

John:

We have researched this issue further, including by reviewing the Open Meeting Law Guidelines issued by the Middlesex County District Attorney's Office (rev. January 2007) and discussing the issue with Kerry Kilcoyne of that office. A committee member may participate in a public meeting by telephone as long as all the following conditions are met (this list includes the conditions listed in your emails to Town departments on June 19):

1. The meeting must be duly posted and otherwise comply with the Open Meeting Law.
2. A quorum must be present in person; the telephone participant does not count toward the quorum.
3. The telephone participant must be able to hear the entire proceedings (other committee members and the public), and have speakers identified for him or her, and the other committee members and the public must be able to hear any conversation with him or her.
4. The telephone participant should not vote on any matter if his or her vote determines the outcome. (NOTE: This condition is not explicit in the Open Meeting Law, the caselaw or the D.A.'s Guidelines, but it represents the views of the D.A.'s office and adhering to it would be prudent.) The telephone member may vote if his or her vote does not determine the outcome (e.g., it adds another vote to an already-sufficient majority). A vote by the telephone participant that does not determine the outcome does not invalidate the committee's vote.

This email applies only to public meetings, not public hearings. In a hearing, the participating members must attend in person or comply with the recently-enacted "Mullin" statute.

This email also addresses only the Open Meeting Law. I understand that the Town has no by-laws on this issue; if it did, they would have to be reviewed, as well.

I hope this summary is helpful. If you have any further questions, please give me a call.

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6/25/2007