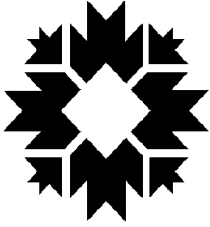


## Bicycle Pedestrian Safety Commission Meeting

Wednesday, June 23<sup>rd</sup> 2021@ 5:30pm

Meeting Link: [meet.google.com/yew-rdrf-qsg](https://meet.google.com/yew-rdrf-qsg)

1. **Attendance**
2. Resolution 21\_01: Electronic Meetings Policy



**CITY OF BLOOMINGTON  
LEGAL DEPARTMENT  
MEMORANDUM**

This memorandum may contain confidential information. If you are not the intended recipient of this memorandum, you may not read, disclose, copy, or distribute this memorandum.

**TO: Bicycle and Pedestrian Safety Commission**  
**FROM: Michael Rouker, City Attorney**  
**RE: Resolution 21-01 - Electronic Meetings Policy**  
**DATE: June 11, 2021**

**MEMORANDUM**

Resolution 21-01 modifies the Bicycle and Pedestrian Safety Commission (BPSC) Rules and Procedures and establishes an Electronic Meetings Policy (“Policy”) for the BPSC and its committees, including the Plat Committee and Hearing Officer. The Resolution and the policy it contains are consistent with policies adopted by the Common Council and other Bloomington boards and commissions. During the state-declared public health emergency, which currently extends to June 30, 2021, the Commission 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 a different form of electronic meeting participation. The law provides rules that apply when under a declared public health emergency, as well as rules that will apply during nonemergency times.

When under a declared public health emergency, the Commission 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 Commission must follow. These requirements are reflected in Resolution 21-01. The Commission’s procedures may be more restrictive than the procedures in the state law, but may not be less restrictive. Additional limitations include:

- (1) limiting the number of members who may participate by electronic communication in any one (1) meeting so that at least a quorum of members must be present at an in-person meeting;
- (2) limiting the total number of meetings in a calendar year by which a member of the Commission may participate electronically, 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 and staff at least three days ahead of the meeting, so that arrangements may be made for the

member's participation by electronic communication and so that notices may be appropriately modified.

Sections 7 and 8 of the Policy address the participation by members of the public and city staff in Commission meetings, respectively. These provisions are not required by state law, but reflect how the Commission has operated since the beginning of the public health emergency. The Commission may amend the Policy as needed after adoption, but should consider adopting a policy before the declared public health emergency expires.

## RESOLUTION 21-01

### A RESOLUTION ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE BICYCLE AND PEDESTRIAN SAFETY COMMISSION, ASSOCIATED STAFF, AND MEMBERS OF THE PUBLIC MAY PARTICIPATE IN MEETINGS BY ELECTRONIC MEANS OF COMMUNICATION

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 Bicycle and Pedestrian Safety Commission is a governing body of the City of Bloomington, Indiana and wishes to adopt such a policy;

THEREFORE, BE IT RESOLVED BY THE BICYCLE AND PEDESTRIAN SAFETY COMMISSION OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Section I. The BPSC hereby adopts the following policy on the participation of a member of the Commission, city staff, and members of the public in a meeting of the BPSC 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" and applies to the BPSC.

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.

(d) A member who plans to attend a meeting by any electronic means of communication shall notify the presiding officer and relevant staff within three (3) days before the meeting so that arrangements may be made for the member's participation by electronic communication and so that notices may be prepared.

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 Commission may participate by means of electronic communication in a meeting if the Commission 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 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 Commission 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 Commission 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 Commission 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 Commission 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. At any meeting of the Commission where any member participates by an electronic means of communication, members of the public shall be able to attend and observe the meeting via electronic means. Subject to the Commission's rules for making public comment, members of the public may also participate in the meeting via electronic means.

Section 8. At any meeting of the Commission where any member participates by an electronic means of communication, staff members may also participate in the meeting 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 III. If any section, 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 Bicycle and Pedestrian Safety Commission.

ADOPTED by the Bicycle and Pedestrian Safety Commission, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Casey Green  
Bloomington Bicycle and Pedestrian Safety Commission

#### SYNOPSIS

This resolution adopts an Electronic Meetings Policy for the Bloomington Bicycle and Pedestrian Safety Commission pursuant to newly-enacted state statutes concerning electronic meetings. The Policy mirrors a policy adopted by the Bloomington Common Council and 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.