



City of Denver - Open Meetings Law Update

Affinity Group Summary

Key Overarching Themes

Elected Officials: Generally, affinity group participants are okay with providing a virtual option for elected officials to participate in meetings under certain circumstances - weather, work-related travel, or illness being the most cited. There was a feeling that access to elected officials must not be hindered however, so if a virtual option provided more access then participants were more in favor.

Volunteer Boards: Interestingly enough, except from themselves, the majority of affinity group participants believe volunteer boards should be provided a virtual option to participate. There were concerns about the ability for volunteers to be able to meet during working hours, especially downtown. Participants cited concerns about the city only being able to tap into the same types of people for these roles and that, especially the underserved and often underrepresented, communities continue to be left out of these positions due to access issues.

Circumstances for Going Virtual: Changing a fully public meeting to a virtual meeting was also accepted as a possibility. The main circumstances mentioned for this – besides a pandemic – were when there were health or safety concerns (i.e. weather, threats of violence, wide-spread illness).

General Public: There was almost unanimous agreement that things should not go back to the way government operated before the pandemic. Although many questioned the ability to execute a hybrid model effectively, everyone agreed that the general public should continue having the option to attend public meetings virtually and in person.

Hybrid: A hybrid model was mentioned over and over as being the best solution to moving forward. Some discussed the failures they saw with hybrid models – inability to hear, awkward conversations, those in person getting more attention than those online. Some suggested that it might have to be all or nothing due to the issues around hybrid. However, even with these experiences, almost everyone agreed that if a strong hybrid model was possible, it would be ideal.

Other themes:

- **Cameras:** Many participants noted frustration when decision-making participants turn off their camera. There was a feeling of being disrespected and ignored. For those who wanted in-person options only, this was a key issue as they described feeling a lack of participation from those with their cameras off.
- **Platform:** From Zoom to WebEx to Teams – participants struggled with the number of different platforms being used by the city. There is a desire to choose one – preferably Zoom – and stick with it.
- **Chat:** Many participants praised the city for not allowing the chat function in public meetings. Those who work in other jurisdictions gave examples of how the chat box becomes a separate meeting and oftentimes takes the focus away from the presenter/conversation.

- **National vs. Local Voice:** Remote testimony makes it possible for outside interest groups to participate in meetings on an equal footing as local interests. Many groups would like to ensure that local voices are the dominating voice.

Whatever the city decides to do, many participants warned to not simply go back to the way things have always been. The city has to have the ability to pivot in case there is a situation like this pandemic. While everyone figured out how to make it work, and a year later business is still happening, the delays (sometimes up to six months for certain projects/programs/hearings) need not happen again as long as a plan is in place.

Transition to Virtual

Participants from each group generally felt the transition to virtual went relatively well given the circumstances. Some saw an uptick in participation, while other groups saw simply a change in the types of people participating. RNOs for example, saw an increase in younger families but a decrease in older individuals, especially when meetings that used to occur at assisted living facilities have been replaced with virtual meetings. More often than not, participants believe this virtual option allows for an increase in engagement, as more people can testify, comment, or observe from the comforts of their home.

Some of the benefits of moving to online included:

- The ease of recording meetings, uploading them to YouTube, and share out to the community
- Interpretation is easier (don't have to request 48 hours in advance) and Zoom's ability for closed captioning
- Employees have appreciated the work/life balance that virtual meetings have provided
- There appears to be an increase in civility
- Accessibility issues with parking, travel, and public transportation were eliminated

There are still concerns about the people public meetings are not meeting – which appeared to be a problem for both in person and virtual meetings. Some suggested a strategy of assisting those who often don't participate in person with access to technology to be able to attend virtually as the pandemic has increased the digital divide in many communities. For example, one participant noted that 40% of Latinx families in Denver don't have access to a computer. These are often residents who don't attend in person meetings. There was a stated desire to help these residents access the technology needed to attend.

The main concern about the virtual nature of things today was the lack of human connection and interactions. It was less clear for many of the groups if this was more of a “virtual meeting fatigue” and desire for human connection after a year of the pandemic, or a real concern of having public virtual meetings once the pandemic is over. However, some noted the inability to read body language and that it has led to misinterpretations.

Elected Officials

Besides a small handful of participants, most felt that elected officials should be given a virtual option under certain circumstances. There was a feeling that they would rather have elected officials participate virtually than not at all and cited illness/health issues (of them or family member), work-related travel, or childcare issues as reasons for participating virtually. Overall, most participants simply want access to their elected officials – however that is possible.

Other benefits of having officials attend virtually were not having to deal with quorum issues, not having to wait to start if people are late, and generally an increase in attendance.

Some participants believed elected officials should always be offered a virtual option, while a handful of others believed there should be no virtual option as being in person and available to the public is what they signed up for when they ran for office. Most agreed that if an elected official has taken the virtual option, they need to have their cameras on and announce why they are turning their cameras off. Others suggested more rules around when cameras can be turned off and wanted professional photographs of their faces to be seen when videos are off.

There were also some nuances in both which types of elected officials need to be in person and what types of meeting should be in person. For example, some believed that committee and briefing meetings could probably be virtual, with City Council meetings needing to be in person. Another person suggested that maybe if a meeting was weekly, that once a month it could be virtual.

Volunteer Boards

Many participants felt that, especially if you want to create any sense of equity on volunteer boards, there must be a virtual option to participate. Some regional and statewide boards have been meeting virtually prior to the pandemic and felt the option has been working well for some time. One person pointed out that the norm of having to show up to participate is part of “white supremacy” culture.

One person however, gave an example of a board member having to resign during the pandemic because they were uncomfortable with the technology. Some suggested that there are ways to address inequities by loaning out technology, providing reimbursements for parking, making monthly meetings virtual and quarterly meetings in person.

In-person to Virtual

Besides a pandemic, the other circumstances or situations where participants could see allowing a public, in person meeting to move to online included:

- Weather – snow day with DPS on a Monday then it is assumed those don’t have childcare
- Health and safety – of the people that need to be in the meeting

However, some noted that maybe just cancelling the meeting would be better than shifting to virtual – with many noting their frustration with DPS “cancelling” snow days.

Equity Issues

It was easy for participants to name equity issues on both sides – both with in person only and with virtual only meeting – hence the tendency to continue to recommend a hybrid model. Some noted that many of the most vulnerable and underserved populations are still not participating.

For in-person meetings, participants named the following equity issues:

- Transportation
- Childcare
- Language barriers
- Job schedules
- Fear of speaking in public
- Length of meetings
- Time of meetings
- Unknown time commitment
- Cost of parking/public transportation
- Postpartum/nursing mothers

For virtual meetings, participants named the following equity issues:

- Lack of technology (computer/internet)
- Technology divide/comfort with technology
- “Hiccups” – internet goes down
- Financial commitment (computer price, internet fees)
- Sense of community – not knowing who is in the room

Specific to Quasi-Judicial

While not the focus on this affinity group, the group itself had a number of questions they wanted passed on around what “quasi-judicial” means. Whether in person or virtual, the participants were confused as to when a “quasi-judicial” process has started. Concerns included:

- Does the process start when an item is formally submitted? (i.e. rezoning). When is it triggered?
- Can you share with council aides but not council members? Some say you can share info but just not ask how they will vote. When is it triggered?
- If you do a memo that goes to everyone – intended to become a part of the public record – is that okay? How do you share information virtually as you can’t just “catch someone in the hall”?
- The City of Centennial introduced some additional rules “advanced evidence” – What is the process to create an even playing field to provide advanced evidence?

The participants of this affinity group were open to virtual meetings, but had strong feelings around ensuring people had their cameras on, were paying attention/actually listening, and engaging in the hearing. Most felt that in-person is better and preferred, but could understand if there were some exceptions given for mitigating circumstances. One person also suggested that anything that was going to a vote needed to be in person, while more informational meetings could be virtual. There were numerous questions around due process and appeals and they requested additional rules around this in a virtual environment.

More than any other affinity group, those involved in quasi-judicial hearings named the following as missing from virtual meetings:

- If something went up to the very last minute, standing there before the meeting began, then something shifted. Sometimes it takes to the last minute before people are willing to come together to compromise. Side conversations that are necessary to the process (which they noted may not be transparent).
- If you see that someone is watching something and you haven’t reached out to them – there isn’t the opportunity to reach out and address their concern. When you don’t know they are watching they will testify against and you could have done some work before testifying.
- Makes it a little harder to do our job. In person we have a better visual of seeing the room (i.e. if two people versus 200 people show up). It would be nice to know who is watching.

When asked about split hearings, the conversation turned more to concerns about how City Council meetings are the only time where applicants are not allowed to present, instead they are considered simply one of the public. This didn’t seem to be as relevant to specifics around virtual or in person, but was a robust enough conversation to document. Some specifics that did pertain to in person vs. virtual were around ensuring the technology works, how the order of speaking is chosen, strict time limits on speakers, and ensuring local voices are heard more loudly than those of outside interest groups.

Generally, this group desires more clarity and predictability in the rules. They would also like a bigger say in the “quasi-judicial” process, instead of leaving it up to city staff to have to represent the application and answer all the questions (note: the city staff affinity group had similar themes around this being a process that put them in an awkward position and is “a disservice to the process”).

Specific to Structural and Time/Convenience Barriers

This group was split on how the switch to virtual has impacted their participation in public meetings. For some it is about the same, others noted that it comes in phases and some suggested they participate

more now. Some this group facing in attending public meetings in person are:

- Not all buildings are accessible generally
- Not all buildings have a large enough space and a platform so the interpreter can be seen.
- Not all buildings are accessible via public transportation (which is compounded with RTD decreasing routes)
- The bus takes time we don't have to give
- Childcare issues are a concern

Again, this group stressed the importance of authentic engagement in a virtual world. There were concerns about elected officials not being truly mentally engaged virtually. One pointed out the inability to protest via Zoom, which they argued limited speech. Others noted that they want officials to be at least somewhat technologically savvy – not having a cat background appear.

Each of them noted needed accessibility options, and those from the ASL community noted the preference for Zoom as the 48-hour request period could now be offered in a much quicker timeframe with virtually no issues in finding an interpreter last minute.

This group in particular struggled with the concept of hybrid. Most had not seen a well-executed hybrid model that allowed them to participate fully. However, all agreed that a virtual option should be provided to the community moving forward as they thought the choice incredibly important to provide.

Lastly, this group raised a number of questions about who elected officials are listening to and who is allowed access to them. There was a general feeling that those who donated to campaigns were often heard more than those who did not. They cautioned of the perception that public meetings often further impact the imbalance and expressed a desire for everyone to be heard.

Specific to City Staff

Generally, staff would like to be able to keep some sort of virtual option moving forward. They cited a better work/life balance, saving hours a day driving from meeting to meeting, and the ability to attend more meetings. One person noted the time they are saving by not having to do room set up, catering coordination, finding childcare, working with A/V, and then clean up. Another participant noted how there are often not huge budgets for community engagement and thus staff has had to pick and choose which ones to attend. Now they are able to attend more community meetings and hear from more constituents. Everyone agreed that the public should have a remote option, as without it there is a narrowing of the voices that can be heard. Additionally, everyone reiterated the need for one technology platform used by the entire city.

There were numerous questions that city staff felt needed to be considered through this process, including:

- How would a hybrid model work regarding who gets to speak? (i.e. 20 people in person, 30 people virtual - how do you ensure this is seamless and equitable?)
- Should proxy voting be considered? (noting that City Council already has processes around this, but bodies do not)
- Could public comment be submitted in writing and read in person by someone so it is more powerful?

However, a couple people mentioned that they now feel as though they are required to be online and responsive at all times, with one mentioning they are often on Zoom up to nine hours straight. One

person warned that “too many times we do what is best for us as staff and not what is best for the community”.

Specific to Boards and Commissions

The Boards and Commissions groups (B&C) note that there are large differences between them and that not all should be considered the same moving forward. For example, the Landmark and Planning board members stated they should be required to be in person as with the amount of work required of them, having to be in person is not a burden to entry. Other B&C members noted that recruiting new members is an issue, but were hesitant to name the in-person meeting requirement as being the reason why. All agreed that either way, the public should have an option to participate virtually moving forward.

Many noted the benefits of moving to virtual this year. Some of these included:

- Easier for staff to put together meeting notes because they can record the meeting
- Ability to record and post the meeting on YouTube with a link which has provided another way to engage with the public and our applicants and provide transparency
- New, younger commissioners who are used to FaceTime and being on screen – for recruiting purposes we want to “make sure we are keeping up with the times”

One illustrative example was a nursing mother who stated that she used to have to leave the meeting to go down the hall into the bathroom to pump. Because she left the conversation, she often was unable to vote. Now she is able to simply turn off her camera and continue to participate and vote.

They also noted the challenges around meeting virtually. Some of those included:

- “Silly” technical issues
- Can’t see models or material samples effectively by Zoom
- Conversation suffers a little bit

Many of the B&C attempted a hybrid approach over the past year. One illustrative quote around the experience was: “Half and half didn’t work. Virtual commission members felt they were missing out. There was an unequal opportunity to speak. Those attending virtually felt like those in the room were just talking to them. Moving forward it would be better for the public, but the Commission needs to be either all virtual or all in person.” One person offered that Lakewood has created an innovative solution to educating the public by pre-recording staff reports and allowing for public comment (lakewoodspeaks.org). It was noted that this platform allows community members to participate on their own terms and schedule – which lowers the barrier to public participation.

Overall, there was a theme that the benefit should be to the public – whichever path is taken. If there needs to be a virtual option, then proper resources need to be provided for this to work well. This group wants to make sure there are no “second class citizens” created by any model moving forward. Additionally, for B&Cs there may need to be some flexibility as what works and is appropriate for one may not be for another. “Whatever is done, it has to be really thoughtfully done – I don’t want it to have been better one way or the other and we end up with a bad hybrid.”

Specific to RNOs

RNOs understood the need to have broader reach and representation with more ways to engage. Most RNOs have seen an increase in the number of people attending their meetings, and noted that they are getting engagement from different people than before (i.e. younger, working families versus older adults

in assisted living homes). Some warned that many people are using their phones and trying to replicate the same methods they used before but it just virtually isn't working.

RNOs also complained about the lack of consistency in platforms being used by the city and urged the city to stick to one thing. There were also mixed experiences with using the city's Zoom, as it was often booked or there was no way to restrict people joining the meeting. Some RNOs ended up purchasing their own Zoom accounts.

RNOs often focused on the hybrid model, as it takes away the barriers of both only in person and only virtual. However, none had a good model to offer and worried about the technology they would need to do both.

APPENDIX A - Who We Spoke To

We held affinity groups with the following:

Economic Interest in Quasi-Judicial Hearings: This affinity group was for those who have an economic interest in quasi-judicial hearings, this could be business owners, developers, etc.

Number of participants: 11

Structural Barriers: This affinity group is for those who have difficulty accessing public meetings due to a structural or time/convenience barrier that is not easily removed. This could be those with a disability, those who are unhoused, have technology barriers, or those with language access issues.

Number of participants: 9

City Staff: This affinity group was for city staff members who are required to attend public meetings.

Number of participants: 14

Boards and Commissions: This affinity group was for board and commission members who are often required to meet in person.

Number of participants: 8

RNOs: This affinity group was for registered RNOs who often have to meet in person or who often participate in public meetings in which they have a vested interest.

Number of participants: 6

Other: We opened one affinity group up as more of a focus group for anyone who could not make the assigned days/times of their affinity group or who appeared on the waitlist.

Number of participants: 1 (these comments were included in the "Barriers" group summary)