

DANE COUNTY REMOTE PUBLIC MEETING TOOLKIT



Updated: March 26, 2020

<https://board.countyofdane.com/>

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March 25, 2020

TO: Interested Parties

FROM: Supervisor Analiese Eicher, Chair
Dane County Board of Supervisors

SUBJECT: Toolkit to Hold Remote Board and Committee Meetings

In these unusual times, Dane County continues to balance the necessity of practicing social distancing with the need to continue the essential activities of governing bodies. As people in cities, counties, and states continue to shelter in their homes in response to the COVID-19 pandemic, the Dane County Board held a meeting on March 19th completely remotely. The impetus for the 37 member body to meet was to consider changes in ordinances to allow all committees the authority to meet remotely in the coming weeks.

The meeting was streamed online for the public to watch, and there was also a phone number for the public to call to be able to listen to the meeting. As is usually the case at public meetings, the public was also given the opportunity to register to speak about items on the agenda, via an online survey.

As the health crisis continues, I have been asked repeatedly how the Dane County Board used technology to hold a meeting with all members in attendance from remote locations while also comporting with the requirements of the Wisconsin Open Meetings Law. This toolkit discusses the legal, technological, training, and outreach aspects of this effort. It closes with an exploration of lessons learned and next steps. It was compiled by Dane County Board Office staff with the assistance of the Division of Information Management and the Corporation Counsel's Office. Please consider this a living document, to be revised and refined as our experience deepens. Updates will be posted on the Dane County Board [website](#).

To be clear, my advice to standing committees, as well as advisory boards and commissions, is to meet only if absolutely necessary. And if a meeting is held, the agenda should include only essential items.

We do not know how long the current crisis will last. As time goes on, committees will begin to use the remote meeting structure to consider critical items, and the County Board will do the same. That said, these changes were made as a stop gap measure. I look forward to when it is safe again to gather and we can return to in-person meetings.

Legal Underpinnings

County Board

As the COVID-19 pandemic rapidly unfolded in late February and early March 2020, Dane County Board leadership and county staff began to develop approaches to hold meetings with some, and ultimately all, Board members and staff in attendance remotely.

Discussion regarding the ability of County Board Supervisors to attend remote meetings of committees, as well as Board meetings, was already underway as a possible change in the County Board rules for the 2020-2022 term. The Executive Committee of the Board realized that telephonic and electronic technology advances would allow remote participation, and recommended this approach specifying that notice of member's remote participation must be posted on the face of the agenda 24 hours in advance of the meeting.

The ordinance in place for the 2018-2020 term stated that members of standing committees, as well as members of boards and commissions, must be present in person to fully participate, including counting for quorum and voting. The rules in ordinance for the County Board, on the other hand, were silent on whether individuals needed to be physically present, likely because this has been the long-standing tradition.

Initially it seemed as though social distancing would allow a subset of the 37-member Board to meet in person and the remainder to participate via telephone or computer. This approach would have allowed the meeting to take place in a government facility, with the doors open to the public.

By the week of March 15th, however, the COVID-19 crisis was deepening. On March 16th, Wisconsin Attorney General Josh Kaul issued "Office of Open Government Advisory: Coronavirus Disease 2019 (COVID-19) and Open Meetings". When asked if the County Board could meet fully remotely, Attorney Dave Gault in the Dane County Corporation Counsel's Office indicated:

"I have reviewed the DOJ guidance issued yesterday. Based on that, and under these circumstances of a clear PH (Public Health) emergency, we are prepared to opine that the county board can meet electronically Thursday night without having a physical location accessible to the public. Under these circumstances access via electronic media is sufficient."

His written opinion is [Attachment A](#). Directives from Attorney General Kaul are [Attachments A1](#) and [A2](#).

The plan was to broadcast the meeting, as usual, and Attorney Gault believed, given the exigent circumstances, the County Board could suspend the rules and dispense with public comment. However, Dane County has always prided itself on open and accessible government. The use of an online survey tool as an approach to accommodate registrants is detailed in the next section.

In addition to developing a path to allow for County Board meetings when necessary under the current circumstances, the same needed to happen for other bodies. To change the rules and allow committees to function in this and potentially future emergency situations, it was necessary for the Executive Committee of the County Board to meet in-person to approve an ordinance amendment to change the rules for committee of the Board, and another for advisory boards and commissions. These documents, which essentially deleted the requirement for in-person participation, are Attachments [B](#)

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and C. These ordinance amendments were approved by the Executive Committee and subsequently by the full County Board on March 19th.

Subsequent to the election, the newly seated County Board will make explicit permissive remote attendance as part of the revisions to Chapter 7 of the Dane County Code of Ordinances.

[Further Discussion of Committee Meetings, Public Hearings and Registrants](#)

Once the legal and technological tools were in place, the question turned to whether other bodies needed to meet and what type of agenda items would be appropriate for a remote meeting. Chair Eicher directed standing committees of the Board only to meet if necessary, leading to the cancelation of all but two meetings.

There was considerable discussion regarding whether the Zoning and Land Regulation (ZLR) Committee, which relies on visual materials and which sometimes plays a quasi-judicial role, could or should meet. From Attorney Gault:

“There is sufficient guidance from DOJ and other precedent that a “place” doesn’t have to be a physical location. In my opinion the zoning committee can meet virtually so long as it is accessible to the public consistent with the Open Meetings Law. It’s the level of accessibility that has to be determined on a case by case basis. The preference would be that there be a physical location where the public can listen and monitor the meeting. If public health concerns dictate that access can be just via web or call in that’s ok if properly noticed. The question is how essential is the business to conduct v. the level of accessibility.”

There was also consideration of deadlines in consideration of whether a meeting was required.

“ZLR does not need to act within a specified time on either zoning petitions or CUPs (conditional use permits) (except cell towers.) Both Wis. Stat. s. 59.69(5)(e)2 and 59.69(5e)(c) state that the committee shall hold a hearing on receipt of an application, but no time limit is set. Under the circumstances the committee is not required to meet if there are circumstances like a public health emergency. We could probably even get away with postponing a cell tower CUP, but let’s hope we don’t get there. Really the same answer for BOA (Board of Adjustment). They are not required to act within a certain time frame. They can certainly postpone that 3/26 hearing for a month or more as circumstances require.”

The appropriateness of a remote meeting for a public hearing was debated among staff. Again, from Attorney Gault:

“There are different types of public hearings. A CUP is quasi-judicial and often the credibility of the witnesses is important. The DOJ guidance is not to try to do those hearings remotely. It just raises legal challenges down the road. A legislative hearing may be a different story. You perhaps do that remotely or take comments by email and it would be ok.”

At the same time staff were considering the appropriateness and need for a ZLR meeting, the Community Development Block Grant Commission scheduled a meeting for the week of March 23rd, including a public hearing, as required by the federal government to be completed by the end of March. In this instance, the discussion revolved around the difference between a “public hearing” and “public comment”. From Attorney Gault:

“Just to be clear there is no legal prohibition on doing a meeting like this. Although this is referred to as a “public hearing” it really is more akin to “public comment.” It’s not a contested case where credibility of witnesses comes in-to play. So as long as the public has reasonable ability to provide comments electronically it should be ok. DOJ says what is reasonable access is determined on a case-by-case basis depending on circumstances. You might want to give public an opportunity to submit written comments as well.”

One of the more challenging aspects of the March 19th County Board meeting was taking registrations from speakers online throughout the meeting, and staff anticipated this would likewise present logistical issues for committee meetings. The question from a legal standpoint was how to meet the spirit of the Open Meetings Law for public comment within the confines of the available technology. Deputy Corporation Counsel Carlos Pabellon suggested the following:

“In the long run, I would advise addressing it in your rules on electronic meetings. You may also want to consider adding similar language to Dane Co. Ord. 7.63 so that there is parity with how we treat public comment between actual meetings and electronic meetings.”

Attorney Gault commented further:

“I agree with Carlos that long term we should deal with this in the revision to the board rules. But we are in agreement that for the short term it is legally permissible to notice that registrations must be submitted 30 minutes before meeting.”

Having the support of the county’s attorneys to address the key legal questions of holding remote meetings was mission critical. With the legal underpinnings in place, the technological challenges remained.

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Technology

Discussions and meetings took place with Information Management (IM) to determine the best software to use for remote meetings. Key elements needed for a remote meeting were identified and include: ability to identify all supervisors by name; ability for supervisors to notify the Board Chair if they have a question/comment; ability to conduct roll call, make motions, and vote; ability to record meetings; and the need for the public to attend. The Board Office staff worked closely with Dane County Chief Information Officer Sam Olson and Help Desk Manager Steve Hill on this question. Information Management believed GoToMeeting was the best software to utilize in the short time period available. Information Management does believe better alternatives may be available and are investigating those alternatives for future meetings. IM had access to GoToMeeting subscriptions that allow for 250 meeting participants. Software tests were completed by IM and Board Staff to ensure GoToMeeting would work and to troubleshoot any potential problems. In these discussions, it was determined there would be two different ways to access the meeting; one way for County Board Supervisors and staff and a second way for the public.

Step by step directions for using GotToMeeting for a public meeting follow.

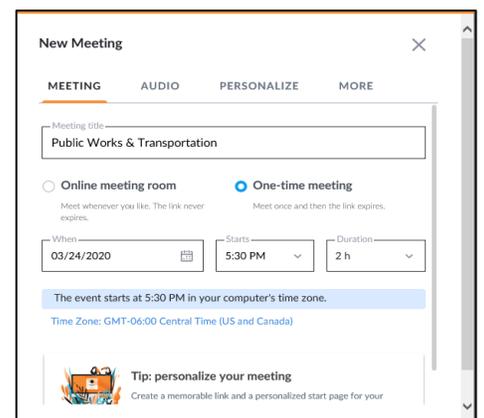
GoToMeeting Set-Up

For each meeting, a GoToMeeting invite needs to be created. To create the meeting, login into GoToMeeting, and select the “Create Meeting” button.

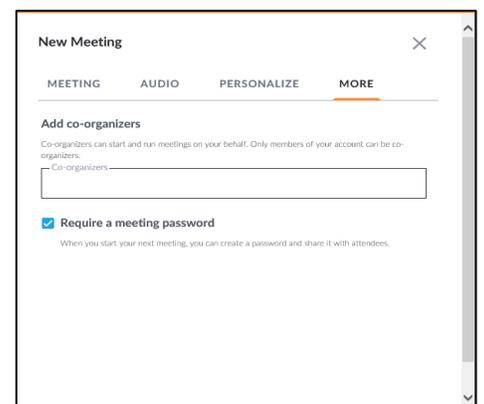


A pop up box will then appear. In the Meeting Tab:

- Title your meeting (i.e. Public Works & Transportation)
- Select the date of your meeting
- Change the time zone to central time
- Enter in the time of the meeting
- Enter in the duration of the meeting (recommend to set it to 2 hours)



Navigate to the “more” tab and click the “Require Meeting Password” field



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Meeting Access

It is at this point where directions for accessing the meeting differ for County Board Supervisors and staff and the public.

It was determined that County Board Supervisors and staff would receive an email with the link to attend the meeting with a meeting password—this is the same concept as sitting on the floor of the chambers—while the public would use the call-in information posted at the top of an agenda and noticed in press releases. The public are welcome in the galley (i.e., the call-in phone number), they do not sit on the Board floor (the GoToMeeting invite with password).

County Board Supervisor and Staff Access

On the day of a meeting, the meeting host sends out an email with the meeting link and meeting password to County Board Supervisors and staff at 3:00 pm (see [attachment D](#)).

Note: Prior to sending out the email, the meeting host needs to update the meeting password. To do so, delete, in the email body, “##meetingPassword” and replace with the chosen password (i.e., Dane123).

When the host joins the meeting, they will have to enter the exact password into GoToMeeting in order for the meeting to start.

Please join my meeting from your computer, tablet or smartphone.
<https://global.gotomeeting.com/join/295345061>
This meeting is locked with a password: ##meetingPassword

Please join my meeting from your computer, tablet or smartphone.
<https://global.gotomeeting.com/join/295345061>
This meeting is locked with a password: Dane123

Meeting participants should be strongly encouraged to join the meeting 15 minutes prior to the start of the meeting.

In order to participate in the meeting, a County Board Supervisor and staff need the following equipment: phone, iPad and/or laptop/computer. Dane County had previously provided each County Board Supervisor an iPad. During the week prior to the March 19th County Board meeting, IM pushed out two applications to the Supervisor iPads: GoToMeeting and GoToWebinar.

If supervisors in rural areas have a difficult time connecting to GoToMeeting via their iPad and/or computer, then they will use the call-in information that is provided to the public. If this happens, they should call into the meeting approximately 20 minutes prior to the start of the meeting. Calling in early will allow for the meeting host to identify them and change their name in GoToMeeting. County Board Supervisors that call in to the meeting will be left unmuted for the entire meeting.

As County Board Supervisors and staff log into the meeting, they will be permanently muted until the meeting host unmutes them.

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Public Meeting Access and Registration

For County Board meetings, the public will be able to access the meeting in two ways. The first way is to dial in to the meeting with the information provided at the top of the meeting agenda (Attachments [E](#) & [F](#)) and the second way was to livestream the meeting through City Channel. The meeting will also be posted to Legistar the following day and can be viewed at:

<https://dane.legistar.com/DepartmentDetail.aspx?ID=24546&GUID=47B83AA5-532A-477C-B668-578F3A9BC371&Mode=MainBody>

For standing committee meetings, the public will be able to call in to the meeting with the information provided at the top of the meeting agenda OR by watching the meeting the following day at: <https://dane.legistar.com/Departments.aspx>

To ensure public engagement throughout the legislative process a Survey Monkey registration form was created for the County Board and for committees. A link to the registration form is provided at the top of each agenda. After the March 19th County Board meeting it was decided to accept registrations up until 30 minutes prior to the beginning of a meeting. This will allow staff the time to collect responses, identify which items a person would like to speak to, and to prepare to dial the person into the meeting. An example of the County Board Survey Monkey registration form can be found in [Attachment G](#) and an example of the Committee Meeting Survey Monkey registration form can be found in [Attachment H](#).

If a member of the public registered to speak on a specific agenda item, at the time it is before the board, a staff member will dial in the person wishing to speak. The Chair will announce how long the person has to speak and when time is up, staff will make an announcement regarding speaking time being up and disconnect the caller at the direction of the Chair.

Case Study: Dane County Board Meeting, March 19th

For the March 19th County Board meeting, a few supervisors in rural areas had a difficult time connecting to GoToMeeting via their iPad and/or computer. Supervisors were provided with contact information for a staff member to help them troubleshoot. In this instance, they used their phone to call in to the meeting approximately 20 minutes prior to the start of the meeting. Calling in early allowed for the meeting host to identify them and change their name in GoToMeeting. County Board Supervisors that called into the meeting were left unmuted for the entire meeting.

As County Board Supervisors and staff logged into the March 19th County Board meeting, they were permanently muted until the meeting host unmuted them. This allowed for the public to stay muted at all times but it also caused roll call to be unwieldy as the meeting host had to physically unmute all Supervisors.

The Chair of the meeting made announcements at the onset of the meeting pertaining to remote meeting etiquette, including:

- Supervisors will be in charge of muting/unmuting themselves
- Supervisors must stay muted when NOT speaking
- If supervisors have a question/comment, ask to be recognized in the chat box
- No side conversations should be held in the chat box, only official business
- Identify yourself prior to speaking

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- Chat Box is a public record

Throughout the March 19th meeting, if supervisors wished to speak, they had to type their request in the chat box. At this point, the Chair would then recognize them.

Staff roles during the March 19th County Board meeting included:

Meeting Host:

- Monitored County Board Supervisors and staff to ensure everyone stay muted
- Monitored the chat box and communicated with the Chair regarding supervisors who wished to speak
- Shared computer screen with the agenda and scrolled through the agenda as the meeting progressed

Registration Coordinator and Technical Assistance for Board Members:

- Helped Supervisors who were having difficulty connecting to the meeting
- Monitored Survey Monkey for registrations
- Communicated registrations to meeting host and Chief of Staff

Chief of Staff:

- Collected names and phone numbers of members of the public that registered to speak on an agenda item before the board
- Assisted in getting registrants dialed in to the meeting

The County Board meeting was livestreamed and recorded by City Channel and posted to Legistar the following day. This practice will continue.

At the conclusion of the March 19th County Board meeting, it was determined that for all future remote board meetings, GoToWebinar may be a better platform to use for the following reason:

- Roll call was unwieldy due to the mute/unmute feature
- Board members will more easily be able to indicate they wish to be recognized to speak with a different meeting platform

Subsequent testing of GoToWebinar as an approach revealed that members of the public would need to register in advance to listen to the meeting. This seemed like an unnecessary hurdle to accessibility, and instead the County Board staff are developing strategies to use GoToMeeting more seamlessly.

The public had two ways to access the March 19th County Board meeting. The first way was to call in to the meeting with the information provided at the top of the meeting agenda and the second way was to livestream the meeting through City Channel. The meeting was also posted to Legistar the following day and can be viewed at: http://dane.granicus.com/MediaPlayer.php?view_id=1&clip_id=322

Successful Meeting Components

Components of a successful meeting include:

- After meeting date and time have been finalized, have a conference call with essential staff
 - Discuss how the Chair would like the meeting to run
 - Define the roles of staff:
 - Who will take meeting minutes?
 - Who will host the GoToMeeting (monitor the mute/unmute feature and record the meeting)?
 - Who will monitor registrations? Who will dial in people that registered? Who will monitor the time of the person giving testimony?
 - Who will share their screen so the agenda can be viewed?
 - Who will monitor the chat box and communicate with the Chair?
- Meeting agenda should include only essential items
 - No special matters
- Arrange motions ahead of time (First and Second Vice Chairs move items)
- Monitor, collect, and share registration information with the Chair and staff 5-10 minutes prior to the start of the meeting
- The chair of the committee or the Board is in charge of the meeting; staff may provide technical assistance
- Meeting participants should join the meeting 10-15 minutes prior to the start of the meeting
- Roll call should be conducted verbally by having supervisors be unmuted. The public needs to hear their voices rather than do the roll call via chat.
- After roll call, the Chair makes key etiquette announcements:
 - Number of public registrations received
 - Supervisors will be in charge of muting/unmuting themselves
 - Must stay muted when NOT speaking
 - If a supervisor has a question/comment, ask to be recognized in the chat box
 - No side conversations in the chat box, only official business
 - Identify yourself prior to speaking
 - Address questions to the chair
 - You may speak twice for a total of 10 minutes on each motion
 - Chat Box is a public record
- Follow Robert's Rules of Order and Board rules

Training of Members of the Body

As the 37-member Dane County Board was preparing to have its first meeting remotely, it was critical to do a training/testing session prior to the meeting to ensure that everyone was able to use the software and that any troubleshooting was done in advance. Two training sessions were held for supervisors to log in and familiarize themselves with the technology.

In order to complete the training, there was one staff member running the controls of the meeting, and another available for phone calls to assist anyone that was having difficulties logging in. The common issues included:

- Clicking on the wrong link
- Unsure of which buttons to press inside the program
- Muting/unmuting
- Wanted to be able to have their webcam working

Both training sessions were well attended and greatly contributed to the success of the meeting. A meeting etiquette guide was developed and can be found in [Attachment I](#).

Public Engagement

In order to successfully involve the public in a remote public meeting, the County Board used a multifaceted communication approach to notify the public of how they could participate. There was a press release ([Attachment J](#)), a website notification ([Attachment K](#)), and Facebook posts ([Attachment L](#)) letting interested people know how they could view/listen/register to speak at the Board meeting.

Practical Limitations

Aspects of the normal County Board agenda could not be accommodated by the remote meeting format, as well as needed changes in basic protocol.

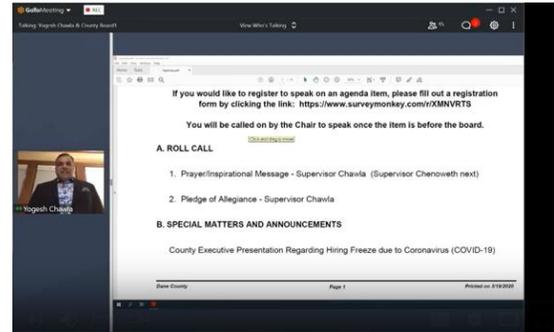
- Essential Items on the Agenda: The County Board Chair has been resolute in limiting the items on the agenda to necessary items, to include payment of bills, consideration of ordinance amendments, contracts, and resolutions accepting grants and other budget amendments.
- No Special Matters: Often the County Board recognizes individuals, teams, and organizations for various reasons. At the March 19th meeting, the Board would have recognized the League of Women Voters. This was not included on the remote meeting agenda.
- Roll Call: Although the meeting organizer who manages the remote meeting technology can identify members who are present, having the clerk call the roll is integral to a public meeting. With a large governing body, it was important to have supervisors' audio on mute to maintain the sound quality. This meant that the staff member serving as meeting organizer had to unmute and mute each County Board Supervisor as the County Clerk called their names. The roll call therefore took longer than usual. Changes, such as unmuting each supervisor as they join the meeting until after the roll call, will be explored for future meetings.
- Arrange necessary motions prior to the beginning of the meeting. The first and second vice chairs made the motions necessary to put items before the body. Other Board members, of course, also made motions. For instance, there was a motion to refer an item to the Personnel and Finance Committee, discussion, and a vote.
- Use the chat function of GoToMeeting to indicate an interest in addressing the body. The meeting organizer alerts the chair to those who wish to address the body and the chair recognizes the speaker.
- Voting. The Chair asks the body if there is any objection to recording the vote unanimously. If a supervisor indicates an objection, the no vote is recorded.

Next Steps

Faced with constraints as a result of the COVID-19 crisis, Dane County relied on the expertise of staff and the willingness of members of the County Board to do business in a new way. Over the course of a week, county officials and staff pieced together an approach to hold a meeting, held two training sessions with County Board supervisors, and successfully held a public meeting to do the people's business.

Emblematic of government persisting in the face of the crisis is the image of members of the Board saying the Pledge of Allegiance at the beginning of the meeting, each in their own homes. See:

<https://www.youtube.com/watch?v=TyrAXhgg7Wc>



That said, the meeting on March 19th was a first effort, and there is room for improvement, including:

- Continuous training of Board members and staff will be necessary, particularly if the base software is changed. Additionally, with the election on April 7th, there will be at least 11 new County Board members who will receive training on the remote meeting process.
- Committee meeting adaptations continue, particularly in terms of the number of staff and distinct assignments for managing the technology, registrants, and minutes to effectively hold the remote meeting for groups of 5 to 7.
- County Board staff will develop training for committee staff with the assumption that, even if the current crisis is over quickly, the need for fully remote meetings may be necessary in future emergency situations.

Outstanding Questions

1. Question: If social distancing remains necessary on April 21st, the statutorily required date of the meeting at which newly elected Board members are seated, how will Board members be sworn in remotely? How will voting for Board leadership be done?

Note that it may be possible for staff to send a Survey Monkey link via the chat function of GoToMeeting for the votes for leadership, and this will allow for anonymous voting. Of course, training new Board members to use the technology for this important public meeting will be critical.

2. Question: Beyond the meetings themselves, how can the County Board best connect with constituents in a time of social isolation?

The lessons learned from the COVID-19 crisis regarding how government can be accessible to the public in particularly challenging circumstances will certainly inform best practices for outreach and engagement when normal times return.

Attachment A: Dane County Corporation Counsel Opinion



OFFICE OF THE CORPORATION COUNSEL

March 17, 2020

Chair Analiese Eicher
Dane County Board of Supervisors
Rm. 106, City-County Building
Madison, WI 53703

RE: COVID-19 and Open Meetings

Dear Chair Eicher:

You have requested an opinion as to whether the county board can meet via telephone, conference call or other electronic media. The county board can meet electronically and be compliant with its open meetings obligations. A meeting of a governmental body must be publicly held in a place reasonably accessible to the public. Generally, there should be a physical location where the public can hear the proceedings of the board. However, in light of the current public health crisis, it is my opinion that the board will be compliant with the open meetings law if the public can reasonably monitor the meeting remotely via teleconference or video conference.

The Wisconsin Open Meetings Law states: “[I]t is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.” Wis. Stat. § 19.81(1). Furthermore, the law requires that “all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.” Wis. Stat. § 19.81(2).

The Attorney General has opined that the Open Meetings Law does not require that meetings be held in a publicly owned place, but rather in places “reasonably accessible to members of the public.” 67 Op. Att’y Gen. 126 (1978). As early as 1980, the Attorney General has opined that a meeting conducted by telephone conference satisfies the Open Meetings Law. 69 Op. Att’y Gen. 143, 144 (1980).

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Chair Analiese Eicher
March 17, 2020

There it was stated:

It is true that in a telephone conference call participants do not convene in the traditional sense because they are not physically gathered together. But they are convened in the sense that they can effectively communicate and exercise authority vested in the body. To hold otherwise would allow the intent and purpose of the law to be frustrated by resort to any one of a number of modern communication techniques that permit communication without the participants being physically gathered together.

Id. The Attorney General also discussed whether a conference call is “reasonably accessible,” and stated:

A telephone conference meeting may be considered “reasonably accessible” if the public and news media may effectively monitor it. This can be accomplished by the use of a speaker that broadcasts the telephone conference located at one or more sites to which the public and news media have access. In such a situation the public and the media have the same “access” to the discussions as each member of the body who is on the line.

Id., at 145. However, the Attorney General recognized that what is “reasonable access” is a factual question to be determined in each case. *Id.*

It should be noted that the statutory policy is that meetings be open to the extent “compatible with the conduct of governmental business.” Wis. Stat. § 19.81(1). Likewise, public access to electronic media has increased exponentially since the Attorney General first opined that telephone conference calls could satisfy open meetings requirements 40 years ago. Ultimately, whether a meeting is “reasonably accessible” is a factual question that must be answered on a case-by-case basis. The Department of Justice issued an advisory on March 16, 2020 regarding “Coronavirus Disease 2019 (COVID-19) and Open Meeting” that concluded “governmental bodies typically can meet their open meetings obligations, while practicing social distancing to help protect public health, by conducting meetings via telephone conference calls if the public is provided with an effective way to monitor such calls (such as public distribution, at least 24 hours in advance, of dial-in information for a conference call.)”

The DOJ guidance was clear that only remote access to an open meeting is not always a permissible solution. But, governmental bodies must be able to function in time of a public health crisis or other exigent circumstances. DOJ stated “the type of access that constitutes reasonable access in the present circumstances, in which health officials are encouraging social distancing (including avoiding large gatherings) in order to mitigate the impact of COVID-19, may be different from the type of access required in other circumstances.”

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Chair Analiese Eicher
March 17, 2020

In conclusion, it is my opinion that under the current circumstances it is legally defensible and in compliance with the open meetings law for the county board to meet via telephone conference or other electronic media so long as the public has remote access that is publicly noticed at least 24 hours in advance. A determination should be made on a case-by-case basis for each meeting as to whether this satisfies reasonable access. When public health conditions permit, a physical site with audio access should be provided.

I would also note that public comment is not required by state law. It is however required by the board rules in county ordinance. If necessary the board can suspend its own rules to conduct business while affording the public remote access to the proceedings.

Please contact me if I can provide additional assistance regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Gault', with a long horizontal flourish extending to the right.

David R. Gault
Assistant Corporation Counsel

Attachment A1: Attorney General Opinion (3/16/2020)



Josh Kaul
Wisconsin Attorney General

P.O. Box 7857
Madison, WI 53707-7857

FOR IMMEDIATE RELEASE

March 16, 2020

Office of Open Government Advisory: Coronavirus Disease 2019 (COVID-19) and Open Meetings

MADISON, Wis. – The Wisconsin Department of Justice’s (DOJ) Office of Open Government (OOG) has prepared the following advisory in response to inquiries as to the applicability of the Wisconsin’s open meetings law, Wis. Stat. §§ 19.81 to 19.98, in light of current public health concerns regarding COVID-19. This advisory is provided pursuant to Wis. Stat. § 19.98.

As explained below, governmental bodies typically can meet their open meetings obligations, while practicing social distancing to help protect public health, by conducting meetings via telephone conference calls if the public is provided with an effective way to monitor such calls (such as public distribution, at least 24 hours in advance, of dial-in information for a conference call).

The open meetings law states: “[I]t is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.” Wis. Stat. § 19.81(1). To that end, the law requires that “all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.” Wis. Stat. § 19.81(2). A meeting must be preceded by notice providing the time, date, place, and subject matter of the meeting, generally, at least 24 hours before it begins. Wis. Stat. § 19.84.

The open meetings law “does not require that all meetings be held in publicly owned places but rather in places ‘reasonably accessible to members of the public.’” 69 Op. Att’y Gen. 143, 144 (1980) (quoting 47 Op. Att’y Gen. 126 (1978)). As such, DOJ’s longstanding advice is that a telephone conference call can be an acceptable method of convening a meeting of a governmental body. *Id.* at 146. More recently, DOJ guidance deemed video conference calls acceptable as well. Wis. Dep’t of Justice,

Wisconsin Open Meetings Law Compliance Guide 11 (May 2019), <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/OML-GUIDE.pdf>.

When an open meeting is held by teleconference or video conference, the public must have a means of monitoring the meeting. DOJ concludes that, under the present circumstances, a governmental body will typically be able to meet this obligation by providing the public with information (in accordance with notice requirements) for joining the meeting remotely, even if there is no central location at which the public can convene for the meeting. A governmental body conducting a meeting remotely should be mindful of the possibility that it may be particularly burdensome or even infeasible for one or more individuals who would like to observe a meeting to do so remotely—for example, for people without telephone or internet access or who are deaf or hard of hearing—and appropriate accommodations should be made to facilitate reasonable access to the meeting for such individuals.

To be clear, providing only remote access to an open meeting is not always permissible, as past DOJ guidance shows. Where a complex plan, drawing, or chart is needed for display or the demeanor of a witness is significant, a meeting held by telephone conference likely would not be “reasonably accessible” to the public because important aspects of the discussion or deliberation would not be communicated to the public. *See* 69 Op. Att’y Gen. at 145. Further, the type of access that constitutes reasonable access in the present circumstances, in which health officials are encouraging social distancing (including avoiding large public gatherings) in order to mitigate the impact of COVID-19, may be different from the type of access required in other circumstances. Ultimately, whether a meeting is “reasonably accessible” is a factual question that must be determined on a case-by-case basis. *Id.*

If you have questions or concerns regarding the application of the open meetings law, please contact the Office of Open Government at (608) 267-2220.

Link to the AG Opinion: https://www.doj.state.wi.us/sites/default/files/news-media/3_16_20_OOG%20Advisory_COVID-19_and_Open_Meetings.pdf

Attachment A2: Attorney General Opinion (3/20/2020)



Josh Kaul
Wisconsin Attorney General

P.O. Box 7857
Madison, WI 53707-7857

NEWS FOR IMMEDIATE RELEASE

March 20, 2020

Office of Open Government Advisory: Additional Information Regarding Coronavirus Disease 2019 (COVID-19) and Open Meetings

MADISON, Wis. – The Wisconsin Department of Justice’s (DOJ) Office of Open Government (OOG) continues to prepare additional information in response to inquiries as to the applicability of the Wisconsin’s open meetings law, Wis. Stat. §§ 19.81 to 19.98, in light of current public health concerns regarding COVID-19. This advisory is provided pursuant to Wis. Stat. § 19.98.

Conducting open meetings remotely can pose a number of technological and practical issues that governmental bodies should consider in advance, including, among other things, the following:

- Governmental bodies must ensure that they follow the notice requirements of Wis. Stat. § 19.84 and such notice should inform the public that the meeting will be held remotely and provide all information necessary for the public to monitor the meeting.
- Notices should provide instructions for how the public may access the remote meeting, whether it is to be held via telephone conference call or video conference call. This includes providing the telephone number, video conference link, and any necessary passcodes or other login information.
- As DOJ’s Office of Open Government advised in its March 17, 2020 [advisory](#), a governmental body conducting a meeting remotely should be mindful of the possibility that it may be particularly burdensome or even infeasible for one or more individuals who would like to observe a meeting to do so remotely—for example, for people without telephone or internet access or who are deaf or

hard of hearing—and appropriate accommodations should be made to facilitate reasonable access to the meeting for such individuals.

- When conducting a videoconference or internet-based meeting, the governmental body should strongly consider providing the public with an alternative telephone dial-in option for observing such a meeting so that lack of internet access is not a barrier to observing the meeting.
- At the beginning of each meeting conducted remotely, the chair of the governmental body should encourage all body members to identify themselves before they begin speaking and not to speak over one another. This will help all those listening to the meeting better understand who is speaking.
- When possible, a governmental body may wish to consider recording the meeting and posting it on its website as soon as practicable after the meeting concludes.
- As a bottom line, governmental bodies meeting remotely can and should consider steps that ensure that their meetings remain open and accessible to the public.

If you have questions or concerns regarding the application of the open meetings law, please contact the Office of Open Government at (608) 267-2220.

See also:

March 17, 2020 – [Office of Open Government Advisory: Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#)

Link to the AG Opinion: https://www.doj.state.wi.us/sites/default/files/news-media/3.20.20_OOG_Final.pdf

Attachment B: Changes to Chapter 7

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2019 OA-037

AMENDING CHAPTER 7 OF THE DANE COUNTY CODE OF ORDINANCES,
REGARDING PARTICIPATION IN COMMITTEE MEETINGS BY TELEPHONE
OR ELECTRONIC MEDIA

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Section 7.22(14) is rescinded:

~~(14) Committee members may participate in a meeting via telephone or other electronic media but cannot be counted for a quorum or vote.~~

[EXPLANATION: This amendment revises the board rules regarding participation in committee meetings by telephone or other electronic media.]

Attachment C: Changes to Chapter 15

1 **2019 OA-038**

2

3 AMENDING CHAPTER 15 OF THE DANE COUNTY CODE OF ORDINANCES,
4 REGARDING PARTICIPATION IN ADMINISTRATIVE AGENCY MEETINGS
5 BY TELEPHONE OR ELECTRONIC MEDIA
6

7

8

9 The County Board of Supervisors of the County of Dane does ordain as follows:

10

11 ARTICLE 1. Unless otherwise expressly stated herein, all references to section
12 and chapter numbers are to those of the Dane County Code of Ordinances.

13

14 ARTICLE 2. Section 15.02 is amended to read as follows:

15

16 **15.02 OPEN MEETINGS REQUIRED.** (1) It is declared to be the express policy
17 of this chapter to grant the public the fullest information regarding the affairs of
18 county government. To implement this policy, all meetings of boards and
19 commissions shall be publicly held and open to the public in conformance with
20 the Wisconsin Open Meetings Law, Wis. Stat. Chap. 19, Subchapter V.

21

22 (2) Commission and board members may participate in a meeting by telephone
23 or electronic media so long as the meeting is conducted in conformance with the
24 Wisconsin Open Meetings Law.

25

26 ARTICLE 2. Section 15.03 is amended to read as follows:

27

28 **15.03 QUORUM REQUIRED.** No action of a board or commission shall have
29 any force or effect unless such action was taken by a quorum of its members.
30 Unless otherwise specified by law, a quorum shall mean the majority of the duly
31 appointed and qualified membership of the board or commission ~~present in-~~
32 ~~person at the meeting in which the action is considered.~~ The fact that one or
33 more members abstain from voting on a particular question shall not void an
34 otherwise legitimate quorum.

35

36

37 *[EXPLANATION: This amendment revises the rules regarding participation in
38 administrative agencies meetings by telephone or other electronic media.]*

39

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Attachment D: Email to County Board Supervisors and Staff with Link to Meeting

All,

Below is the information you will need to connect to the remote county board meeting tonight. I strongly encourage you to sign in about 20 minutes early.

I would like to stress that the below link and password should NOT be shared with others outside of those on this email chain.

If members of the public or media would like to listen in they can via the phone number or City of Madison web link that is within the board agenda.

You can join the meeting from either your home laptop/computer or on your iPad. Instructions for each are attached. Lauren is available to help troubleshoot.

To login, select the link below, enter in your name, and the meeting password when prompted. You will be put on "hold" until the host joins.

Please join my meeting from your computer, tablet or smartphone.
<https://global.gotomeeting.com/join/530607669>

This meeting is locked with a password: march2019

I will be around between now and then to help with questions.

Lindsay

Legislative Management System Specialist/Policy Analyst
Office of the Dane County Board of Supervisors
210 Martin Luther King, Jr. Blvd., Room 106B
Madison, WI 53703
Phone: 608.283.1219
Fax: 608.266.4361

Attachment E: Notice on County Board Agenda



Dane County

Meeting Agenda - Final-revised

County Board

Consider:

Who benefits? Who is burdened?

Who does not have a voice at the table?

How can policymakers mitigate unintended consequences?

Thursday, March 19, 2020

7:00 PM

Remote Meeting: Call 1-866-899-4679; Access

Code: 530-607-669

Remote Meeting: Call 1-866-899-4679; Access Code: 530-607-669

The March 19th County Board meeting is being held remotely. The public can access the meeting by calling the number below. Once prompted, enter in the access code and you will be connected to the meeting.

NOTE: You will be placed on hold until the host joins.

United States (Toll Free): 1 866 899 4679

Access Code: 530-607-669

To view a live stream of the meeting, please visit:

<https://media.cityofmadison.com/Mediasite/Play/29b3e23a4af94ad49f283691066f01181d>

If you would like to register to speak on an agenda item, please fill out a registration form by clicking the link: <https://www.surveymonkey.com/r/XMNVRTS>

You will be called on by the Chair to speak once the item is before the board.

Attachment F: Notice on Public Works & Transportation Committee Agenda

Note: The agenda includes a note about registrations being accepted until 30 meetings prior to the start of the meeting



Dane County

Meeting Agenda - Final-revised

Public Works & Transportation Committee

Consider:
Who benefits? Who is burdened?
Who does not have a voice at the table?
How can policymakers mitigate unintended consequences?

Tuesday, March 24, 2020 5:30 PM Remote Meeting: Call 1-866-899-4679; Access Code: 295-345-061

Remote Meeting: Call 1-866-899-4679; Access Code: 295-345-061

The March 24th Public Works, Highway & Transportation meeting is being held remotely. The public can access the meeting by calling the number below. Once prompted, enter in the access code and you will be connected to the meeting.

NOTE: You will be placed on hold until the host joins.

United States (Toll Free): 1-866-899-4679

Access Code: 295-345-061

If you would like to register to speak, please fill out a registration form by clicking on the following link: <https://www.surveymonkey.com/r/2PF6RRT>

Registrations will be accepted until 30 minutes prior to the beginning of the meeting. Staff will then call you into the meeting when the item is before the committee.

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Attachment G: County Board Survey Monkey Registration Form

County Board Registration Form

* 1. Name

2. Date of meeting

Date / Time

Date

MM/DD/YYYY



3. Municipality

* 4. If you register to speak, you will be called when it is your turn. Please indicate the best phone number to be called at when it is time to speak.

* 5. Item #/Petition/CUP# or Subject

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6. Registering

- Wish to Speak in Support
- Wish to Register in Opposition
- Wish to Speak in Opposition
- Available for Information Only
- Wish to Register in Support

7. On this occasion, are you officially representing an organization or a person other than yourself?

- Yes - Go to the next question
- No - If you Checked "No" STOP, you do not need to complete the rest of the form.

8. Name, address and telephone number of each person or organization you are representing:

9. Are you being paid for your representation or appearing incidental to your other paid duties for this person or organization?

- Yes - If you checked "yes", go to the next question
- No - If you checked "No" to the question, STOP; you do not need to complete the rest of this form

10. Are you an elected official who is appearing solely on behalf of your office or for your municipality or other governmental body?

- Yes - If you checked "Yes", go to the next question
- No - If you checked "No" to the question, STOP, you do not need to complete the rest of this form

11. Has or will the person or organization you represent spend more than \$500 on county lobbying activities during the current reporting period? (A reporting period is January to June, or July to December.)

- Yes
- No

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12. Do you anticipate making more than two contacts with the County Board supervisors other than at public hearings or meetings?

Do not count contacts with the County Board supervisor who represents the district in which you reside.

- Yes
- No

If you checked "NO" to questions 11 and 12 above, STOP; you do not need to complete the rest of this form. However, if you do make more than 2 contacts at a later date, you must then contact the County Clerk's office to file a form indicating such activity. You must also sign this form. If you checked "YES" to either question at this time, go on to the next question.

OK

13. If you answered "YES" to question 12, do you understand that if the person or organization you represent spends more than \$500 during the current reporting period, you must file a financial disclosure statement with the County Clerk?

- Yes
- No - If you checked "NO" please call the County Clerk at 266-4121 or go to the Clerk's office at 210 Martin Luther King Jr., Blvd., Room 106A for more information.

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Attachment H: Committee Meeting Survey Monkey Registration Form
County Committee Registration Form

1. Committee Name

* 2. Name

3. Date of meeting

Date / Time

Date

4. Municipality

* 5. Item #/Petition/CUP# or Subject

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6. Registering

- Wish to Speak in Support
- Wish to Register in Opposition
- Wish to Speak in Opposition
- Available for Information Only
- Wish to Register in Support

7. Are you wishing to provide comment on an item not on the agenda?

8. On this occasion, are you officially representing an organization or a person other than yourself?

- Yes - Go to the next question
- No - If you Checked "No" STOP, you do not need to complete the rest of the form.

9. Name, address and telephone number of each person or organization you are representing:

10. Are you being paid for your representation or appearing incidental to your other paid duties for this person or organization?

- Yes - If you checked "yes", go to the next question
- No - If you checked "No" to the question, STOP; you do not need to complete the rest of this form

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11. Are you an elected official who is appearing solely on behalf of your office or for your municipality or other governmental body?

- Yes - If you checked "Yes", go to the next question
- No - If you checked "No" to the question, STOP, you do not need to complete the rest of this form

12. Has or will the person or organization you represent spend more than \$500 on county lobbying activities during the current reporting period? (A reporting period is January to June, or July to December.)

- Yes
- No

13. Do you anticipate making more than two contacts with the County Board supervisors other than at public hearings or meetings?

Do not count contacts with the County Board supervisor who represents the district in which you reside.

- Yes
- No

If you checked "NO" to questions 12 and 13 above, STOP; you do not need to complete the rest of this form. However, if you do make more than 2 contacts at a later date, you must then contact the County Clerk's office to file a form indicating such activity. You must also sign this form. If you checked "YES" to either question at this time, go on to the next question.

14. If you answered "YES" to question 13, do you understand that if the person or organization you represent spends more than \$500 during the current reporting period, you must file a financial disclosure statement with the County Clerk?

- Yes
- No - If you checked "NO" please call the County Clerk at 266-4121 or go to the Clerk's office at 210 Martin Luther King Jr., Blvd., Room 106A for more information.

Attachment I: Remote Meeting Etiquette

Remote Meeting Etiquette/Announcements:

- Sign into the meeting 15-20 minutes early to ensure you get connected and to minimize errors
- Follow the same decorum as you would in an in-person meeting
- When you enter, you will be placed on mute. You cannot override being muted.
- The public that calls in will be able to listen to the meeting
- Once you have been unmuted by staff, you will THEN be able to mute and unmute yourself
- Mute at all times except for roll call/votes/called on by chair
- You will be responsible for muting and unmuting yourself to speak
- Use the chat feature, the bubble in the upper right hand corner, to ask questions or to ask to be recognized by the chair. The chat feature will be monitored by staff.
- The chat feature is public record
- Use for official business only
- If you send a message, send to EVERYONE
- No side conversations
- Announce yourself before you speak
- Attend in a quiet location, minimize feedback
- If meeting host hears feedback from your account, and you are not speaking, you will be muted.
- A process has been put in place to connect with members of the public wishing to speak on an agenda item
- The meeting will be live streamed on the City Channel website
- The meeting will also be recorded by County Board Staff

Meeting Procedures:

- Chair will note if there are any registrants
- The Clerk will do roll call, when he calls your name, unmute yourself, speak, and then re-mute yourself
- The designated Supervisor will be unmuted for the inspirational message and then muted again
- We will all do the pledge together
- The County Executive will be unmuted to speak to the hiring freeze
- The 1st vice-chair and 2nd vice-chair will be making motions, unless a roll call vote is asked for, voice voting will occur. When it is time to vote, unmute yourself, speak, and then re-mute
- If requesting to be recognized by the chair, type in the chat box, and the Chair will be notified and will proceed accordingly.

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Attachment J: Press Release

COUNTY BOARD TO MEET REMOTELY ON THURSDAY

March 18, 2020

County Board Chair Analiese Eicher, [608.449.5218](tel:608.449.5218)

County Board

In an effort to follow Public Health of Madison and Dane County guidelines, the Dane County Board of Supervisors will hold their regularly scheduled meeting electronically Thursday night. The meeting will take place at 7:00pm and will be open to the public.

A recent advisory from the State of Wisconsin Department of Justice indicates that the County Board will be meeting the spirit and complying with the open meetings law by making the electronic meeting open to the public.

The meeting will include items that will allow committees to conduct necessary business remotely in the coming weeks as Dane County prepares to mitigate the effects of COVID-19 that have been seen around the world. As a reminder, County committee, board, and commission agendas can be accessed at <https://dane.legistar.com/Calendar.aspx>.

"These are unusual times," said County Board Chair Analiese Eicher. "We're doing our best to keep the County moving forward, while still being open to the public."

The Board's agenda will include a few items, primarily lease agreements and position reclassifications, but also a resolution accepting a \$50,000 Youth Justice Innovations grant from the State of WI Department of Children and Families to address the needs of youth and families around truancy and school justice partnerships.

In order for the public to register to speak or register in support/against an item, a registration form must be completed. An electronic form can be found [here](#).

Information for participating electronically can be found at the top of the agenda: <https://dane.legistar.com/View.ashx?M=A&ID=734249&GUID=1C518F66-729A-4C20-9264-4AABA491B653>

Additionally, the County Board Office is closed until further announcement. If you'd like to contact a specific Supervisor, please see their contact information on the County Board website. If you'd like to speak with County Board staff, please call 608-266-5758.

If you would like to contact the County Board as a whole the email address is: county_board_recipients@countyofdane.com

Link to the Press Release: <https://www.countyofdane.com/PressDetail/10576>

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Attachment K: Dane County Board of Supervisors Website Screenshot

UPDATES REGARDING COUNTY BOARD AND STANDING COMMITTEE MEETINGS

As Dane County continues to monitor and takes action to mitigate the impact of the COVID-19 virus, the County Board will be evaluating the need for committee and board meetings. Standing committees include:

- Personnel and Finance Committee
- Public Protection and Judiciary Committee
- Public Works and Transportation Committee
- Health and Human Needs
- Environment Agriculture and Natural Resources Committee
- Zoning and Land Regulation Committee
- Executive Committee

[Public Health Madison and Dane County](#) advises that the best way to decrease exposure to viruses is to limit the amount of contact with others.

The County Board will be voting at their meeting tonight (3/19) to make changes so committees are able to meet remotely. The agenda can be found here: <https://dane.legistar.com/View.ashx?M=A&ID=734249&GUID=1C518F66-729A-4C20-9264-4AABA491B653>

If the Boards approves the changes, agendas will be posted with options for the public to participate remotely at <https://dane.legistar.com>

If you would like to contact the County Board as a whole the email address is: county_board_recipients@countyofdane.com

If you'd like to contact your County Board Supervisor, their contact information is available [here](#). If you're unsure who your County Board Supervisor is, you can find out [here](#).

County Board Staff can also be reached at: 608-266-5758.

Please check for updates as the situation evolves.

Link to the Dane County Board of Supervisors Website: <https://board.countyofdane.com/>

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Attachment L: Dane County Board of Supervisors Facebook Posts

 **Dane County Board of Supervisors** March 13 at 10:31 AM

The County Board and standing committees will be assessing the need for committee and Board meetings in the coming weeks. If meetings are held, we ask the public to please evaluate in person attendance if you or someone you know has been sick, or have traveled out of the state.

We are working on the technology necessary for the public to participate in meetings without having to come. Please stay tuned. Agendas will be posted with options for participating remotely at <https://dane.legistar.com>

We hope everyone is taking the necessary precautions and are prioritizing their health and the health of others during this time.

Government Inform

DANE.LEGISTAR.COM
Dane County - Calendar

 **Dane County Board of Supervisors** March 18 at 10:12 AM

The County Board will meet remotely tomorrow night.

The agenda includes information for the public to participate: <https://dane.legistar.com/View.ashx...>

 COUNTYOFDANE.COM
Press Releases | Dane County, Wisconsin
COUNTY BOARD TO MEET REMOTELY ON THURSDAY March 18, 2020 County Board Chair Analiese Eicher, 608.449.5218 County...

 **Dane County Board of Supervisors** March 20 at 2:13 PM

County Board Chair Analiese Eicher and County Clerk Scott McDonell running the remote County Board meeting last night!

