



# BOARD OF SUPERVISORS County of Dane

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March 27, 2023

**TO:** Members of the Dane County Board of Supervisors  
Department Heads  
Committee Staff

**FROM:** Karin Peterson Thurlow  
Chief of Staff

**SUBJECT:** Recent Changes to Hybrid Meeting Protocols, and Open Meetings Reminders

Based on experience with hybrid meetings over the past several months, the County Board recently approved changes to Chapter 7 governing specific aspects of how meetings are conducted. All boards and commissions created in Chapter 15 of the Dane County Code of Ordinances must also follow Chapter 7, the County Board Rules.

Additionally, the Board Office has received several questions lately regarding the conduct of meetings and compliance with the Wisconsin Open Meetings Law.

The purpose of this memo is to clarify the modifications to the Board Rules and reinforce adherence to Open Meetings requirements so everyone has a common understanding regarding how to proceed.

Key modifications to Chapter 7 contained in 2022 OA 63 are:

- Hybrid meetings shall be held at a physical location open to the public and a minimum of one board or committee member shall be physically present for the entire meeting. *This means that if no member of the body is present and the staff person is alone in the meeting room, then the meeting cannot be convened and must be cancelled.*

*Please also note that the procedures the Board Office developed for managing a hybrid meeting indicated that the chair or vice chair must be present; this guidance has changed. A chair or vice chair may run the meeting remotely. One member has to be in the physical location where the meeting is taking place and it does not matter who that person is (it could be the chair or not).*

- Board and committee members are expected to attend meetings in person, unless a member cannot physically attend due to safety concerns, unforeseen circumstances, health reasons or the care of family members with health conditions or scheduling conflicts. *There is no need for a member of a board, committee, or commission to notify the chair of the body for an exception to attend virtually.*
- Prior to each meeting, all members shall receive a hyperlink that will permit them to attend virtually. *Previously, the link to attend virtually was sent by staff to those members who indicated they may not be in person. Now all members should receive the link. In order to know whether at least one person will be present, members should let staff know how they intend to attend.*

As has been true over the past several months, we will monitor how these rules function in practice. As you know, the Board revises rules at the beginning of each new term and generally makes changes at that time.

Meanwhile, the expectation to adhere to the Wisconsin Open Meetings Law is immutable. In fact, a court could compel a governmental body that violates the Open Meetings Law to hold the meeting a second time with proper notice or could void any action taken at the meeting. Wis. Stat. § 19.97 (2) and (3). In addition, any member of a body who knowingly attends a meeting of the body that violates Open Meetings Law must forfeit between \$25 to \$300 and pay court costs. Wis. Stat. § 19.96. Members, themselves, can be held liable.

Here are some recent concerns:

- A board discussed items not on the agenda. It does not matter if the body is voting or not voting on a topic; it cannot discuss items that have not been noticed. All subject matters that will be part of a discussion or debate must be noticed so that the public has the opportunity to decide whether or not they want to observe. Members must restrict their discussion to only those matters that are on the agenda.
- Our agendas include “such other matters as allowed by law”. The Corporation Counsel’s Office has advised that this portion of the agenda can be used to deal with procedural matters that have arisen during the meeting, such as if someone wants to move for reconsideration. It is NOT an opportunity to bring up a matter that was not listed on the agenda beforehand.
- A quorum of a committee cannot discuss items before the body for consideration except during a noticed public meeting. It doesn’t matter if the body has adjourned. It is a violation of the Open Meetings Law for a majority of members to exchange ideas either one-by-one, creating a walking quorum, or as a group.
- Without quorum, a governmental body cannot hold a meeting. The Corporation Counsel Carlos Pabellon has provided the following guidance, “It is our opinion that once it is clear that there are not sufficient members to constitute a quorum, the meeting should be cancelled in its entirety. While it may be permissible to continue with a presentation even in the absence of quorum, there are just too many potential pitfalls for committees and other bodies to watch out for. Thus, we changed our advice in the last year to simply say that if there is no quorum present, they should just cancel the meeting.”
- To have an open meeting, the doors to the building and the doors of the committee room must remain open throughout the meeting. Facilities Management refers to the list of posted meetings as a guide regarding when to open building doors. It is generally good practice for committee staff to also contact Facilities Management.

I hope this memo is helpful. If you have any questions or comments, please do not hesitate to contact me.