What to Expect for Public Engagement in a Hybrid World

A Conversation with ILG & RPLG

Municipal Management Association of Northern California

July 14, 2021
Our Agenda

• Topic Introduction
• Public Engagement 101
• Legal Implications of Hybrid Meetings
• Pros & Cons of Virtual/Hybrid Meetings
• Audience Q&A
• Closing
Your Public Engagement Experts

Institute for Local Government (ILG)

Melissa Kuehne
Senior Program Manager

Renne Public Law Group (RPLG)

Jenica Maldonado
Of Counsel
Before We Begin
“Why Are We All Here Today?

“The post-pandemic world has opened up the possibilities for major changes in how local governments navigate the public engagement space. With constituents looking to get involved and get in contact with cities online and offline, staff need to be prepared to adapt. Sacramento has noticed, too, and is looking to both create more flexibility for city meetings to be online and to impose new requirements on city digital meeting delivery. Session attendees will reflect upon the expected impacts and changes to the public engagement process, gain insight on how to implement these changes and how to engage with the community in both in-person and virtual manners and discuss lessons learned.”

“Attendees will learn how to make the most of lessons learned in the pandemic so they can advise their city clerks and city managers on how to modify Council meeting operations and suggest improvements to public forums.”

TRIPEPI SMITH
Transitioning Is Tough

Public meetings and social distancing: It’s complicated
‘Zoom bombing,’ tech hiccups plague government meetings

Antioch Councilman Lamar Thorpe listens to his colleagues via a Zoom conference instead of the regular in-person meeting because of the social distancing orders now in effect in the Bay Area. (Screen shot)

By ANNIE SCIACCA | asciacca@bayareanewsgroup.com | Bay Area News Group
PUBLISHED: March 28, 2020 at 6:05 a.m. | UPDATED: March 30, 2020 at 9:38 a.m.
Meetings Got Complicated

Joint City Council/Fire Protection District Board
Meeting
4381 Broadway, Suite 201, American Canyon CA
January 21, 2020
AMENDED Agenda

4:30 P.M. CLOSED SESSION - SPECIAL MEETING

5:30 P.M. CLOSED SESSION - SPECIAL MEETING
“Can’t We Just Go Back to ‘Normal’?”
Why Engage the Public?

- Better identification of the public’s values, ideas and recommendations
- More informed residents - about issues and about local agencies
- Improved local agency decision-making and actions, with better impacts and outcomes
- More community buy-in and support, with less contentiousness
- Faster project implementation with less need to revisit
- More trust - in each other and in local government
## What Do We Mean by Public Engagement?

### Civic Engagement
- Involvement in civic and political life of their community

### Public Information/Outreach
- One-way local government comm. to inform

### Public Engagement
- A broad range of methods to inform *and* collect feedback
## IAP2’s Public Participation Spectrum

The IAP2 Federation has developed the Spectrum to help groups define the public’s role in any public participation process. The IAP2 Spectrum is quickly becoming an international standard.

### Increasing Impact on the Decision

<table>
<thead>
<tr>
<th>Public Participation Goal</th>
<th>Inform</th>
<th>Consult</th>
<th>Involve</th>
<th>Collaborate</th>
<th>Empower</th>
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<tr>
<td><strong>PUBLIC PARTICIPATION</strong></td>
<td>To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.</td>
<td>To obtain public feedback on analysis, alternatives and/or decisions.</td>
<td>To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.</td>
<td>To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.</td>
<td>To place final decision making in the hands of the public.</td>
</tr>
<tr>
<td><strong>Promise to the Public</strong></td>
<td>We will keep you informed.</td>
<td>We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.</td>
<td>We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.</td>
<td>We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.</td>
<td>We will implement what you decide.</td>
</tr>
</tbody>
</table>

[IAp2 International Federation 2014. All rights reserved.](http://www.ca-ilg.org)
Consider In-Person Options

Inform
- Fact sheet
- Open house
- Speaker panel
- Town hall

Consult
- Focus group
- Coffee meeting
- Paper survey
- Public meeting
- Public comment
- Mapping
- Booth at fairs and festivals

Involve
- Workshop
- Deliberative polling

Collaborate
- Advisory committee
- Consensus-building
- Participatory decision making

Empower
- Shared leadership
- Community-led process
Consider Digital Options

Inform
- Website
- Newsletter
- Blogs
- Infographics
- Visual simulations
- Live stream presentations

Consult
- Survey
- Poll
- Apps
- Budget Challenge
- Public comment

Involve
- Ideation
- Prioritization
- Mapping
- Online forum
- Trade off exercises

Collaborate
- Interactive community planning platforms
- Joint data generation apps
- Collaborative writing/ hacking
- Neighbor to neighbor apps

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Choosing the “Right” Approach

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<th>Key Considerations</th>
<th>Who is in your community/who are you trying to reach?</th>
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<td>What is the <em>purpose</em> of your engagement?</td>
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<td></td>
<td>What input are you seeking?</td>
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<td></td>
<td>Where are you in the process?</td>
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<td></td>
<td>What tools and approaches will help you achieve your goals?</td>
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<td></td>
<td>Do you have a mix of high tech and low tech options?</td>
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Language Access Tips

- Partner w/ CBOs & ethnic media
- Translate print & online materials
- Create easy to navigate webpages
- Use bilingual employees effectively & appropriately
- Develop policies that clarify your local agency’s responsibilities
- Have the targeted community review your messaging
## Virtual Meeting Design Tips

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<th>Explain the Platform</th>
<th>No “Lectures” More Than 10-15 Min</th>
<th>Consider Learning Styles</th>
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<td>Use Visuals</td>
<td>Let the Audience Tell Their Stories</td>
<td>Consider Language Access Needs</td>
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<td>Ensure Multiple Voices</td>
<td>Solicit Comments or Questions</td>
<td>Pick the “Right” Platform</td>
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**www.ca-ilg.org**
Virtual Meeting Interactive Techniques

- Survey/polls
- Large group share/popcorn
- “Softball” opening question
- Small groups/report out
- Ice breakers
- Digital charting/typed report out
- Word clouds
- Parking lot
- Games
ILG’s Public Engagement Resources

Free Resources from ILG

- Housing and Public Engagement Toolkit
  www.ILGHousingToolkit.org

- Language Access
  www.ca-ilg.org/immigrant-engagement

- TIERS Public Engagement Framework
  www.ca-ilg.org/TIERS

- ILG’s Public Engagement Resources
  www.ca-ilg.org/engagement
Legal Issues Relating to Public Engagement Post-COVID
Brown Act – Pre-COVID Requirements

The Brown Act permitted teleconferencing (audio and video), but included a lengthy list of related requirements, including that each “teleconference location” needs to be “accessible to the public” and the meeting agenda must “provide an opportunity for members of the public to address the legislative body directly…at each teleconference location.” At least a quorum must participate from locations within the boundaries of the territory over which the local agency has jurisdiction.

(Government Code Section 54953, subd. (b)(3).)
Brown Act – Governor’s EO N-29-20

– As part of initial state emergency orders, Governor suspended certain Brown Act requirements to permit local officials and the public to participate in 100% remote meetings

– On March 12, 2020, Governor signed Emergency Order N-25-20

– On March 17, 2020, Governor withdrew and superseded EO N-25-20 and replaced it with N-29-20
<table>
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<tr>
<th>Section 3 of EO N-29-20</th>
<th>Accessibility Requirements</th>
<th>Notice Requirements</th>
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<td>Addressed Remote Meeting Requirements</td>
<td>• Implement a procedure for “receiving and swiftly resolving requests for reasonable modification or accommodation” for individuals with disabilities and resolve issues “in favor of accessibility”</td>
<td>• Give advanced notice and post the agenda within the time frames required under Brown Act and the Bagley-Keene Act</td>
</tr>
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<td>• Stated that such body “need not make available any physical location from which members of the public may observe the meeting and offer public comment.”</td>
<td>• Give notice re the means by which members of the public may observe and offer; to the extent there are changes, post them by the “most rapid means of communication available,” i.e., via internet</td>
</tr>
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**Brown Act – Governor’s EO N-29-20**
Brown Act – Governor’s EO N-29-20

– Initial Duration - “All the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state and local public health officials have imposed or recommended social distancing measures.”
– Statewide Reopening on June 15, 2021
– On June 11, 2021, Governor Withdraw and Replaced Section 3 of EO N-29-20 with EO N-08-21
“Notwithstanding any other provision or state or local law…and subject to [certain] accessibility and notice requirements, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public…All requirements in both the Bagley-Keene Act and the Brown Act expressly or implied requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in the quorum for the public meeting are hereby waived.”
Brown Act – Governor’s EO N-08-21

- In particular, any otherwise-applicable requirements that
  - (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
  - (ii) each teleconference location be accessible to the public;
  - (iii) members of the public may address the body at each teleconference location;
  - (iv) state and local bodies must post agendas at all teleconference locations…
  - (vi) during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction are hereby suspended.”
- Requirements apply through September 30, 2021.
Brown Act – Governor’s EO N-08-21

What happens on October 1, 2021?
Potential Legislation

– AB 339 – Local government; open and public meeting laws (Lee & Garcia)
– AB 361 – Open meetings: local agencies: teleconferences (Rivas)
AB 339 (Lee Bill)

– Introduced on January 28, 2021
– Original Version
  • Required specified telephone and internet access to local agency meetings and specified language translation services
  • All meetings to also include an in-person public comment opportunity at a designated site
  • Required meeting instructions to be published in the two most spoken languages other than English in the local agency’s jurisdiction
  • Provide interpretation services upon request and have established system for same
  • No state reimbursement required
  • Applied to all localities and special districts regardless of size
AB 339 (Lee Bill)

- Amended several times in Assembly and Senate
- Last read and amended on July 5, 2021, in the Senate
- Current version
  - Only applies to large jurisdictions, i.e., with 250,000 or more residents
  - JXs must provide in-person and teleconference options for meetings
  - If a JX has, as of June 15, 2021, provided a video streaming option, it must continue to do so
  - Must also provide an in-person option unless prohibited by a state emergency
  - Translation services requirement removed
  - Sunsets on December 31, 2023
Introduced on February 1, 2021
Read second time and amended in the Senate on July 6, 2021
Suspends Requirements of Brown Act, Gov. Code sec. 54953, subd. (b)(3) if the legislative body holds the meeting during a proclaimed emergency (health or weather) or if social distancing is recommended or meets to determine whether in-person meetings pose imminent health risk
If applicable, all persons may use call-in or internet-based service option, subject to noticing requirements
Local body must reauthorize every 30 days to confirm:
  • State of emergency continues to directly impact the ability of members to safely meet in person;
  • State or local officials continue to impose or recommend social distancing measures
Our Shared Observations
Pros & Cons of Virtual/Hybrid

**PROS**
- Easier for people to attend from work/home or while multi-tasking
- More first-time participants & commenters
- Broader, more diverse & equitable public engagement
- Easier to measure participation afterward
  - Compare your online views vs. butts in Council Chamber seats

**CONS**
- Millions of Californians have little or poor access to broadband
- Higher costs of tech & staff – is it sustainable?
  - Ex: ADA compliance for video stream
- Technological complexity = Murphy’s Law
- Anonymity = “keyboard courage”
Questions?
Have More Questions?

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