



Agenda Abstract

BOARD OF COMMISSIONERS

Meeting Date:	March 25, 2024
Department:	Administrative Services
Agenda Section:	Regular
Public hearing:	No
Date of public hearing:	N/A

PRESENTER/INFORMATION CONTACT

Town Clerk Sarah Kimrey

ITEM TO BE CONSIDERED

Subject: Ordinance Amending Chapter 2, Section 2-18 of the Code of Ordinances – Remote Participation at Board of Commissioners Meetings

Attachments:

1. Email with town attorneys
2. Email with Kirstina Wilson from UNC School of Government
3. Draft ordinance

Summary:

On Aug. 15, 2022, the Governor's State of Emergency in response to the COVID-19 pandemic expired, thus, the remote public meeting statutes no longer apply to public governing boards. Article 33C, Chapter 143, of the North Carolina General Statutes (see [G.S. 143-318.13](#)) contemplates that members of public bodies may participate in official meetings by use of conference telephone or other electronic means. The board's rules of procedure in Chapter 2 of the town code does not address whether a board member can participate remotely in official meetings now that the declared State of Emergency is no longer in effect.

Our town attorneys and the School of Government staff have researched state law related to remote board participation and have concluded that the legal authority is not clear. Town staff developed a draft ordinance amending Chapter 2 of the town code with the addition of Section 2-18 allowing board members to participate in official Board of Commissioners meetings, with conditions. Some highlights include:

- Board member cannot count towards quorum
- May engage in deliberations but cannot vote on any matter
- May not participate in any quasi-judicial proceeding or public hearing proceeding

Financial impacts:

None

Staff recommendation and comments:

The quorum and voting statutes ([G.S. 160A-74](#) and [G.S. 160A-75](#)) seem to require physical presence but are unclear. Therefore, staff and the town attorneys recommend not to allow remote participants to count towards quorum or vote on any matter to reduce our legal exposure.

Action requested:

Adopt ordinance amendment as presented.