared under section 4 of this chapter for a meeting in which a member participates by an electronic means of communication must:

- (1) state the name of each member of the governing body who:
 - (A) was physically present at the place where the meeting was conducted;
 - (B) participated in the meeting by using any electronic means of communication; and
 - (C) was absent; and
- (2) identify the electronic means of communication by which:
 - (A) members of the governing body participated in the meeting; and
 - (B) the public attended and observed the meeting, if the meeting was not held in executive session.

(f) All votes taken during a meeting under this section must be taken by roll call vote.

(g) At least fifty percent (50%) of the members of the governing body must be physically present at a meeting.

(h) A member of the governing body may not attend more than fifty percent (50%) of the governing body's meetings in a calendar year by means of electronic communication, unless the member's electronic participation is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

(i) A member of a governing body may not participate in a meeting of the governing body by electronic communication if the governing body is attempting to take final action to:

- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) establish or increase a fee;
- (5) establish or increase a penalty;



(6) use the governing body's eminent domain authority; or

(7) establish, raise, or renew a tax.

(j) A governing body may not prohibit a member of the governing body from attending consecutive meetings by electronic communication. A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member shall physically attend at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

(1) military service;

(2) illness or other medical condition;

(3) death of a relative; or

(4) an emergency involving actual or threatened injury to persons or property.

SECTION 6. IC 5-14-1.5-3.6, AS AMENDED BY P.L.237-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.6. (a) This section applies only to a governing body of the following:

(1) A charter school (as defined in IC 20-24-1-4).

(2) A public agency of the state, including a body corporate and politic established as an instrumentality of the state.

(3) An airport authority or a department of aviation under IC 8-22.

(b) A member of a governing body who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication that permits:

(1) the member;

(2) all other members participating in the meeting;

(3) all members of the public physically present at the place where the meeting is conducted; and

(4) if the meeting is conducted under a policy adopted under subsection (g)(7), all members of the public physically present at a public location at which a member participates by means of electronic communication;

to simultaneously communicate with each other during the meeting.

(c) The governing body must fulfill both of the following requirements for a member of the governing body to participate in a meeting by electronic communication:

(1) This subdivision does not apply to committees appointed by a board of trustees of a state educational institution, by the commission for higher education, by the board of the Indiana economic development corporation, or by the board of directors

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of the Indiana secondary market for education loans, as established, incorporated, and designated under IC 21-16-5-1. **This subdivision does not apply to a governing body if at least fifty-one percent (51%) of the governing body membership consists of individuals with a disability (as described in IC 12-12-8-3.4) or individuals with a significant disability (as described in IC 12-12-8-3.6), or both.** The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:

(A) two (2) of the members; or

(B) one-third (1/3) of the members.

(2) All votes of the governing body during the electronic meeting must be taken by roll call vote.

Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).

(d) Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually. **This subsection does not apply to a governing body if at least fifty-one percent (51%) of the governing body membership consists of individuals with a disability (as described in IC 12-12-8-3.4) or individuals with a significant disability (as described in IC 12-12-8-3.6), or both.**

(e) Unless a policy adopted by a governing body under subsection (g) provides otherwise, a member who participates in a meeting by electronic communication:

(1) is considered to be present at the meeting;

(2) shall be counted for purposes of establishing a quorum; and

(3) may vote at the meeting.

(f) A governing body may not conduct meetings using a means of electronic communication until the governing body:

(1) meets all requirements of this chapter; and

(2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.

(g) A policy adopted by a governing body to govern participation in the governing body's meetings by electronic communication may do any of the following:

(1) Require a member to request authorization to participate in a meeting of the governing body by electronic communication



within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.

(2) Subject to subsection (e), limit the number of members who may participate in any one (1) meeting by electronic communication.

(3) Limit the total number of meetings that the governing body may conduct in a calendar year by electronic communication.

(4) Limit the number of meetings in a calendar year in which any one (1) member of the governing body may participate by electronic communication.

(5) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action. For purposes of this subdivision, a member casts the deciding vote on an official action if, regardless of the order in which the votes are cast:

(A) the member votes with the majority; and

(B) the official action is adopted or defeated by one (1) vote.

(6) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.

(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.

(8) Require at least a quorum of members to be physically present at the location where the meeting is conducted.

(9) Provide that a member participating by electronic communication may vote on official action only if, subject to

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subsection (e), a specified number of members:

(A) are physically present at the location where the meeting is conducted; and

(B) concur in the official action.

(10) Establish any other procedures, limitations, or conditions that govern participation in meetings of the governing body by electronic communication and are not in conflict with this chapter.

(h) The policy adopted by the governing body must be posted on the Internet web site of the governing body, the charter school, the airport, or the public agency.

(i) Nothing in this section affects a public agency's or charter school's right to exclude the public from an executive session in which a member participates by electronic communication.

SECTION 7. IC 5-14-1.5-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) This section applies only if:**

(1) the governor declares a disaster emergency under IC 10-14-3-12; or

(2) the executive (as defined in IC 36-1-2-5) of a political subdivision declares a local disaster emergency under IC 10-14-3-29.

(b) Notwithstanding section 3.5 or 3.6 of this chapter, the members of a governing body are not required to be physically present at a meeting until the disaster emergency or local disaster emergency is terminated. The members of a governing body may meet by any means of electronic communication, if the following are satisfied:

(1) At least a quorum of the members of the governing body participate in the meeting by means of electronic communication or in person.

(2) The public is able to simultaneously attend and observe the meeting. However, this subdivision does not apply to a meeting held in executive session.

(c) The memoranda for a meeting prepared under section 4 of this chapter for a meeting held under this section must:

(1) state the name of each member of the governing body who:
(A) participated in the meeting by using any electronic means of communication; and

(B) was absent; and

(2) identify the electronic means of communication by which:



(A) members of the governing body participated in the meeting; and

(B) the public attended and observed the meeting, if the meeting was not held in executive session.

(d) All votes taken during a meeting under this section must be taken by roll call vote.

SECTION 8. IC 6-9-38-9, AS ADDED BY P.L.214-2005, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. As used in this chapter, "obligations" has the meaning set forth in ~~IC 5-1-3-1(b)~~. **IC 5-1-3-1(2).**

SECTION 9. IC 8-1-2.2-31, AS ADDED BY P.L.179-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) **Except as provided in subsection (e), this section applies to a meeting of the board of commissioners of a joint agency at which at least a quorum of the board is must be physically present at the place where the meeting is conducted: a meeting of the board of commissioners of a joint agency is conducted.**

(b) A member of the board of commissioners of a joint agency may participate in a meeting of the board of commissioners by using a means of **electronic** communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the board of commissioners of a joint agency who participates in a meeting by using a means of communication described in subsection (b) is considered to be present at the meeting.

(d) The memoranda of a meeting of the board of commissioners of a joint agency prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in subsection (b); and
- (3) each member who was absent.

(e) **This subsection applies if the governor declares a disaster emergency under IC 10-14-3-12, or a local disaster emergency is declared under IC 10-14-3-29. The board of commissioners of a joint agency may meet without any members of the board of commissioners being physically present at the meeting until ninety (90) days after the disaster emergency or local disaster emergency is terminated, if the members participate by means of electronic**



communication in the manner set forth in subsection (b). A member of the board of commissioners of a joint agency who participates in a meeting in accordance with this subsection is considered to be present at the meeting. The board shall prepare a memoranda of the meeting as set forth in subsection (d).

SECTION 10. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1437 — Concur

