



# Maryland Municipal Attorneys Association

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

MINUTES FOR JULY 16, 2020 MEETING

APPROVED NOVEMBER 12, 2020

The Thursday, July 17, 2020, MMAA meeting was held virtually, using “Zoom,” for the second virtual meeting (May 7 being the first). The meeting convened at Noon Lynn Board, President, called the meeting to order at about 12:17 p.m., based on a minor problem with the Go To link, and welcomed everyone.

1. Minutes of the May 7, 2020 virtual 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, as in May; dues and invoices went out earlier this month, and will be due in 30 days which will increase the treasury significantly.
3. Lynn noted there is no speaker but wanted to handle this as a roundtable discussion on re-openings, and to see what issues attorneys were finding. According to the clerks, she said, most municipalities are using virtual meeting platforms such as online. Didn't know if anyone is having personal protective equipment (PPE) or CARES Act problems, and opens up the forum for any questions or discussion.

One attorney said one of his municipalities have persons who know persons in their neighborhood have COVID-19, and wonders if that can be shared. With HIPAA they are concerned, but there is a balance of protecting employees and the public. Lynn notes persons should have appropriate PPE and be personally more careful if they are aware. Jason suggested assuming everyone has COVID. It was also noted HIPAA addresses medical providers which would raise less of a concern for volunteered community information.

Lynn asked about vulnerable staff, such as those who may be older. One attorney noted someone in a municipality who was vulnerable but working from home; now needs to conduct inspections but is refusing to come back to work because she is vulnerable. She has not been diagnosed. The problem is that there's no accommodation because the person needs to be present but has not shown up for work; has not asked for accommodation but there's none available. Lynn noted she may need unemployment; Debra Daniel noted Rockville is using virtual inspections, but not all municipalities are doing so. It was noted that some virtual inspections are possible but at this point the person needs to be in place. Others said building inspections are happening virtually, and Lynn notes some exterior inspections do require in person reviews with appropriate PPE. Jason said the Local Government Insurance Trust (LGIT) can also provide some information and appreciates being advised early. It was also noted that a fitness examination may be a necessary step.

Lynn also noted if you use LGIT and call them, it will reduce your deductible by 50%. Suellen noted LGIT will only directly handle damages claims but will in some cases provide attorney's fees for the municipalities for claims not involving damages, such as injunctions only. Fred Sussman noted it's a rider to the general liability policy and provides up to \$50,000, covering lawsuits or administrative proceedings where there is no claim for monetary damages. He noted it can also cover zoning appeals.

As to reopening, another attorney said has two towns he serves who have not opened their Town Halls; he asked if any others have not reopened. Debra noted Rockville is still closed and not open to the public; others also noted they are still closed to the public. Most say they are still holding virtual meetings; Rockville notes some essential

employees are back at work, but not everyone. Lynn noted Gaithersburg is open to the public but limited to appointment-only, and also noted that some employees are back but others are working from home.

One attorney noted a municipal infraction case was postponed earlier, then set for an in person hearing in July, and the attorney had filed a motion asking to reset it for the fall based on health concerns. But the motion was denied and they then filed a second motion asking for it to be handled remotely, which was never ruled on. At the actual hearing, a visiting judge was sitting, and apologized for the denial. It was noted courts will start scheduling minor matters. Lynn noted Montgomery County has not scheduled municipal infractions but there are some appeals being handled virtually.

4. MML Update from Bill Jorch, MML's Manager of Government Relations and Research. On small cells, Bill warned about a noted formation of new 5G-Md progress group, including industry members pushing to limit local control and authority. He said the stated goal in a Daily Record article was to deploy 5G and that the article simply noted state legislation had been tabled the last few years. Suellen asked if anyone has real applications; Larry Taub notes Laurel has and Suellen said College Park has had some. Elissa noted some seemed ready a few years ago and there has been no action since then. Some noted they are hearing from Crown Castle and Verizon. Lynn noted FCC order from December is on appeal and a decision remains pending; and a current FCC proposal for rulemaking is open for comment.

Candace Donoho, Director of Government Relations for MML, noted her retirement has been extended to August 31. She said at this point there are no legislative action requests (LARs) for this year, but Debra notes Rockville is sending some in. Candace said MML will work on them and noted they are looking for volunteers as the volunteer list was low this year. May be looking at a different way to adopt LARs this year; she did ask some legislators whether a special session is possible in the fall and expects not given the resurgence; she said it's not even clear whether they will be able to proceed in January given the resurgence nationwide and to some extent in Maryland. Her main point was the lack of certainty; Elissa asks about any reopening or any word on police legislation given recent events and there is some discussion. Candace said there is anticipated police related LEOBR legislation, suggested the bills may be very extreme and forecast that it would be very contentious, but has not heard any specific proposals. She noted there are discussions and conference calls upcoming on these issues. Justin Fiore, MML's Manager of Government Relations, noted a legislative accountability workgroup is also meeting. Attorneys asked for an update as they learn more about what is being proposed and discussed.

5. MMAA Updates. As to MMAA's joint meeting with counties, Lynn said MMAA will plan on November, noted it probably will be virtual, and expects that Court of Appeals Judge (and former MMAA President) Brynja Booth will present to the group. Lynn asked Frank for a quick update on the MSBA State and Local Government Section, and he noted they are planning a Fall Law Institute which will focus on COVID-19, virtual meeting and police liability issues, among other current topics, and that it may be held at WSSC in Laurel, or online if needed, or both.

With nothing further for the good of the order, Lynn adjourned the meeting at 12:58 p.m.

Frank Johnson, Secretary