

ITEM 7 – Action
September 21, 2022

TPB Bylaws Update

Action: Adopt Resolution R2-2023 to approve amendments to the TPB Bylaws.

Background: The TPB Bylaws will be updated to reflect the Board’s interest in continuing to offer virtual participation for future meetings.

Package 1: Resolution R2-2023 with TPB Bylaws

Package 2: Background/Options Memo



MEMORANDUM

TO: Transportation Planning Board
FROM: Lyn Erickson, Plan development and Coordination Program Director
SUBJECT: Draft TPB Bylaws Comments and Options
DATE: September 15, 2022

A TPB Bylaws update has been initiated to accurately reflect the virtual options available for TPB to conduct business after the public health emergency ends. The language was also updated to reflect current laws and practices, and minor editorial revisions were introduced to bring the Bylaws up to the 21st century. Comments were requested at the July TPB meeting and the TPB is scheduled to adopt Resolution R3-2023 to approve the changes at the September meeting.

Five comments were received on the Draft TPB Bylaws. A few technical edits were identified and corrected, and there was one general substantive comment. Members asked for more flexibility in virtual participation options for the in-person meetings.

This memo provides additional information about virtual participation in the board meetings and provides choices for addressing the comment about more flexibility to participate virtually. The first section summarizes the drafted language provisions regarding virtual participation. Staff also asked several agencies in the region what their participation options/policies are for comparison purposes, and the second section contains that information. The third section provides additional options that could provide more virtual participation flexibility.

VIRTUAL PARTICIPATION OPTIONS AS DRAFTED

Virtual participation options can be found in page 5 Section VI Time and Place of Meeting, included at the end of this memo for reference. As written in the attached Bylaws draft, members could participate virtually up to 5 times a year under certain circumstances. Here are the highlights (the numbering here does not correspond with the numbering in the bylaws):

1. The TPB shall give preference for in-person meetings over virtual meetings. Members will be expected to participate in the in-person meetings in person, unless exempted as per the provisions.
2. When an in-person meeting is scheduled, members may attend the meeting virtually on no more than two (2) occasions in a year. The member wishing to participate virtually shall give at least three (3) days' notice to the Director. (*optional virtual participation*)
3. The Chair may propose and or upon request by and discussion among members, schedule a limited number of all virtual meetings in a year. Such virtual meetings will be limited to no more than three (3) meetings in a year. (*these meetings are considered 100% virtual*)
4. The Chair may determine that no electronic attendance is permitted at certain meetings of the TPB.

In summary, when optional virtual participation is combined with the scheduled 100% virtual meetings, a member could potentially participate virtually up to 5 of the 11 meetings per year (5 = 2 optional as defined in #2 plus 3 scheduled as defined in #3).

OTHER AGENCY/BOARD/MEMBER VIRTUAL POLICIES

Staff informally asked a handful of member agency staffs and COG what their participation procedures and policies are. Due to the timing of the ask, this is the information that was provided to date:

- COG Board (policy updated April 2022)
 - There is unlimited remote participation for board members upon giving 5 days' notice. There are no restrictions on the number of 100% virtual meetings, at the discretion of the Executive Committee with 3 days notice to board members. The Chair may determine that no virtual participation or limited virtual participation is permitted at certain in-person meetings.
- Fredericksburg Area MPO (resolution dated March 16, 2020)
 - Policy Committee members may participate remotely up to 2 times per year, but permitted reasons are limited to: (i) a personal matter, (ii) a temporary or permanent disability or other medical condition that prevents the member's physical attendance, or (iii) such member's principal residence is more than 60 miles from the meeting location. The specific nature of the reason and the remote location from which the Committee member participated shall be recorded in the minutes of the meeting. They must notify the Chair in writing and yes their remote vote does count. The Chair can opt to not approve the request and that will be recorded in the minutes.
 - A quorum must be physically present.
- Baltimore Regional Transportation Board (the Baltimore MPO)
 - BRTB is still operating under emergency procedures and they expect to revisit their bylaws soon. The Board and Technical Committee meet in person every other month and the expectation is for all to be present. However, since they are still operating under emergency procedures, there is a lot of virtual participation even when they are expected to be present,
- Northern Virginia Transportation Authority (NVTA) – Policy 26 found [here](#) updated September 8, 2022
 - 100% Virtual meetings can be scheduled about 3 times per year: the greater of two (2) meetings or 25% of total number of meetings in the calendar year.
 - Optional virtual participation can occur about 3 times per year: greater of two (2) meetings or 25% of total number of meetings in the calendar year (Since there are usually 11 scheduled Authority meetings every year, this will make it possible for a member to go virtually 3 times a year). If an Authority member is also a member of Committees, the attendance is counted separately for the Authority and each Committee.
 - In summary, when optional virtual participation is combined with the scheduled 100% virtual meetings, a member could potentially participate virtually up to 6 of the 11 meetings per year (6 = 3 optional participation plus 3 100% virtual meetings).

- WMATA ([Board's bylaws](#), last updated in June 2018)
 - There are no limits on virtual participation. There are quorum requirements for Board and committee meetings, but virtual participation counts. Here is the most relevant text from the bylaws:
 - *8. Quorum. A quorum requires the presence of four Directors, including one appointed by each of the District of Columbia, Maryland and Virginia. A Director may participate in any meeting of the Board of Directors by means of conference telephone or other communications equipment by means of which all persons participating therein can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.*
- National Capital Planning Commission (amended Bylaws 2020)
 - Virtual participation and online meetings are allowed, with some language related to weather, public health and the chair's discretion. The Commission meeting room is under construction, so all meetings are currently virtual. The discussion around in-person/hybrid/online and Commission attendance will begin soon.

OPTIONS ALLOWING FOR MAXIMUM PARTICIPATION FLEXIBILITY

While not an exhaustive survey, the above section depicts varying approaches to balance the desires to meet in-person and provide virtual participation in board meetings. Members of the board have noted that given the dispersed multi-state area the TPB develops regional plans for, periodic in-person meetings allow for elected and senior appointed officials from different states / jurisdictions to meet to develop a better understanding of each other's perspectives and priorities when developing regional plans and policy priorities. Members have also noted that virtual participation provides significant time savings for members, helps minimize scheduling conflicts, and increases participation in the meetings.

Should the board wish to make changes allowing for more virtual participation, some options to change the draft text include:

1. Change the proposed limit on optional virtual participation in "in-person" meetings from 2 to 4. This together with the anticipated 3 all virtual meetings would allow members to participate virtually in 7 of the 11 annual board meetings.
2. Change the proposed limit on the optional 2 virtual participations to a requirement for 2 in-person participations. This would mean members would be required to participate in 2 of the 11 annual meetings in-person, and therefore could participate in up to 9 meetings virtually.
3. Drop the limitation on virtual participation altogether and not include any requirement for in-person participation. This would provide maximum flexibility to members on how they would participate in the board meetings.

SECTION VI CUT AND PASTED FROM BYLAWS

IV. TIME AND PLACE OF MEETING

1. The TPB shall hold regular meetings, preferably monthly, with a minimum of one meeting each quarter. While the month of August would be exempt from this requirement the Chair of the TPB could convene a special meeting in August as outlined below. Special meetings may be called by the Chair at any time on ten (10) days' notice in writing of the time, place, and general business to be transacted. The Chair shall call a special meeting of the TPB on the request of not less than one-third of the voting members of the TPB, or as required under Section VII.a(7). Insofar as possible, all matters requiring a vote shall be proposed in writing and furnished to members at least three (3) days prior to the meeting or at the time of notice of the meeting, whichever is earlier. The vote on any such matter shall be conducted in accordance with the requirements of Section VI.

The TPB shall give preference for in-person meetings over virtual meetings unless there is a local, regional, or federal order or pronouncement of emergency conditions that affect public safety or health and where public in-person gatherings are discouraged or restricted.

Members will be expected to participate in the in-person meetings in person, unless exempted as per the provisions below.

2. Virtual participation in an in-person meeting: When an in-person meeting is scheduled, a member may attend the meeting virtually (through electronic communication means) from a remote location, on no more than two (2) occasions in a year. The member wishing to participate virtually, shall give at least three (3) days' notice to the Director or designated staff by either email or telephone. The Chair shall announce the names of the members participating virtually at the beginning of the meeting.

Electronic participation is contingent upon the ability of COG staff to make the necessary arrangements for the audio and or visual communications between the TPB meeting locations and the remote location of the member participating virtually.

3. Virtual meetings due to an emergency: In the event of a state, local or federal order or pronouncement of emergency conditions that affect public safety or health, meetings may be held by telephone conference call, videoconference, or online video/telephone call combination ("virtual meetings"), at the direction of the Chair or a Vice Chair, if the Chair is not available, after consulting with the other Vice Chairs, if possible, and the COG Director of Transportation Planning. If possible, three (3) days' notice shall be given to the members by either email or telephone, which notice shall include the specific steps necessary to access the meeting. Such direction shall only be given upon a determination that a face-to-face meeting is precluded by a state, local or federal order or pronouncement of emergency conditions affecting public safety or public health.

4. Virtual meetings not due to an emergency: The Chair may propose and or upon request by and discussion among members schedule a limited number of all virtual meetings in a year, when there is no state, local or federal order or pronouncement of emergency conditions that affect public safety or health. Such virtual meeting(s) would, among others things, advance travel demand management strategy of reducing travel to support regional goals including reducing congestion, and reducing use of fossil fuel and improving air quality. Notice of such an all virtual meeting will be provided no less than ten (10) days in advance of the scheduled meeting. Such virtual meetings will be limited to no more than three (3) meetings in a year.
5. The Chair may determine that no electronic attendance is permitted at certain meetings of the TPB.
6. The following procedures shall apply when a member is attending electronically:
 - a. The member shall verbally identify at the beginning of the meeting that the member is present electronically; and announce, verbally or electronically, if the member is departing from the meeting, unless the meeting has adjourned;
 - b. The member shall, verbally or electronically, ask for recognition from the Chair if the member desires to speak;
 - c. The member attending electronically shall indicate his/her vote verbally when requested by the Chair or staff;
 - d. The member attending electronically shall not have a right to attend any executive session or closed meeting during the meeting but may be included if arrangements can be readily made and the confidentiality of the meeting ensured;
 - e. All other Bylaw provisions apply.