COVID-19 AND OPEN MEETINGS ACT COMPLIANCE:
THREE OPTIONS FOR TOWNSHIPS

EXECUTIVE SUMMARY

Many townships are currently hosting public meetings virtually in accordance with Governor Whitmer's Executive Order 129, which is currently in effect until July 31 but may be extended. Other townships are holding them in-person while social distancing and wearing masks. Beyond July 2020, the Michigan Townships Association (MTA) should consider how to support or not support this meeting format newly available to townships. In response, the MTA could do nothing, fully support and lobby for virtual meetings as an option, or take a middle path. Doing nothing would result in reverting back to the status quo of in-person meetings, which would appease nearly half of its constituents. Lobbying for the permanent option to host virtual meetings would appease just over a third of MTA's constituents. The middle option would appease some of each of these factions while still considering the broadband access barriers that many townships experience. In addition, the MTA and/ or State of Michigan should support townships in their efforts to conduct virtual meetings. The MTA should provide training on how to host and participate in virtual meetings, host and help maintain township websites, clarify what aspects of public meetings can be virtual, and consider bulk purchasing hardware and software. Last, as townships pursue hosting virtual open meetings, the MTA should consider equitable access to them for all Michigan residents, including the barrier of broadband access in more rural Michigan locations.

POLICY OPTIONS

MTA's membership is divided over virtual meetings. The recent survey MTA conducted about township leaders' attitudes toward virtual meetings during the pandemic revealed that 48% of respondents oppose the option of virtual meetings while 52% support it. Even those who support virtual meetings are divided - 40% believe they should only be a near-term option, while 36% believe they should be a permanent option. Given these divisions, MTA can consider three policy approaches: 1) maintain the status quo, 2) lobby to change the Open Meetings Act (OMA) to allow virtual meetings permanently, or 3) lobby for additional emergency autonomy for townships, and to change the OMA to allow hybrid meetings.

Policy Option 1: Maintain status quo to satisfy half of MTA constituency, but offer guidance to townships meeting virtually

The 48% of surveyed township leaders who opposed the option of virtual meetings cited several main concerns:
- **Broadband access** - some townships, particularly small rural ones, do not have the internet access required for all residents to reliably access online meetings
- **Potential exclusion** - residents, and members of public bodies, who are not tech-savvy and/or do not have the necessary devices or internet service to access virtual meetings may be excluded
- **Reduced transparency** - virtual meetings can be less structured than in-person meetings. Members of public bodies could use chat features when available to hold private side conversations, which has raised transparency concerns.
- **Interpersonal interactions** - virtual meetings can suffer lack of interpersonal interaction, including body language

- **Residency concerns** - virtual meetings allow residents and interested parties who are not geographically close to attend meetings; this includes "snowbirds" who are sometimes perceived as less invested in the community. Virtual meetings could encourage people who don't spend significant time in the township to wield excise power.
- **Cybersecurity concerns** - virtual meetings, including closed sessions, are at risk of being hacked (e.g., "Zoom-bombed")

Policy Option 2: Lobby for changes to OMA to allow virtual meetings permanently

The 52% of surveyed township leaders who favor virtual meetings cited four main benefits:
- **Public health & safety** - townships can continue necessary business without putting the health & safety of the public and members of public bodies at risk, both during the current pandemic and in other emergency situations
- **Convenience** - virtual meetings allow participants to join from their homes or while on vacation, saving all participants travel time and allowing the township to conduct business, even if there is not an in-person quorum
- **Accessibility** - constituents who may have been unable to attend in-person meetings for a variety of reasons (health, childcare, work, etc.) may find it easier to participate in virtual meetings
- **Public body recruiting** - potential members of public bodies who could not commit to attending every meeting in person may be able to commit to attending virtually; thus, while "snowbird" residents were previously ineligible, they would be under this option

For these reasons, the MTA may decide that lobbying the governor's office and the state legislature to make virtual meetings a permanent option is the appropriate path. While the benefits may not outweigh the downsides for townships that do not favor virtual meetings or are ill-equipped to conduct them, these townships would not be required to hold virtual meetings. Permanently allowing virtual meetings gives all townships the flexibility to choose the best meeting type for them.

Policy Option 3: Lobby for additional emergency autonomy and changes to OMA to allow hybrid meetings

There is a middle path the MTA could consider to address some of the challenges that have emerged with the OMA's in-person requirements without replacing them completely.

1. Lobby for formal emergency autonomy for townships. Many townships reported having to hold meetings during the pandemic in order to cancel or change their regular meeting schedules and/or to approve regular payables. Some of those meetings were held in person, risking public health. During emergencies that make in-person meetings dangerous, like disease outbreaks or extreme weather events, township leaders want the explicit power through the OMA and other relevant legislation to:
- cancel or reschedule meetings as needed to protect public safety
- approve regular payables without holding an in-person meeting
- hold all-virtual meetings to conduct necessary business

To alleviate concerns about these emergency powers being abused, allowing townships to exercise these powers could be formally tied to declarations of emergency by the governor.

2. Lobby for changes to the OMA to permanently allow hybrid in-person/virtual meetings. Some townships already interpret the OMA to allow one or more members of a public body to participate virtually as long as a quorum of the public body is present in person. If the OMA were revised to formalize this interpretation, similar to how military members can already attend virtually, members of public bodies would benefit from increased flexibility and convenience. Additionally, if the OMA were revised to explicitly allow the public to participate virtually as well, the accessibility benefits of virtual meetings would extend beyond emergency situations. Residents who are more technologically savvy, who value convenience, who are immune-compromised, who are in ill physical health, or who are out of town at the scheduled meeting time will more likely attend virtually but all would still have the option to attend in-person. Even those townships that expressed opposition to a virtual-meeting option or "did not see the need," may find value in allowing virtual public attendance in the form of easier social distancing, and increased public participation.

Pursuing these specific policy changes could be a "best of both worlds" approach for the MTA, addressing some of the urgent needs revealed by the current pandemic while recognizing the value of in-person open meetings.

HOW TO SUPPORT TOWNSHIPS HOLDING VIRTUAL MEETINGS

Regardless of the policy approach the MTA takes toward virtual meetings, it will still be committed to supporting townships that hold virtual meetings, during this crisis and beyond. According to MTA OMA survey data, in general, townships need support in three areas (see Figure 1):

1. Purchase software and hardware
- Bulk purchasing software would improve software's value while reducing costs
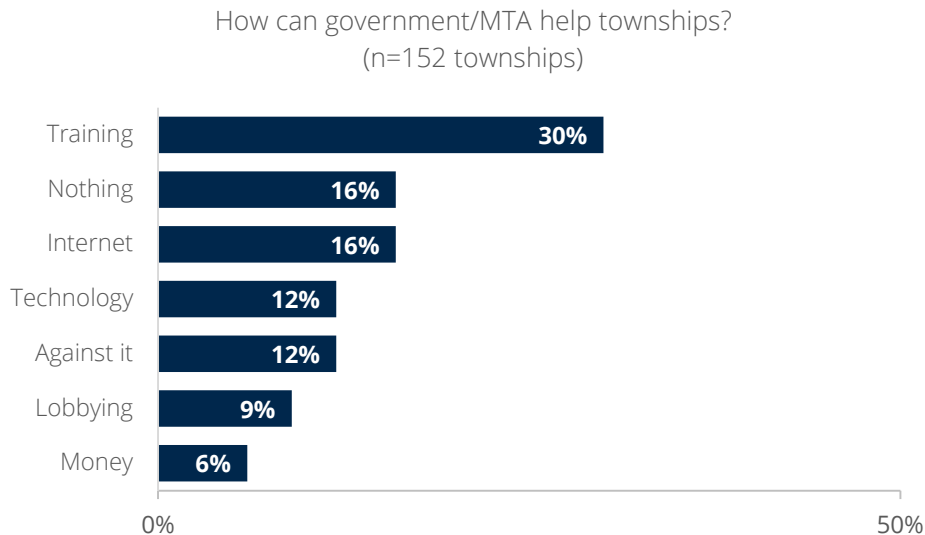- Bulk purchasing hardware could reduce cost burden on individual townships

2. Provide training on hosting and participating in virtual meetings
- Training would increase virtual meeting adoption by interested townships and residents

3. Host township websites and support townships with website maintenance
- Reduces burden on townships to build and maintain their own website, leading to increased public notice, awareness, and participation

Figure 1: Some townships need support to conduct virtual meetings, while others oppose the practice.

How can government/MTA help townships?
(n=152 townships)

Training	30%
Nothing	16%
Internet	16%
Technology	12%
Against it	12%
Lobbying	9%
Money	6%

0%   50%

1. Purchase software and hardware

First, township officials requested help with purchasing the necessary software and hardware for virtual meetings as a way to pool resources and thus reduce costs. The benefits to purchasing such a service would include allowing meetings to last longer than 40 minutes, which is otherwise the maximum meeting length for the free version of Zoom, as well as additional features (further outlined in the software requirements deliverable). Of course, you would need to consider that several townships would not make use of the service, either because their township does not have sufficient broadband service or because the elected officials opt out of virtual meetings.

In addition, respondents requested help with purchasing hardware, including computers, microphones, and monitors. Township officials would use computers if they did not already have their own on which to conduct virtual meetings. In-person attendees would use microphones to ensure quality sound for the virtual audience. In-person attendees without their own laptops would use a monitor to see the virtual attendees. If townships could agree on exactly what equipment they would each need, the MTA or the state could add value by collectively purchasing such equipment.

2. Provide training on hosting and participating in virtual meetings

Respondents asked for the MTA to provide training on how to conduct and participate in a virtual open meeting. Of course, many officials and residents are not native technology users. One township clerk said in an interview that the MTA should provide training in many delivery formats when possible (e.g., recorded video, documentation, virtual live session) to accommodate different learning styles.

3. Host township websites and support townships with website maintenance

Townships want support with website hosting and maintenance so that there is a central and systematic way of posting open meeting notice. Not all townships have staff with the available time or technological know-how to create and maintain a website. The MTA or the State of Michigan should provide townships with website hosting support.

EQUITABLE ACCESS TO VIRTUAL MEETINGS AND BROADBAND ACCESS

Internet Service Providers (ISPs) have limited profit potential in rural areas and thus are not incentivized to build infrastructure without government funds. The MTA's government relations team has previously lobbied the state and federal government for funding to support rural-area broadband infrastructure.

Regions with very limited internet access

Internet access was cited as a problem by 49 townships (10% of respondents) that responded to a UM Michigan Public Policy Survey (MPPS) question about virtual open meetings during the pandemic. The survey identifies townships by region and size, but not by name. Townships reported internet issues in every region, though they were slightly more concentrated in the Northern Lower Peninsula, West Central Lower Peninsula, and Upper Peninsula. Almost all of the internet access issues were reported by townships with fewer than 5,000 residents.

According to the UM CCC survey administered by MTA, 37 townships (13% of respondents) reported that they did not hold or attempt to hold a virtual open meeting due to lack of internet access in their township. Twenty of the 37 respondents identified their township's name in their survey response, and these 20 are listed anonymously in Table 1. As expected, nearly all of these 20 townships have small populations, specifically under 5,000 residents. The fourth column in the table describes whether any blockgroups (small geographic regions) in the township for that row are eligible for FCC funds according to this FCC Auction 904 map. The map is a proxy for areas designated as broadband deficient. Those rows highlighted in green describe a township that is internet deficient according to the FCC and either wants the option to host virtual meetings, or does not want the option but cited lack of internet or equipment as reasons why they don't want the option.

If the MTA seeks federal funds for broadband infrastructure, it should prioritize obtaining funds for the townships highlighted in green, as these townships are most likely to pursue and benefit from virtual meetings. Of course, there are additional townships that responded that internet access was a barrier to hosting virtual meetings, but did not supply their township names in the survey. MTA should also keep in mind the MPPS survey data that indicated small townships, particularly in the Northern Lower Peninsula, West Central Lower Peninsula, and Upper Peninsula, are struggling the most with limited internet access. Additional resources on broadband access are included in the appendix.

Equitable access concerns

Allowing townships to host virtual meetings while broadband remains inaccessible to several townships has the potential to leave these townships further behind, widening the gap between suburban and rural townships. To mitigate this risk, there are two main actions that these townships can pursue.

A short-term option is for limited-access areas to host virtual meetings via conference calls on platforms such as FreeConferenceCall.com. More information on this option is included in the Software Requirements deliverable. In addition, all townships, and especially those with limited broadband or where inclement weather is common, deserve the autonomy to cancel and reschedule meetings under short notice during emergencies. Virtual meetings could also benefit underprivileged township residents, granting them greater access to public meeting participation despite their limited access to transportation, health status, etc.

Table 1: Many townships that have not hosted virtual meetings have small populations and limited internet access.

Township	Region	Does township want option to host virtual meetings in future?	Township includes broadband deficient block groups designated by FCC	Reason why township wants/does not want virtual meetings in future	Township Size
Township 1	Southwest	No	No	Internet & Tech literacy	<1,500
Township 2	Southwest	No	No	Don't see need	<1,500
Township 3	Northwest	No	Yes	Internet	<1,500
Township 4	Upper Peninsula	Yes	Yes	N/A	<1,500
Township 5	East Central	No	No	Internet	<1,500
Township 6	East	No	Yes	Internet	1,500-5,000
Township 7	Southwest	No	No	Don't see need	1,500-5,000
Township 8	Southeast	No	No	Internet & Tech literacy	1,500-5,000
Township 9	West	No	Yes	Don't see need	<1,500
Township 10	Southeast	No	No	Prefer in-person	<1,500
Township 11	Northwest	No	No	Internet	1,500-5,000
Township 12	East	Yes	Yes	N/A	<1,500
Township 13	West	No	No	Internet & Tech literacy	1,500-5,000
Township 14	Northeast	No	Yes	Don't see need	<1,500
Township 15	Northwest	No	Yes	Internet	<1,500
Township 16	East	Yes	Yes	N/A	1,500-5,000
Township 17	Upper Peninsula	No	Yes	Don't see need	<1,500
Township 18	Northeast	No	Yes	Prefer in-person & unclear regulations/rules	<1,500
Township 19	East	No	No	Don't see need	1,500-5,000
Township 20	Southeast	No	Yes	Equipment	5,001-10,000

Township names have been anonymized and locations have been aggregated to the regional level to protect confidentiality. Green lines are townships that could be prioritized when advocating for broadband funding. These green-highlighted townships are broadband deficient, and either want virtual meetings or that the township only doesn't want virtual meetings because the township lacks internet or equipment, two surmountable issues. Red cells indicate a response that does not warrant prioritizing the area for broadband infrastructure funds. Yellow cells are attributes that would lead MTA to prioritize lobbying for broadband funds for that township.

CONCLUSION

The evidence presented suggests that policy option #3 will most holistically address the challenges posed by the COVID-19 pandemic and existing OMA requirements. These actions take a middle-of-the-road path for a constituency that is divided in their support for virtual meetings while not disrupting any townships' existing procedures should they not wish to adapt. Further, we recommend that MTA take all steps outlined in the section "How to Support Townships Holding Virtual Meetings." Many townships have no choice but to hold virtual meetings in the immediate future, especially as the pandemic remains unresolved. So, townships deserve direction and guidance from the MTA in the form of bulk-purchasing software, providing training on open-meeting facilitation, and support with website maintenance. Last, the MTA should recognize that this pandemic and any forthcoming crises requiring townships to meet virtually is likely to exacerbate inequities between those townships with and without broadband access and cellular service coverage. As such, the MTA should actively seek and lobby for opportunities for funding of broadband infrastructure for these areas but also provide short-term options for these areas to hold virtual open meetings.

APPENDIX

Broadband access advocacy groups and resources

For reference, below is a list of broadband access organizations and resources:

- The Center for Rural Strategies is a national coalition working to create better broadband access for rural America. The group petitions to the Federal Communications Commission, Congress, and individual state representatives against policies that place rural communities at a disadvantage.

- Broadband Connects America is a coalition that advocates for affordable broadband and connectivity in rural America.

- Broadband Availability Maps by Connected Nation Michigan works with Michigan's broadband providers to produce broadband access maps for public use. Their most recent maps and statistics were released in June 2018 and the next ones will be published in September 2020. Broadband providers submit their data or ask questions of the group through this MPSC page.

- Pew Research Center collects and charts national data on internet/broadband access and usage by age, race, gender, community type, etc.

- FCC's Fixed Broadband Deployment maps show broadband access by geography.

- Crisis-Response Initiative's Webinar "The Crisis-Ready Digital Experience" scheduled for Aug 26 will discuss government resiliency strategies with digital services.

The Youth Policy Lab would like to thank the Center for Local, State, and Urban Policy, Graduate Career Services, Poverty Solutions, and the Program in Practical Policy Engagement for their generous support of the COVID Consulting Corps.

CLOSUP
Center for Local, State, and Urban Policy
Gerald R. Ford School of Public Policy
University of Michigan

POVERTY SOLUTIONS
UNIVERSITY OF MICHIGAN

PRACTICAL POLICY ENGAGEMENT

University of Michigan Youth Policy Lab
5201 Institute for Social Research
426 Thompson St
Ann Arbor, MI 48104

734-647-8829
@YouthPolicyLab
youthpolicylab.umich.edu

About the Authors

Lindsey Dowswell is a dual degree student in public policy and urban planning. Her focus is on suburban equity issues, including education, housing segregation, and transportation.

Alex Serwer is a Ford School of Public Policy MPP student interested in economics, business, and policy. He plans to work in financial services.

Youth Policy Lab Mission

The University of Michigan Youth Policy Lab helps community and government agencies make better decisions by measuring what really works. We're data experts who believe that government can and must do better for the people of Michigan. We're also parents and community members who dream of a brighter future for all of our children. At the Youth Policy Lab, we're working to make that dream a reality by strengthening programs that address some of our most pressing social challenges.

We recognize that the wellbeing of youth is intricately linked to the wellbeing of families and communities, so we engage in work that impacts all age ranges. Using rigorous evaluation design and data analysis, we're working closely with our partners to build a future where public investments are based on strong evidence, so all Michiganders have a pathway to prosperity.