From:	Rod Williams
To:	Jackie Jury
Subject:	RE: CPMT question
Date:	Monday, May 23, 2022 7:21:14 PM
Attachments:	FOIA, COIA & Public Records (from VML) 2020-2021.pdf

Forgot to attach the book.

From: Rod Williams
Sent: Monday, May 23, 2022 7:20 PM
To: Jackie Jury <jjury@fcva.us>
Subject: RE: CPMT question

Hi, Jackie,

Unfortunately, I am not aware of any changes to the law that would enable this, even with some of the changes that came about as a result of COVID circumstances. Really, email "meetings" have never been allowed. Members of public bodies have latitude to exchange emails that are not in quick succession, without that becoming a meeting, but they definitely cannot vote by email. Bodies may have meetings where some members participate remotely (quorum must still be physically present at the main meeting location), but the clear contemplation of the law is that the meeting take place for the remote members via telephone or video conference and not email. Remember that, even for closed sessions, the body must first convene in open session, make the proper motion to go into closed session, and then, when done with the closed session, pass a motion certifying that only the identified closed session subject was discussed. There is also now limited allowance, during a state of emergency, for the entire body to be remote. The Code section governing electronic participation generally is Va. Code Sec. 2.2-3708.2. Only subsections A, C, and E apply to local bodies.

In order for one or members to participate remotely, though, the body must have adopted a procedure governing remote meetings. With apologies to Airport Director Nick Sabo and Attorney Mike Bryan, I am attaching the Airport Authority's remote policy, which I recently helped them on. I am also attaching the most recent copy of the VML FOIA/COIA/Public Records Guide. It covers meetings, generally, at pages 4-10, electronic meetings at pages 6-7, and closed meetings at pages 7-10.

So, in order to do a remote closed session, you need:

- a remote meeting policy;
- at least a quorum at the main meeting location, with one or more other members approved by the body at the meeting to participate remotely;
- remote members must be audible at the main meeting location;
- a motion to go into closed session, specifying the proper code section allowing a closed session and enough information about the subject of the closed session, but without defeating the purpose of the closed session (the remote members may participate, but must be audible within the closed room);
- at the conclusion of the closed session, a motion certifying compliance of the closed session with the state law closed session requirements.

The requirements are bit more extensive and the attached guidebook goes further

into the details of what exactly you have to do for all of the above, but that is the general idea.

Rod

From: Jackie Jury <jjury@fcva.us>
Sent: Monday, May 23, 2022 4:40 PM
To: Rod Williams <rwillia@fcva.us>
Subject: CPMT question

Good afternoon Rod,

I was asked to revisit a question we discussed quite some time ago to see if anything had changed. The CPMT questioned whether they had the ability to have an email discussion about something that had been or would be considered part of executive session and private/case specific information? This is done in some other localities, however your stance in the past has been that this would be against VFOIA regulations. Since it had been a while, the team wanted to see if maybe there had been different policies adopted or that the language could be interpreted differently now. Would you weigh in please?

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