

ADMINISTRATIVE COMMITTEE: INTERIM CONCLUSIONS ON HYBRID MEETINGS

After the return to in-person Common Council meetings earlier this summer, a small group of residents asked Council to consider holding hybrid meetings (allowing public participation both in-person and by remote video conference). As part of the deliberation process, the Administrative Committee has conducted extensive discussions and consultations to determine the viability and legality of hybrid meetings.

Interim Conclusions

First and foremost, public interest in the hybrid meeting format is appreciated. Council understands the importance of community participation in government and considers it a priority to encourage it. While other towns have started implementing their own version of hybrid meetings, there are challenges specific to our municipality that will impact how we will plan to move forward.

The Administrative Committee consulted with a number of experts within the municipality and local volunteer boards, including legal counsel, Summit's IT manager, Communications Office, and the chair of the city's Technology Advisory Committee.

A next step involved the issuance of a Request for Proposals (RFP) to upgrade the existing audiovisual system to handle hybrid meetings (after obtaining a preliminary cost estimate). Several firms physically inspected the equipment in Council Chamber but none of the companies submitted a proposal to complete the work needed to upgrade the system.

The committee had conversations with chairpersons of the Planning Board, Zoning Board of Adjustment and Environmental Commission to determine if they would or could execute hybrid meetings (they were offered an opportunity to review this summary of findings in advance).

Obstacles to Implementation

1. Technology: Currently, the video broadcast and recording system in Council Chamber is more than 15 years old and incapable of handling a hybrid meeting format configured to broadcast online (YouTube Live) and cable television (HTTV). Therefore, it will need to be replaced if a hybrid meeting format is pursued.
2. Legal requirements: Council meetings are governed by specific statutory rules, and there are legal consequences if those rules are not followed. Once the meeting is advertised as being accessible both in-person and by remote access, there is a legal responsibility to ensure that everyone participating is clearly heard and seen, and those who seek to participate remotely are able to do so. If technology fails and the meeting is stopped (regardless of where we are in the agenda), there is significant risk of a legal challenge if a resident feels they were inadvertently cut off or if an opinion was not documented. This could potentially lead to municipal dollars (from taxpayers) being spent on defending potential litigation.

Interim conclusions and potential next steps:

- (1) Planning and Zoning Boards are semi-adjudicatory and as such there is a “right of confrontation.” We have been advised that these meetings can be only held in one format to equalize conditions for both applicant and those who may have objections (*i.e.*, either by video conference or in-person, but not hybrid). Our understanding is that the Zoning Board is conducting in-person meetings and the Planning Board will remain on Zoom at present.
- (2) After discussion with city staff and receiving no responses to the RFP, it is not feasible to upgrade the current system in Council Chamber at this time. It is likely to require a wholesale replacement of the audiovisual system that would involve a capital investment in the 2022 budget. To do this, city staff will need to create bid specifications and a budget proposal for Common Council.
- (3) Before tax dollars are spent, it is imperative to consider the future for public meetings. State law requirements for in-person meetings had been temporarily suspended by the Governor’s State of Emergency. Once the state of emergency is lifted, there is a chance that both hybrid and/or remote meetings will not be permissible. This renders the long-term viability of hybrid meetings as uncertain. If we offered hybrid meetings in the future, changes in state law would be needed to protect the city from liability for equipment failure. To our knowledge, the NJ State legislature has not moved forward with any legislation that would provide such protection.

We understand that our interim conclusions may not fully satisfy those who seek hybrid participation in meetings in the near term. Nevertheless, we will continue to investigate this matter. In the interim, there will be a Zoom only public listening session with three members of Common Council on Monday, September 27 from 7:30 to 8:30PM (log-in information is available at cityofsummit.org).

Council meetings are also viewable live on the City of Summit’s YouTube channel and broadcast real time on HTTV (Verizon channel 30 and Comcast channel 34). The meetings are also viewable at any time on the City of Summit and HTTV YouTube channels. If unable to attend a meeting in person to share an opinion, public comments by email are accepted by the Office of the City Clerk up until noon on the day of the scheduled meeting.

As we consider the many factors noted above, the Administrative Committee will continue to investigate a legally-sound and financially-viable solution for hybrid participation that works best for all of Summit.

B. David Naidu, Chair, Administrative Committee
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