

Public Meetings & Virtual Hearings

Background

All Sunshine boards, including advisory boards, must have a physical, in-person quorum to take any official action. A board member attending virtually may contribute to the quorum under *extraordinary circumstances*, if approved by a vote of the board. Determinations on authorizing a quorum to include a virtual attendee should be made thoughtfully and carefully, as Florida courts have held that action taken in violation of the Sunshine law is void ab initio.

As long as a physical quorum is otherwise present, individual members of Sunshine boards can, upon approval by the board, legally attend and vote virtually. In such cases, the board must ensure that conditions are in place to ensure that those members can appropriately participate and be heard by the rest of the board and the public. Florida Statutes do not limit such virtual attendance to extraordinary circumstances; however, the board has the authority to establish limitations on virtual attendance.

Policy Options and Decision Points:

The BCC may wish to consider adopting procedures allowing virtual attendance for the BCC and/or its citizen & advisory boards. Such a procedure should:

1. Confirm that a physical quorum is required absent extraordinary circumstances.
 - a. Determinations on when virtual attendees can count toward a quorum should be made thoughtfully and carefully, as action taken without an in-person quorum could be challenged.
2. Authorize virtual attendance by a member of the board, when a physical quorum is otherwise present, only if:
 - a. All Sunshine requirements can be met;
 - b. The meeting location, technology, and staff support are sufficient to support effective virtual attendance; and
 - c. The member:
 - i. Is appropriately equipped to participate in the meeting and be heard by other board member and the public;
 - ii. Requests virtual attendance in advance.
 - iii. Is hindered by circumstances from physically attending the meeting and meets any other limitations criteria established by the BCC or the board.

In establishing a policy, the BCC has several options and decision points to consider, including:

- Will standards be the same for the BCC and all citizen boards, or will different standards be created (or authorized) for individual boards?
- Do you want to adopt different standards for work sessions and official meetings?
- Will the Board delegate authority to grant virtually attendance to the Chair (in accordance with the standards set in the policy adopted by a majority vote of the Board), or will they vote at each meeting?
- Do you wish to limit the number of board members who can virtually attend a single meeting? (*If so, will there be exceptions and how are those determined?*)
- Do you wish to limit the number of times a board member can attend virtually in a year (or other time frame)? (*If so, will there be exceptions and how are those determined?*)
- Do you wish to require videoconferencing, or allow telephone attendance as well?
- Other standards or limitations, at the Board's discretion

An example policy, with options, follows.

EXAMPLE POLICY:

This policy applies to the Pinellas County Board of County Commissioners (BCC) and all citizen and advisory boards created by the BCC.

Virtual attendance means attendance by a board member through telephone, video conferencing, or similar real-time electronic communication that permits audio and/or visual interaction.

A board member seeking to attend all or any portion of a meeting virtually shall submit a request to County staff for consideration by the Chair with as much advance notice as possible. The Chair is authorized to consult with the County Attorney and County staff and to grant or deny the request to appear virtually in accordance with the standards established in this policy.

The Chair may permit virtual attendance only if:

- A physical quorum of the Board is otherwise present at the meeting;
- The requesting Board Member is incapacitated due to illness or injury or hindered by circumstances from physically attending, but is otherwise able to concentrate and give full attention to the business of the Board; and
- County staff confirms that the meeting room will, at the time of the meeting, be appropriately equipped to permit any audio/video interaction needed. For purposes of this section, the term “appropriately equipped” shall mean that level of equipment necessary to:
 - Allow Board Members attending virtually to hear fellow Board Members and any staff or members of the public speaking at the meeting;
 - Allow all other Board Members and all persons at the meeting to hear Board Members attending virtually;
 - Ensure that Board Members attending virtually are able to view, via video feed or other means, the same images seen by Board Members physically attending, for presentations expected to include video or graphic elements.

Optional additional provisions:

- Clarify that the board will vote at each meeting instead of delegating the authority to the Chair.
- No board member is authorized to virtually attend meetings of an individual board more than (X) times per calendar year *[or, County fiscal year, or month, or other desired timeframe]. [Consider if this should be the same for the BCC and all citizen boards.]*
- No more than (Y) board members will be allowed to attend any individual meeting virtually at the same time. *[If this is adopted, consider how to determine who is authorized to attend virtually if more than the authorized number request it for the same meeting. For example, is it first come first served, or Chair's discretion? Also, consider if this should be the same for the BCC and all citizen boards.]*