



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

DATE: June 24, 2021

FROM: Sandra Kennedy, Assistant City Attorney

SUBJECT: Electronic Meetings

As you may be aware, Governor Holcomb's Executive Order extending the declaration of public health emergency will expire on July 1, 2021, and it is not expected to be renewed. When the emergency expires, the ability of the South Bend Redevelopment Commission ("RDC") to meet virtually as an entire body will also terminate.

The legislature of the State of Indiana has revised the Open Door Law (I.C. 5-14-1.5 *et seq.*) to allow public meetings to occur virtually in part pending the adoption of a policy (I.C. 5-14-1.5-3.5). Other boards and commissions within the City are deciding whether to adopt such policies. However, the statute authorizing the RDC (I.C. 36-7-14 *et seq.*) also contains a provision allowing the RDC to meet virtually in part (I.C. 36-7-14-3.1, referencing I.C. 36-7-14.5-9.5), and the RDC may, but is not required to, adopt a policy to govern attendance by its members at electronic meetings. The legal department has determined (and corroborated this determination with guidance from Accelerate Indiana Municipalities or AIM) that the RDC may elect to follow the RDC statute rather than adopt a policy under the Open Door Law statute.

In general, the RDC statute allows more broad participation electronically than the Open Door Law statute. I have attached the relevant statutes for your review; however, I have summarized the key components of each in the table below.

Provision	Open Door Law (I.C. 5-14-1.5-3.5)	RDC (I.C. 36-7-14-3.1; 36-7-14.5-9.5)
Members may attend electronically if others present may communicate with them	Yes	Yes
Members physically present at each meeting	50%	33.33%

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Policy required	Yes - may be more restrictive than statute	No - but if one is adopted it may be more restrictive than statute
Limitation on number of meetings attended electronically by each member	Yes - no more than 50%, unless due to military service, illness, death of relative, or emergency involving imminent danger	Yes - must attend one meeting in person per year
May vote on final action	Effectively, yes, for RDC purposes	Yes

The statute the Commission chooses to follow will depend on the willingness of the Commission to allow its members to participate in electronic meetings. Electronic meetings are more convenient for those individuals who have other commitments that may prevent them from attending a meeting and otherwise affect the Commission's ability to form a quorum. Additionally, if the Commission decides to allow members to attend electronically, it will make the meetings more accessible to the public who may wish to attend electronically as well. Of course, the Commission could also determine not to allow members to participate electronically but still provide electronic participation to the public.

If you decide that the Commission should continue to allow an electronic option for Commissioners to attend meetings, I have provided draft resolutions for your consideration, one reflecting a policy based on the RDC statute and the other reflecting a policy based on the Open Door Law statute. Both resolutions reflect the most permissive allowance of virtual attendance allowed by each statute. You may determine that more restrictive provisions should be included. Please keep in mind that a minimum number of members must attend each meeting in person in order for a quorum to be met (2 under the RDC statute and 3 under the Open Door Law statute).

City staff recommends following the RDC statute to provide Commissioners with more flexibility and ensure the likelihood of obtaining a quorum. As noted in the statute and above, the Commissioners may choose to follow the RDC statute without adopting a policy at this time, creating a policy later after further consideration regarding whether additional restrictions should be made.