

COUNCIL OF THE TOWN OF INDIAN HEAD

RESOLUTION NO: 11-05-15
INTRODUCED BY: Mayor and Council
DATE INTRODUCED: November 2, 2015
POLICY AMENDED: January 4, 2016
POLICY ADOPTED: January 4, 2016
RESOLUTION ADOPTED: January 4, 2016
DATE EFFECTIVE: February 23, 2016

A RESOLUTION TO AUTHORIZE THE REMOTE ATTENDANCE AND PARTICIPATION OF THE TOWN OF INDIAN HEAD MAYOR AND COUNCIL AT MEETINGS OF THE TOWN COUNCIL UNDER CERTAIN CIRCUMSTANCES AND UNDER CERTAIN CONDITIONS, AND PROVIDING FOR WHEN THIS RESOLUTION BECOMES EFFECTIVE.

EXPLANATORY STATEMENT: Neither the Indian Head Town Charter nor the Maryland Open Meetings Act requires that members of the Town Council be present in person to participate in a meeting of the Town Council. In fact, the Maryland Open Meetings Compliance Board recently recognized that for purposes of the Open Meetings Act a meeting of a governing body may take place outside the traditional place where meetings typically are convened. 9 *Official Opinions of the Compliance Board* 40 (2013). The Maryland Court of Special Appeals also has held that where no law prohibits a member of a body from participating in a meeting remotely, the member may do so as long as the person can be heard by the other members of the body and the public present at the meeting. *Tuzeer v. Yim*, 201 Md. App. 443 (2011).

The Mayor and Council recognize that there may be extenuating circumstances that would prevent the Mayor or a Councilmember from attending a meeting of the Town Council in person. However, the Mayor and Council believe that, under appropriate circumstances that take into account the right of citizens to observe and participate in meetings of the Town Council under the Maryland Open Meetings Act and the Indian Head Town Charter, the Mayor and members of the Council should be allowed to participate in meetings of the Council from locations other than the location at which the meeting is convened. The Mayor and Council, by Ordinance No. 11-01-15, has authorized the adoption of this remote participation policy. The policy adopted by this Resolution will govern the circumstances and conditions under which the Mayor or a Councilmember may participate in a meeting of the Town Council remotely by electronic means. Now, therefore,

BE IT RESOLVED BY THE INDIAN HEAD TOWN COUNCIL that the Town Council adopts the attached "Indian Head Town Council Remote Participation Policy".

AND BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect from the date that Ordinance No. 11-01-15 becomes effective, and if Ordinance No. 11-01-15 is not adopted or does not take effect, this Resolution shall be rescinded without further action of the Council.

INDIAN HEAD TOWN COUNCIL



Brandon Paulin, Mayor



Ron Sitoula, Vice Mayor



Curtis Smith, Councilman

ATTEST:



Andrea Brady, Town Clerk

1/4/16
Date

**AMENDMENT TO INDIAN HEAD TOWN COUNCIL
REMOTE PARTICIPATION POLICY**

Amendment No. 1

On page 2 of the proposed INDIAN HEAD TOWN COUNCIL REMOTE PARTICIPATION POLICY, in the second line of "Rights During Remote Participation", strike "being counted towards a quorum,"; and in the third line of that paragraph, immediately following "voting" insert ", except that a remote participant may not be counted towards a quorum at the meeting".

Use of Permissible Technology

1. The following media are the only acceptable methods for remote participation, except that accommodations shall be made for the Mayor or any Councilmember who requires TTY service, video relay service, or other form of adaptive telecommunications because of a disability:

- (a) Telephone, internet, or satellite enabled audio conferencing that enables the remote participant and all persons present at the meeting location to be clearly audible to one another;
- (b) Video conferencing if the remote participant is clearly visible to all persons present in the meeting location and if the remote participant and all persons present at the meeting location are clearly audible to one another; and
- (c) Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

2. At commencement of the meeting, or the later commencement of the remote participation, the presiding officer at the meeting must announce the presence of the Mayor or Councilmember by remote participation and shall verify that the remote participant and all persons present at the meeting location are clearly audible to one another.

3. The presiding officer of the meeting shall decide how to address technical difficulties that arise during remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes and the participant shall no longer be considered present at the meeting. The Mayor or other presiding officer shall state for the record: "Let the record reflect that _____'s attendance has been terminated at _____ a.m. / p.m."

Rights During Remote Participation

A person who attends a meeting by remote participation has the same rights as any participant who attends the meeting in person, including ~~being counted towards a quorum~~, participating in discussions, making motions and voting, except that a remote participant may not be counted towards a quorum at the meeting.

Procedures for Remote Participation

1. The Mayor or any Councilmember who wishes to participate in a meeting remotely shall, as soon as reasonably possible prior to the meeting, notify the Mayor or, in the Mayor's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting the request for remote participation.

2. At the start of the meeting, the presiding officer shall announce the name of any person who will be participating remotely and the reason for his or her remote participation. This information shall also be recorded in the meeting minutes. The protocol for the presiding officer shall be substantially as follows:

- (a) Let the record reflect that Mayor/Councilmember _____ is attending and will be participating via (as applicable) speaker phone, VOIP or other electronic means.
- (b) Mayor/Councilmember _____, can you hear me? [There must then be a clearly audible response in the affirmative.]
- (c) Members of the Town Council and others present, can you hear Mayor/Councilmember _____? [There must then be a clearly audible response in the affirmative.]
- (d) Let the record reflect that Mayor/Councilmember _____, who is attending by remote participation, can be heard by all present.

3. All votes taken during any meeting in which the Mayor or a Councilmember participates remotely shall be by roll call vote.

4. The presiding officer shall ask the remote participant for any comments after each motion or agenda item. The remote participant also may verbally request to be recognized in the same manner as any person present in person.

5. When feasible, the presiding officer shall distribute to a remote participant, in advance of the meeting, copies of any meeting materials, documents and exhibits that the presiding officer reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes.

6. A person participating remotely may participate in a closed session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the Council.

Supplementation of Policy

The presiding officer at a meeting at which one or more persons attends by remote participation may supplement this Policy to reasonably regulate or address situations or circumstances that arise during the meeting and are not covered by this Policy.

INDIAN HEAD TOWN COUNCIL REMOTE PARTICIPATION POLICY

Purpose

The purpose of this policy is to establish the terms and conditions under which the Mayor and Council may attend and participate in a meetings of the Town Council by electronic audio and/or visual means rather than by presence in person.

Compliance with Town Charter and Maryland Open Meetings Act

Any meeting conducted with remote participation shall be conducted in accordance with all requirements of the Town Charter, Town Code and the Maryland Open Meetings Act.

Definitions

As used in this Policy:

1. "Remote participation" means attendance and participation in a meeting by electronic means.
2. "Meeting" means any meeting or session of the Town Council, including a regular meeting, a special meeting, a public hearing, a work session, a public hearing and any other meeting or session.

Eligibility and Permissible Reasons for Remote Participation

The Mayor or a Councilmember may attend or participate in a meeting by remote participation a maximum of three (3) times in any 12 month period. Any requests to participate in a meeting remotely that exceed the allowed three (3) times in any 12 month period may be approved on a case by case basis by the Mayor and Council. The Mayor or a Council may attend and participate in a meeting by remote participation for any of the following reasons:

1. Personal illness or disability, or illness or disability of an immediate family member.
2. A natural disaster that precludes attendance at the meeting in person.
3. An emergency situation.
4. Geographic distance from the meeting location because of business, vacation or similar reason.
5. Any other reason that the Mayor and Council approve on a case by case basis for remote participation.