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Best Practices for Real Estate Planning & Development Virtual Public Hearings

**Westchester County Association Live Video Chat
May 29, 2020**

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Background

NY and CT Executive Orders Suspending In-Person Meeting Requirements

- New York Executive Order 202.1
- Connecticut Executive Order No. 7B
- New York Executive Order 202.15

New York Executive Order 202.1

Suspension of law allowing the attendance of meetings telephonically or other similar service:

“Article 7 of the Public Officers Law, to the extent necessary to **permit any public body to meet** and **take such actions** authorized by the law **without permitting in public in-person access** to meetings and **authorizing such meetings to be held remotely by conference call or similar service**, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.”

New York Executive Order 202.15

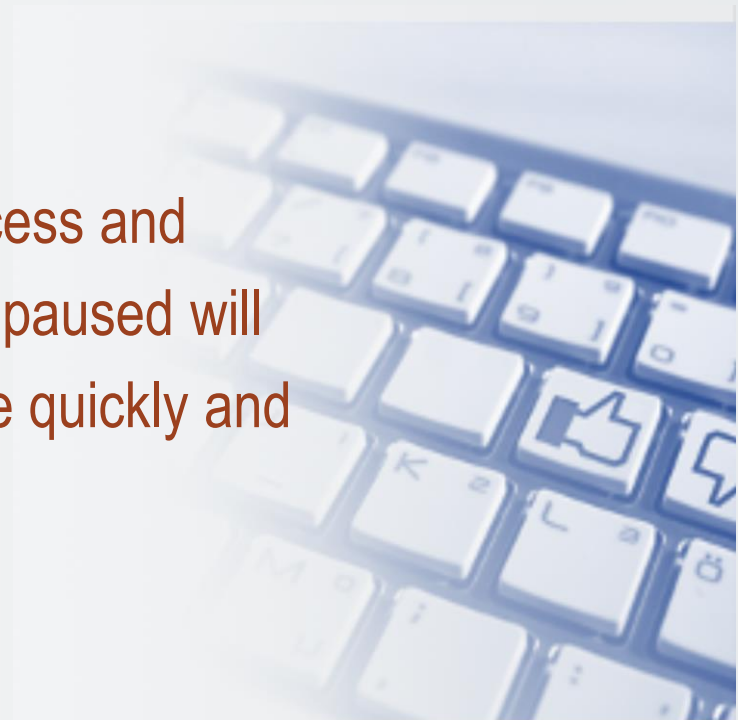
NY's E.O. for Telephonic/Video Public Hearings Updated

“Any local official, state official or local government or school, which, by virtue of any law has a public hearing scheduled or otherwise required to take place in April or May of 2020 shall be postponed, until June 1, 2020, without prejudice, however such ***hearing may continue*** if the convening public body or official is able to hold the public hearing ***remotely, through use of telephone conference, video conference, and/or other similar service.***”

Municipal Concerns/Barriers to Virtual Meetings

- Lack of municipal digital infrastructure:
 - Email/electronic files not accessible from home
 - Use of server based permit tracking systems (as opposed to cloud-based)
 - Requirement for “hard copies” of all applications
 - Managing receiving applications while working remotely or with a reduced staff
- Digital divide:
 - Not all communities /demographics have wide access to digital communications tools
- Misconception that since most construction is on hold, municipalities can hold off on processing applications

Going virtual and continuing to process and approve projects while New York is paused will enable construction to resume more quickly and get people back to work sooner.



Stimulus funding for past disasters like Superstorm Sandy and the Great Recession emphasized “shovel ready” – continuing to process and approve projects puts your community and local business owners in a better position to be eligible for potential stimulus funding.



Key Protocols and Practice Tips

Municipalities and project teams are learning in real time

- Preparation
- Practice
- Protocols
- Presentation
- Notice
- Privacy
- Closing the Hearing



Processing applications virtually

- Transmit applications digitally
 - Applicants should do their best to transfer files in a manageable way: one email, use of file transfer folders, and offers to post voluminous documents to their own websites with links from the municipal website.
- Get up to speed on hosting virtual meetings
 - Take advantage of free training opportunities from service providers
 - Review best practices guides (e.g. WMPF)
 - Practice, practice, practice
 - Designate moderators to help run the meeting:
 - Control screen sharing
 - Answering chats/texted questions
 - Managing security features (waiting room, muting participants, etc.)

Preparation

How do you prepare for a virtual hearing where there are no easels or poster boards with drawings?

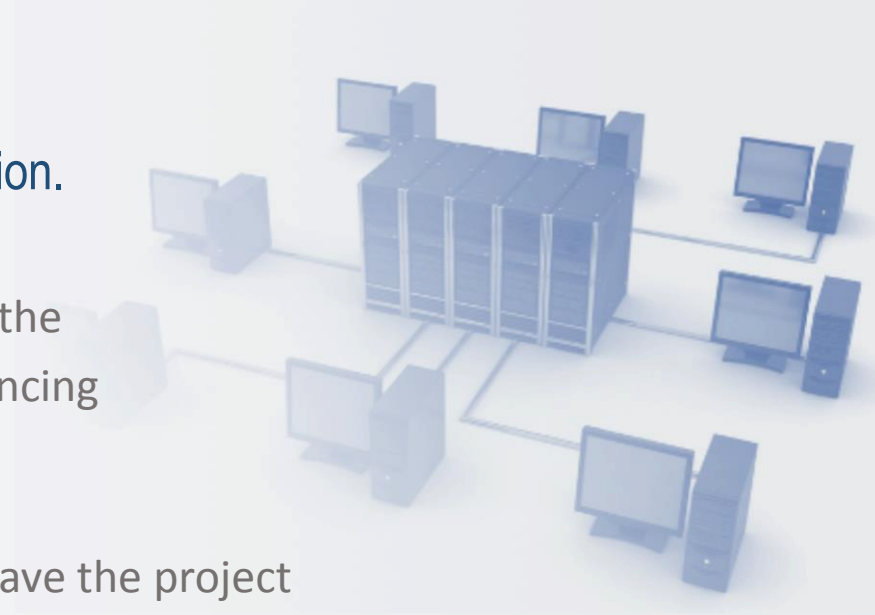
- **Decide** which drawings or visual materials should be shown on the screen for presentation purposes.
- **Assign** a specific team member to share their screen of visual materials for the presentation.
 - Make sure they have the ability to share their screen.
- **Discuss** anticipated questions and make sure each team member knows which question they should plan to address so that team members are not talking over each other.



Practice

Plan ahead and leave time for preparation.

- Conduct a preparation meeting with the project team using the video conferencing platform for the public hearing.
- Walk through the presentation and have the project team members practice using the videoconferencing technology to avoid technical glitches during the hearing.



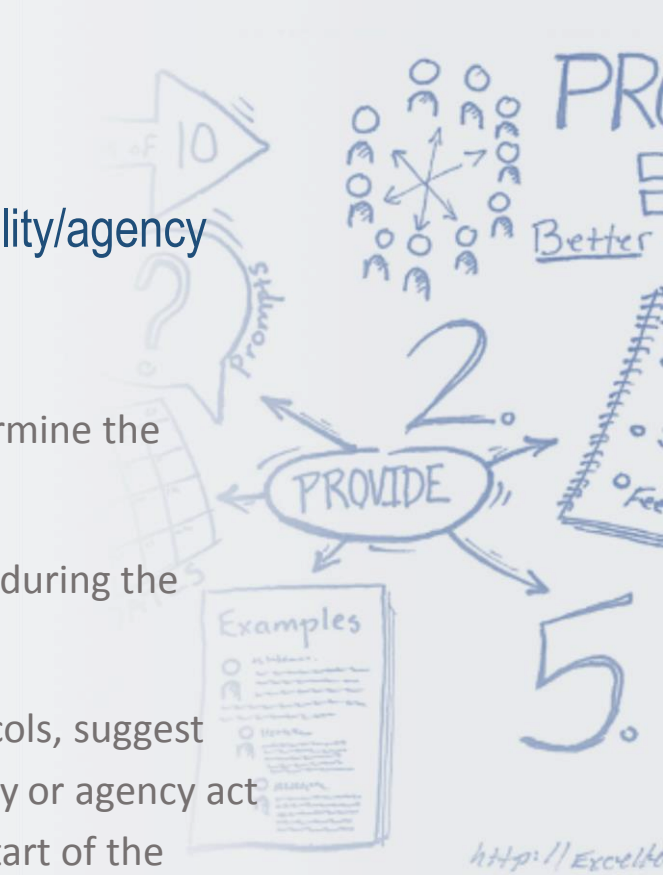
Practice

- Who is going to share their screen for presentation purposes and who is going to present?
- Make sure all presentation materials are available on the computer you will be using for the virtual platform.
- Central location for presentation slide deck.

Protocols

Protocols should be discussed with the municipality/agency in advance of the meeting.

- Communicate with the municipality/agency to determine the format of the hearing.
- How will the Chairman conduct public participation during the public hearing?
- If the municipality has not thought about the protocols, suggest that the Chairman or someone from the municipality or agency act as the moderator and explain the protocols at the start of the meeting to ensure that all communications are orderly.



Presentation

Observe procedural requirements during the hearing.

- Make sure that in addition to all project specific requirements, that all new procedural requirements are being observed during the hearing.
 - For instance, confirm on the record that the meeting is being recorded and that the hearing is being transcribed and will be available to the public (requirements of Governor Cuomo's Executive Order No. 202.1).
- It may also be beneficial for the applicant to have their own stenographer transcribe the virtual meeting.



***BE CAREFUL WHAT IS UP ON THE SCREEN
WHEN YOU SHARE YOUR SCREEN!***

Notice



Important
Notice

The most critical public hearing pre-requisite.

- Make sure that the requisite hearing notices are met.
- New requirements are applicable which are necessary to inform the public how they may view and participate in such public hearing.
- Is the locally designated newspaper for publication still printing?
- Did the virtual platform invite designate an end time to the meeting?

In Hearing Team Communication

Things to consider:

- This is a different format and is the New Normal .
- **Do not** assume that any of the private chat rooms or other small group breakout features of the videoconferencing platform are private.
- Should you use the platform's Chat feature to communicate with your team?
- Set up a group text with your team so you can communicate.



Closing the Hearing

What does it mean to “close” the hearing?

- Written comment period open for 10 days?
- Do you then have a chance to respond?



Best Practices

Don't get caught with your pants down
...or off!

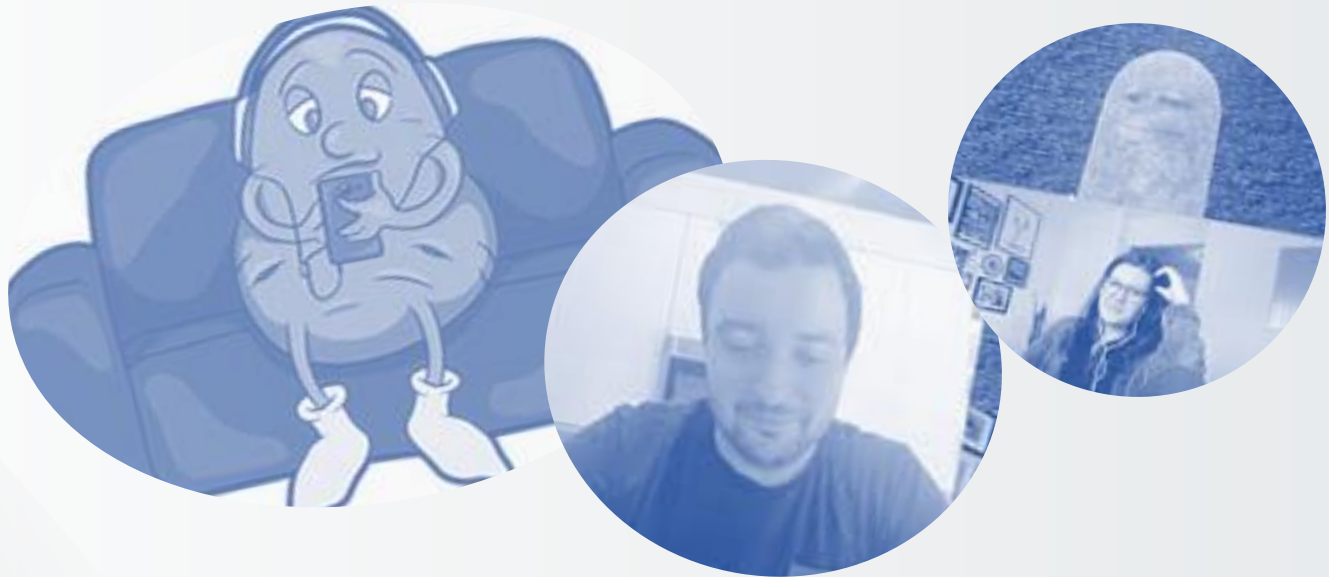
- Where are you conducting the meeting from?
- Dress in professional attire like you are attending the meeting in person.



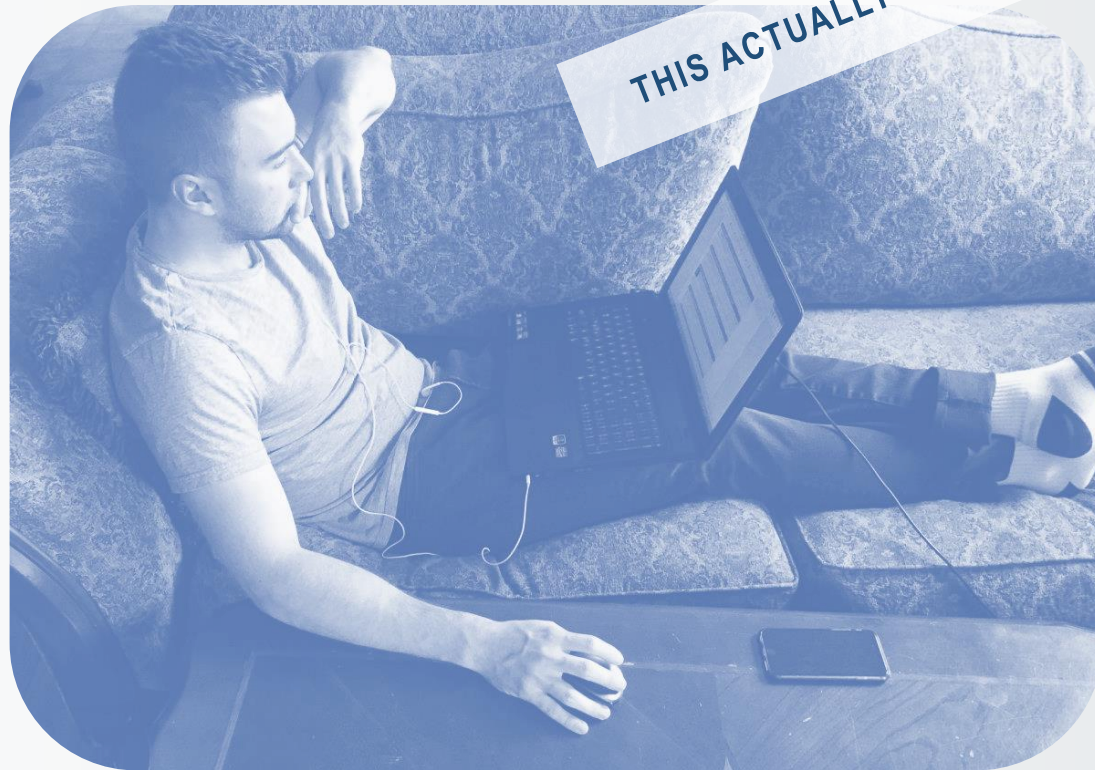
Best Practices

Remain professional.

- Don't get **too** comfortable with the “informal” nature of the platform.



Best Practices



Best Practices

Avoid interruptions if you can.

- Try to conduct the meeting from a location free from background noise or interruptions.



Best Practices

Where are you presenting from?

- Think about your options.



Dealing With What-if's?

Think ahead.

- The New Normal – expect the unexpected.
- Opposing neighbor joins the virtual meeting on their phone and shows the light they are complaining about shining in their back yard - how do you address this situation?
- When a screen is shared, you can't see a board members reaction.

“TO EXPECT THE
UNEXPECTED SHOWS
A THOROUGHLY
MODERN INTELLECT.”

— Oscar Wilde

Dealing with What-if's?

Think ahead.

- The New Normal – expect the unexpected.
- Will you get more people “attending” the meeting because all they need to do is call in or log on?
- What if your Wi-Fi goes down?!?!?!?



What should planners be looking at now to facilitate the reopening?

- Get up to speed on your local zoning and land use regulations – what are the potential pitfalls for business seeking to reopen under new guidelines?
- What permitting is available for use of public streets, sidewalks, and right-of-ways?
- Can existing regulations (i.e. for farmers markets or street fairs) be adapted to meet current needs?
- Does your community regulate short term parking (curb-side pickup)?
- Are there restrictions on drive-thrus?

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