**Remote Attendance and the OMA**

**NOTE:** There is nothing in the Open Meetings Act or Michigan law to indicate that members attending electronically can not vote. However, many municipal and library boards prohibit remote-attending members from voting. There have been several attempts in the Michigan Legislature to pass legislation regulating remote attendance in public meetings, but so far nothing has passed.

If your library determines that remote attending members CAN vote, then the Open Meetings Act would require that any votes be conducted via ROLL CALL so that it is very clear to members of the public attending which members voted which way on each issue. The minutes should also be very clear on how each member (including the remote-attending member) voted.

It is interesting to note that the [Michigan Open Meetings Act Handbook](https://www.michigan.gov/documents/ag/OMA_handbook_287134_7.pdf) anticipates voting by members attending remotely. On page 20, under “Roll-Call Vote,” the handbook states “if you have board members participating by teleconference, a roll call will permit the secretary to accurately record the entire vote.” This text implies that voting by remote-attending members would be ok , as long as the appropriate measures are taken to ensure that members of the public are able to see/hear (as explained below), and any vote is held via Roll-Call method (as explained above).

It is also a good idea to refrain from completing a quorum via remote access. It is becoming widely accepted (and even legislated in some states) that a quorum may not be established via participants attending remotely. However, in the event of an emergency or other unexpected circumstance, if a quorum cannot be formed except by remote access, then it may be permitted (all steps to ensure access and interaction by the public must be taken – see below). A library should confer with their attorney as to the appropriate circumstances when a quorum could be completed via remote access.

It is also important that **members attending remotely (either via phone or video) are visible and/or audible to members of the public attending the meeting.** Remote attending members should be clearly heard and/or seen. It is also important to make sure that the remote attending members introduce themselves each time they speak so there is no confusion as to who is speaking.

<https://www.mml.org/pdf/resources/publications/ebooks/HMO_by_chapter/Appendix%207%20Questions%20and%20Answers.pdf> (see q40 on remote attendance to meetings).

See Also Mcinerney, Mark “*Open Meetings Act Update “Informal Meetings,” “Remote Attendance”*” (This is an article/opinion piece by an attorney at Clark Hill law firm. It is a good summation of the issue)

<https://www.clarkhill.com/alerts/open-meetings-act-update-informal-meetings-remote-participation>

**SAMPLE POLICIES**

**Library 1**

*“7.4 A Board member, after notifying the Library Director or Board Chairperson of a planned absence, may request in advance to attend the meeting electronically. Board members who participate in a meeting electronically will be marked present on the Board’s attendance chart.*

*8.1 quorum for the transaction of (Library Name) business shall consist of five members of the Library Board. A Board member attending a meeting electronically shall not be counted for the quorum.*

*8.2 Adoption of all resolutions and business shall require a simple majority vote of a quorum of five or more members of the Library Board in attendance. A Board member attending a meeting electronically may participate in discussions regarding all items on the agenda, but shall be unable to vote”*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 2**

“*a. In the case of emergency, as provided by law, Board action may be taken by at least a quorum of the Board upon at least eighteen (18) hours (or longer if practicable) notice to the public. A board member may participate in such meetings by means of conference telephone or other means of remote communication by which all persons participating in the meeting can communicate with each other. Any action taken pursuant to such emergency meeting shall be subject to ratification or rejection at the next public meeting of the Board.”*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 3**

*“Section 4. A Board member may participate virtually or via telephone as long as full participation in the meeting is possible and a quorum of the Board is physically present.”*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 4**

*“ 1. A Board member, after notifying the Library Director or Board President of a planned absence, may request in advance to attend the meeting electronically. Board members who participate in a meeting electronically (via skype or telephone) will be marked present in attendance with participation limited to discussion but not counted as part of a quorum.”*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 5**

*Quorum Four (4) members of the Board shall constitute a quorum. A majority vote of those present shall be necessary for the transaction of any and all business or the passage of any resolution. Presence at a meeting can be in person or by conference telephone or any similar communications equipment through which all persons participating at the meeting can communicate with each other.*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 6**

*Electronic Attendance:*

*With prior approval from the board president, a trustee may be present at a meeting via Skype or other similar electronic telecommunications device. Attendance via electronic means will include presence towards quorum and constitutes the power to vote. Only one trustee may attend a meeting via electronic means during any one board meeting. The trustee holding the meeting may not attend via electronic means.*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 7**

*Section 7. VOTING - An affirmative vote of the majority of all members of the Board present at the time shall be necessary to approve any action before the Board. Presence at a meeting can be in person or by conference telephone or any similar communications equipment through which all persons participating in the meeting can communicate with each other. The President may not move or second a proposal before the Board.*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 8**

*Section 7. The Board shall allow virtual meeting attendance from a remote location under certain parameters. Recognizing that the goal of all board and committee meetings is in-person attendance; and recognizing that full in-person attendance greatly facilitates the productivity of said meetings, it is accepted by all members that in-person attendance shall be expected of all members.*

*However, recognizing that a variety of impediments to each member’s attendance may arise, the following policies are in effect.*

*a) The Board member may request to attend the meeting virtually. The Board member should notify the Library Director at least 24 hours in advance, if possible.*

*b) If there is a weather advisory or weather prohibiting in-person attendance, the meeting may be attended virtually as long as there is one meeting location that is open to the public. A technological means for attending the meeting virtually will be provided for all participants. If it is not possible to provide a public meeting location, the meeting will be cancelled by the Library Director. All Board members will be notified by email or by telephone.*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**Library 9**

 *Article VII- Meetings*

*Section 6. Telephone conference calls among board members, if a quorum of the board members are participating in such a call, fit within the definition of a “meeting” subject to the Michigan Open Meetings Act.*

*Members of the Board may participate in Board meetings via conference calls under the following conditions:*

*• The member notifies the Director or designee prior to 3pm(est) the day of the meeting.*

*• The member has teleconferenced in to less than three meetings in a calendar year.*

*• Participation is conducted using a device that allows all parties involved to hear each other.*

*• The meeting is properly noticed*

*Teleconferencing participation in closed sessions is not allowed.*

*Article VII- Quorum and Resolution Adoption*

 *Section 3. Telephone Conference calls among members of a governmental body within the definition of “meeting” are subject to the Michigan Open Meetings Act and ARTICLE VII, Section 6 of this document.*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Cdm/1-2019