

MEMORANDUM

To: Cal Horton, Town Manager

From: Gregg Gerdau, Chair, Technology Committee

CC: Major Kevin Foy
Town Council Member Mark Kleinschmidt
Bob Avery, Dept. Director, Information Technology
Ralph Karpinos, Town Attorney
Members of the Technology Committee

Date: August 3, 2005

RE: Electronic Meeting Proposal

Pursuant to our initiative for the development of best technology practices that will comply with the NC General Statutes for Public Meetings, I make the following proposal on behalf of the Technology Committee and request a meeting with you to discuss it in more detail. Our proposal is a result of consultations with Dr. David M. Lawrence, Kenan Professor of the School of Government, UNC-Chapel Hill and an expert on open meeting law.

The following consists of five parts. The first section reviews the provisions of the Open Meetings Law; the second outlines a suggested procedure for efficiently and lawfully integrating electronic meetings with regular meetings in a three-part system. The third section describes how the proposed system meets the Open Meetings Law requirements. The fourth section provides the rationale for the proposal and the last section requests a one-year trial of the proposed procedure.

Part I: NC Open Meetings Law

As you are aware, the NC Open Meetings Law (N.C. General Statutes §143-318.9-18) was rewritten in 1977 in response to a state Supreme Court decision. In the rewrite, the commission addressed the use of telephone conference calls as meeting substitutes. As the law was passed well before the growth of e-mail, electronic distribution lists, video and web conferencing, web logs, wireless PDA's and other electronic means of communication, it does not address these eventualities..

The law requires public notice of all "official meetings" §143-318.10(d) by public bodies and the public must be able to attend, but the law does not give the public an automatic right to speak or participate. It further requires that the notice of such a meeting include the purpose(s) for the meeting.

"Official meeting" is defined as a meeting, assembly, or gathering together at any time or place, or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body.

Official Meetings are categorized as regular meetings, meetings other than regular meetings, and emergency meetings:

1. A "regular meeting" is one that occurs at a scheduled time and place and properly posted with the Town Clerk. §143-318.12(a)(4). In Chapel Hill, this is typically done by posting the scheduled dates and times of meetings, and the agenda, on the Town's website, cable channel 18, and Town Hall bulletin boards.
2. For any other meeting, except an emergency meeting, written notice of the meeting stating its purpose must be (i) posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed or delivered to each newspaper, wire service, radio station, and television station, which has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. In Chapel Hill, the Town Clerk has established procedures for affecting such notice. §143-318.12(b)(2).
3. An "emergency meeting" is one called because of generally unexpected circumstances that require immediate consideration by the public body. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this paragraph. §143-318.12(b)(3).

Official meetings can be electronic meetings. If a public body holds an official meeting by use of conference telephone or other electronic means, it must provide a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by the law must specify that location. §143-318.13(a)

Part II: Suggested Procedure

As a step toward e-government and a way to meet the letter and spirit of the law, we suggest the following procedure for the Technology Committee's meetings. We believe it can serve as a model for other Town bodies to follow if they wish.

Meetings of the Technology Committee will generally consist of:

1. regular face-to-face (FTF) meetings held in Chapel Hill's Town Hall at a recurring monthly time and frequency

2. a continuous electronic meeting via an ongoing email distribution list (listserv) for the interval between monthly face-to-face meetings. The email distribution list will be open on a "read only" basis to anyone wishing to subscribe to it but only Technology Committee members and Council-designated liaisons may post to it.
3. a web log maintained and moderated by the chair of the Technology Committee or his/her designate for simultaneous postings of comments to the listserv with the opportunity for any interested party to post comments on topics relevant to the Committee's business. The web log will also permit readers to:
 - a. view current and past archives of the ongoing electronic meeting;
 - b. view current and past archives of regular meeting minutes and agendas
 - c. listen to MP-3 sound recordings of the regular meetings.

Part III: Meeting the Open Meetings Requirements

The Technology Committee believes these provisions meet the Open Meetings Law requirements.

Public Announcement of Time and Place of Meetings. In addition to the regular meeting agendas posted prior to each FTF meeting, a notice will be placed on the Town's website, and other media outlets as determined by the Town Clerk, that a subsequent (electronic) meeting of the Technology Committee will follow from the regular meeting and be continuous and ongoing until the next regular monthly meeting. Instructions for viewing the meeting discussions via the web log will be included with the monthly agenda.

Public Announcement of the Purpose(s) of the Meetings. A notice will be placed on the Town's website where the current agenda for the Committee is posted; it will specify the topics to be discussed during the coming month via the ongoing electronic meeting. No new topic will be discussed during the electronic meeting part of the Technology Committee's meeting although additional agenda items may be proposed and considered for inclusion at the next Regular Meeting. However, in accordance with the provision for emergency meetings, an urgent matter could be added as an additional agenda item for discussion and possible action with 48 hours public notice as described above.

Minutes of the Meetings. The matters discussed and acted on during the electronic and the FTF meeting each month will be synthesized in the regular meeting minutes for that month and posted to the Town's website following review and approval by the Technology Committee.

Citizen Access to Meetings. Any member of the public may access the Technology Committee's web log at any time for an up-to-date review of current and past postings. Citizens may post comments on any relevant topic to the web

log or send email (or telephone or send regular mail) to any member of the committee. Citizens attending the FTF meeting may have an opportunity to make a comment if time permits.

Archives of Meetings. In compliance with the North Carolina Public Records Act - Chapter 132 of the General Statutes, as described in the attached publication "E-Mail As A Public Record In North Carolina E-Mail As A Public Record In North Carolina - Guidelines for Its Retention and Disposition" the chair of the Technology Committee or his/her designate will send monthly CD backups of the listserv archives and web log archives to the Town's IT Director for inclusion in the Town's e-mail and web site records retention program.

Disclaimers on the Listserv and on the Web Log Site. Appropriate disclaimers will be included as reviewed and approved by the Town's legal counsel. For example, the listserv will include a notice, such as: "E-mail correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official. Copies of the postings are copied to the Committee's web log for public disclosure."

A message will be posted on the web log home page describing the purpose of the listserv with instructions on how to comment on the work of the Committee. Suggested wording might include the following:

Disclaimer: A listserv is an electronic mailing list software application providing a synchronized distribution of messages posted by members. Its primary purpose is to act as an information gathering and dissemination resource. Members of the Technology Committee may create and reply to messages. Non-member readers may view and comment on any post or topic via this associated web log and are encouraged to do so. A moderator will screen comments to eliminate spurious, automated responses and advertising related "junk mail" or "spam" information. Posted comments are visible to all."

Part IV: Rationale for this Proposal.

Public FTF meetings are a common means to allow citizen input but attending meetings is not always convenient for citizens. Due to lack of time, distance to travel, conflicting commitments, not everyone can attend a public FTF meeting who would like to. Online tools allow citizens to be more informed about what is happening; online discussion forums (like web logs) can engage citizens who would not attend a public meeting.

Many people today have home computers and access to the Internet. For those who do not, several public places are available that have computers available for public use. For example, current analysis shows that 98.9% of public libraries provide public access computers with Internet connections. The Chapel Hill Public Library, thanks to the

foresight of the Town, has 20 computers available to the public with Internet connection. The Chapel Hill Public Library in cooperation with the UNC Library also provides free instructional sessions to assist novices in the use of the Internet. The Hargraves Recreation Center also provides free access to the Internet in its Technology Center. There are other sources of free or low-cost computer access for Town citizens in addition.

The opportunity to engage all members of the Technology Committee in productive work for the Committee in asynchronous mode will increase member participation and make the work more efficient and more aligned to the way most members of the Committee do other work.

The Technology Committee believes this proposal meets both the letter and the spirit of the Open Meetings Law. Dr. David Lawrence has reviewed it and concurs.

Part V: Request for Trial

We request permission to follow the outlined procedure on a year's trial basis beginning in September 2005 or as soon thereafter as possible. The Committee will provide periodic reports on how well the system is working and what problems surface, if any.