



Maryland Municipal Attorneys Association

Lynn Board President; Todd Pounds, Vice President; Frank Johnson, Secretary; Jason DeLoach, Treasurer

MINUTES FOR MAY 7, 2020 MEETING

APPROVED JULY 16, 2020

The Thursday, May 7, MMAA meeting was held virtually, using “gotomeeting,” for the first time at Noon Lynn Board, President, called the meeting to order at about 12:08 p.m. and welcomed everyone.

1. Minutes of the February 6, 2020 meeting were unanimously approved, on motion by Fred Sussman which was seconded by Jason DeLoach.
2. Treasurer Jason DeLoach reported \$2,829.95 in the MMAA account, which will be increased by renewals. There was discussion on reducing or waiving dues and everyone agreed to keep the \$50 dues in place as they are not very expensive. It was agreed that we would keep the \$50.00 annual dues in place, for billing in July.
3. Lynn noted the elections which were held electronically, and updated that the officers were elected with 20 votes electronically for FY 2021. Officers elected included Lynn Board for President, Todd Pounds for Vice-President, Jason DeLoach for Treasurer, Frank Johnson for Secretary, Debra Daniel for the MML Legislative Committee and Elissa Levan for the MML Board of Directors (where Debra and Elissa will serve as MMAA representatives respectively).
4. Lynn noted there is no speaker but as an updated, said the Governor is opening up some allowances for outside exercise and doctor appointments. She noted that the City of Gaithersburg is planning to partially return to work on May 18; asked what others are doing or what questions they may have. Jason noted his employer is permitting people to work from home. He said persons who are coming in, including him, are wearing masks, and he is trying to work on virtual notifications and other processes. He said municipalities are leaving it up to employees to return, and they must certify they are healthy and no one in their family has been diagnosed or is under quarantine.
5. As to election issues; Jason said the Governor’s order allows municipalities to act quickly with an ordinance. Fred Sussman noted one is proceeding as planned but with social distancing and encouraging absentee ballots and proper sheeting to separate voters and election volunteers. April Ishak said Havre de Grace under the Governor’s Order postponed their election via Charter, allowing postponement on Mayor’s decision; no one supported voting by mail so Mayor issued order under the ordinance to postpone it for up to 60 days after the stay-at-home order expires. Says the municipality published notice about it, and had very little comment. They also added a short list of emergency powers to the Mayor through a Charter change, lasting for 30 days as with the Governor’s emergency orders. Mike Lewellyn said that they amended the Charter to focus on State of Emergencies issued by the Governor and postponed their election. He said another town already had their election but can’t get the new Mayor sworn in because the Clerk will not come, so the prior Mayor remains stuck in office. Kevin noted a Governor’s order allows remote swearing in. Suellen noted one of her municipalities is allowing votes to be dropped off after mailing the ballots; another allows an extension based on an emergency, and says it is working out fairly well.
5. Lynn asked about public meetings; Debra Daniel from Rockville noted they are holding virtual Mayor and Council meetings. She said their Historic District Commission held a public hearing but the attorney for the applicant was not happy with the virtual meeting setup; notes that was only a recommendation to the City Council, but they had scheduled variances for the Board of Appeals which they have postponed. She said it is difficult to fully protect everyone’s due process rights and is not certain how a court will take a challenge. Larry Taub said in

Laurel they have had several council and work sessions, as well as planning and board of appeals, but nothing controversial was on the agenda. They have announced a phone number for dial in participation and it has worked. Question raised how cross examination would be handled; said the plan would be to have the Chair control and organize it, allow cross examination and proceed from there. As to virtual meetings, Fred raised concern with an audio-only meeting where the system had a glitch and many were not able to attend. No objection but reacting prospectively; the general recommendation was to consider setting a new meeting to avoid a future challenge. Debra said Rockville televises their meetings so that public notice is provided, and all are otherwise recorded to give a record of what happened. Fred notes public right to comment on any agenda issue in his jurisdiction; can read their comments submitted via email in writing, as part of the record at the time of the meeting. Jason notes he had a technical glitch, but they went over again, noting it's better to avoid challenges down the road.

One question raised for April Ishak, who is also Chair of the state's Open Meetings Compliance Board, was whether she has seen complaints, and she said she has not, but expects to see some at some point. Will Chapman, represents Talbot County Board of Appeals, said they are setting hearings in June for a number of simple variances; he explained they did not intend to use the virtual process for any meeting which is controversial, but considering streaming it live and allowing public participation virtually, allowing exhibits scanned in advance as well. He also say the board wants to continue it if there is an evidentiary problem; Jason said he saw no problem if everyone is aware of it. Lynn noted that Gaithersburg allows comments in writing, taking public participation if people sign up in advance and then line them up before that. She said the city has not had the cross examination question come up, but the Planning Commission keeps the record open for a week afterwards to allow additional public comment. Jason noted concern to ensure a person is giving their own testimony and not having notes handed to them; would need rules to prevent that; but it was noted that if they are on Zoom they are able to see the person live. Kevin Best asked if any towns or cities have rewritten their meeting rules to accommodate virtual meetings. Debra says they are working on a protocol in Rockville and once finalized will share. Lynn also notes we will share other information on the MMAA website if others have them, including employee certifications.

6. Other updates: Bill Jorge, Manager of Government Relations and Research from MML, notes they are planning the virtual summer conference and working out a two-day program from roughly 10:00 a.m. until 3:00 p.m., with learning labs and workshops, He said they will handle Board elections virtually the week before. Bill said State legislative leaders but have left the idea open for a second legislative session later in the year but nothing is final.

Lynn said we'll probably plan on a virtual meeting in late June and Bill from MML noted there will be little time availability during the actual conference. She said Brynja Booth is interested in presenting at the Fall meeting, so we will probably plan on that, and will hope it can be an in-person meeting. For trainings, Frank noted the May 15 Academy on Excellence training on virtual meetings complying with the Open Meetings Act requirements and one more broadly on Open Meetings at the summer conference. Lynn noted a report is coming up on local government attorneys' involvement in pro bono activities. .

April noted a recent Court of Special Appeals decision upholding their strong-mayor form of government and noting "MML's 157" in issuing what will be a recorded decision. Candace Donoho, Director of Government Relations for MML, asked for any information on federal funding under the CARES Act and urges everyone to keep track of their expenses. She noted Prince George's as a jurisdiction with over 500,000 population received CARES Act funding and is the only one sharing with municipalities, but doing so by population rather than using other factors preferred by municipalities. She is concerned because they are the only ones sharing. She said MML is asking Governor for a direct distribution and hoping for direct future funding opportunities. Lynn notes City has asked for its share from Montgomery County which received direct funding given the population over 500,000.

With nothing further for the good of the order, Lynn adjourned the meeting at 1:06 p.m.

Frank Johnson, Secretary