

PUBLIC NOTICE

Friday, April 24, 2020

WHEREAS, In light of the spread of COVID-19, Governor John Bel Edwards issued Proclamation Number 30 JBE 2020 on March 16, 2020 that provided for all state agencies, boards, commissions, and local political subdivisions of the state to allow attendance at essential governmental meetings via teleconference or video conference during the pendency of this emergency; and

WHEREAS, Attorney General Jeff Landry issued a memorandum on March 19, 2020 regarding additional open meetings guidance in light of COVID-19; and

WHEREAS, Proclamation Number 33 JBE 2020 issued on March 22, 2020 by Governor Edwards imposed restrictions on public gatherings of 10 people or more and placed all individuals within the state of Louisiana under a general stay-at-home order and directed them to stay home unless performing an essential activity;

THEREFORE, This notice shall serve as certification of the French Market Corporation's inability to otherwise operate in accordance with the Louisiana Open Meetings Law due to lack of quorum as a result of the COVID-19 public health emergency. Pursuant to Section 4 of JBE 2020-30, the Board of Directors of the French Market Corporation will provide for attendance at its Regular Board of Directors Meeting scheduled for April 28, 2020, at 12 PM via telephone conference.

In order to provide for the public to observe and participate in the deliberations of public bodies, and to comply with LA R.S. 42:14 in regards to providing public comment period before acting on an agenda item upon which action is to be taken, French Market Corporation will modify 2a of its *Protocol For Public Comments At Public Meetings Of The Board Of Directors And Committees Of The Board* (attached) when a meeting is held via teleconference:

1. The notice and agenda as required by LA R.S. 42:19 shall include the details of how the public may observe the meeting via telephone.
2. Public comments will be accepted in writing up to 30 minutes before the meeting via email at publiccomments@frenchmarket.org, or via telephone 504-636-6400. Email comments are preferred due to reduced staffing at the FMC administrative offices. Public comments will also be accepted via the above email up until 30 minutes after the presentation of the agenda at the beginning of the meeting.

The meeting will proceed generally as follows:

- a. Call to Order
- b. Approval of Minutes
- c. Reading of the Agenda
- d. Public Comment Reading
- e. Remainder of Agenda

All other provisions of FMC Protocol for Comments at Public Meetings will still apply. A copy will be attached to the Notice and Agenda.

This public notice shall be posted and/or attached with the required Notice and Agenda for the meeting.



Jeff Landry
Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
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MEMORANDUM

TO: Public Bodies (as defined by La. R.S. 42:13)

FROM: Jeff Landry, Attorney General

DATE: March 19, 2020

RE: Additional Open Meetings Guidance in light of COVID-19

The following guidance on the Open Meetings Law is to assist public bodies during the current Public Health Emergency.¹

Louisiana Constitution Article XII, § 3 establishes a general constitutional right to observe the deliberations of public bodies. The Open Meetings Law, La. R.S. 42:11, *et seq.*, describes and defines this constitutional right. However, this constitutional right is expressly qualified and subordinate to legislative exception.²

Can a law be suspended in an emergency?

Yes. The Louisiana Constitution vests the legislature with the authority to suspend laws via joint resolution, and the information provided herein could change upon the exercise of that authority.

Have attendance and quorum requirements changed in light of COVID-19?

Yes and No. Quorum requirements are still applicable, and a quorum of members must be present to conduct business. Normally, the law does not allow a member to attend a meeting remotely via teleconference or video conference. However, in light of the spread of COVID-19, Governor John Bel Edwards issued Proclamation Number JBE 2020-30 on March 16, 2020 that provided for all state agencies, boards, commissions, and local political subdivisions of the state to allow attendance at essential governmental meetings via teleconference or video conference during the pendency of this emergency. A public body that conducts a meeting via telephone conference or video conference shall provide a written certification that the public body was otherwise unable to operate due to quorum requirement in compliance with La. R.S. 42:19. For a public body convening a meeting via teleconference or video conference, the quorum requirement has not changed; typically, the quorum requirement is provided for by statute and is a simple majority of the total membership of the public body. Thus, a simple majority of the total membership of the public body must still be engaged in the meeting in order to conduct business. Similarly, public bodies are still required to prepare written minutes of the proceedings, which will be public record and shall be available to the public in a reasonable time after the meeting. La. R.S. 42:20.

Are notice requirements applicable in an emergency?

No, unless the public body is conducting a meeting via teleconference or video conference. In cases of extraordinary emergency, written public notice shall not be required. La. R.S. 42:19(A)(1)(b)(iv). However, the public body shall give notice as it deems appropriate and circumstances permit. *Id.* Under usual circumstances, reasonable public notice includes the agenda, date, time, and place of meeting. During this public health emergency, all public bodies that convene a meeting via teleconference or video conference, pursuant to Section 4 of Proclamation JBE 2020-30, the public body *shall* provide reasonable notice in the form of a written certification that public body will otherwise be unable to operate due to quorum requirements. All public bodies shall post the certification in the same manner, place, and time as it would a normal agenda, in compliance with La. R.S. 42:19.

Can a public body enter executive session and restrict attendance?

Yes. Louisiana Revised Statutes 42:16-17 allows a public body to hold an executive session upon an affirmative vote of two-thirds of the constituent members present. The reasons a public body may hold an executive session are enumerated in La. R.S. 42:17 and include matters of extraordinary emergencies such as the threat of an epidemic. During an executive session, the public body can restrict who is allowed in the executive session.

The vote to hold executive session must be taken at an open meeting for which notice has been given pursuant to La. R.S. 42:19.³ No final or binding action may be taken during an executive session and the public comment period requirement is still applicable.⁴

Note, the public body should still give notice, as circumstances permit, to allow the public an opportunity to comment prior to any action, including deliberations and discussions, on an agenda item upon which a vote is to be taken. To the extent possible, the agenda should list each item separately and describe each item with reasonable specificity.⁵

Do the public comment requirements change during an emergency?

No. Louisiana Revised Statute 42:14 requires public bodies to allow a public comment period before acting on an agenda item upon which a vote is to be taken. School boards are additionally required to have a public comment period preceding each agenda item.⁶ Reasonable rules and restrictions are allowed regarding such comment periods.⁷

Reasonable rules and restrictions might include:

- Limiting the amount of time for each speaker;
- Limiting the number of people in a meeting room to comply with Public Health Emergency Proclamation Number JBE 2020-30 or guidance from the Centers for Disease Control and Prevention.⁸ However, the public body must provide a

mechanism for the persons to simultaneously observe the meeting and allow them to participate in the public comment period;

- Requiring persons present for public comment to maintain an appropriate distance from others;
- Establishing procedures to receive public comments via video, email, facsimile, telephone or other means for a certain period preceding the meeting and having an administrator read the comments to the members during the public comment period of the meeting. This will serve to adhere to the public comment requirement in La. R.S. 42:14, and allow interested persons to socially distance themselves while still having a mechanism to participate;
- If broadcasting live or holding a meeting through a telephone conference, at the start of the meeting, read aloud the items on the agenda with reasonable specificity, including the matter to be discussed and potential action to be taken. Pause the proceeding for 30 minutes or a reasonable time to allow for public comments to be submitted to the public body by way of phone calls, emails, or comments on the live stream, etc.; and
- Any other rules or restrictions that are reasonable and in keeping with Open Meetings Laws and the spirit of those laws.

These rules and restrictions should be made available to the public, which may include posting on a website electronically, posting outside of the meeting room, providing copies to attendees, or other means of public communications.

¹ The Governor declared a Public Health Emergency in Proclamation Number 25 JBE 2020. In Proclamation Number JBE 2020-30 the Governor ordered that all gatherings of 50 people or more must be postponed or canceled between Tuesday, March 17, 2020, and Monday, April 13, 2020. La. R.S. 29:274(D)(1) provides that the Governor may suspend the provisions of any regulatory statute prescribing the procedures for the conduct of state business or orders, rules, or regulations of any state agency if strict compliance with the statute, order, rule or regulation would in any ways prevent, hinder, or delay necessary action in coping with the emergency.

² *St. Mary Anesthesia Assocs., Inc. v. Hosp. Serv. Distr. No. 2 of Par. of St. Mary*, 01-2852 (La. App. 1 Cir. 12/20/02), 836 So. 2d 379, 383, writ denied sub nom., *St. Mary Anesthesia Assocs., Inc. v. Hosp. Servs. Dist. No. 2 of Par. of St. Mary*, 03-0220 (La. 3/28/03), 840 So. 2d 577; *Ortega v. Recreation & Parks Comm'n for Par. of E. Baton Rouge*, 17-1502 (La. App. 1 Cir. 7/18/18), 255 So. 3d 6, 15.

³ La. R.S. 42:16.

⁴ La. R.S. 42:16.

⁵ La. R.S. 42:19.

⁶ La. R.S. 42:15.

⁷ La. R.S. 42:14; La. R.S. 17:81; La. Atty. Gen. Op. No. 04-0107.

⁸ On March 15, 2020, the Centers for Disease Control and Prevention issued interim guidance recommending that for the next 8 weeks in-person events that consist of 50 or more should be canceled. CDC "Interim Guidance: Get your Mass Gatherings or Large Community Events Ready for Coronavirus Disease 2019" (COVID-19): March 2020. Available from: https://www.cdc.gov/coronavirus/2019-ncov/downloads/Mass-Gatherings-Documents_FINAL.pdf (accessed 3/16/2020).

French Market Corporation

PROTOCOL FOR PUBLIC COMMENTS AT PUBLIC MEETINGS OF THE BOARD OF DIRECTORS AND COMMITTEES OF THE BOARD

1. PURPOSE

The Board of Directors conducts meetings pursuant to Louisiana Revised Statutes 42:11-42:28 Open Meetings Law. The Board will permit members of the public to speak in accordance with this protocol provided that the comments are for appropriate public purposes.

2. GUIDELINES

- a. An individual requesting to address the board/committee should complete a Request for Comment Card and submit it to the presiding officer or FMC staff before the beginning of the public meeting. An individual may also indicate a desire to speak by contacting FMC Staff at 504-636-6400 and request in advance. The completed card or request by phone must identify the issue or item to be addressed. Other members of the public may be recognized at the discretion of the presiding officer or chair at the meeting.
- b. All speakers shall conduct themselves in a decorous manner.
- c. The topic must be a matter of public concern and not purely an individual matter.
- d. The presiding officer or chair shall have the right to limit, in time, the length of discussion on each motion, if time is of a critical nature.
- e. Public comments should be limited to 3 minutes per person. This time limit shall be strictly enforced.
- f. The order of discussion shall be left solely to the discretion of the presiding officer or chair.
- g. An individual addressing the committee/board shall confine remarks to the merits of a specific agenda item before the committee/board; refrain from attacking a board member's motives; address all remarks through the presiding officer or chair; refrain from speaking adversely on a prior action not pending; read reports only without objection; refrain from disturbing the meeting.
- h. An individual making public comments shall identify themselves and the group they represent, if any.
- i. Groups and/or organizations should designate one spokesperson.
- j. The process of public comment shall be overseen by the Chair of the Board, including the point in the meeting when comment shall occur and the total duration of time allotted to it. Any individual, who has not followed these rules, may or may not be permitted to do so at the sole discretion of the Board Chair.
- k. The presiding officer or chair shall have discretion to manage situations not addressed in these procedures.
- l. This protocol shall be contained on each public meeting notice and also posted on the entrance to each public board meeting.

Teleconference Best Practices

French Market Corporation is conducting a public Board of Directors Meeting via teleconference for the first time. Please be understanding of technological challenges that may arise from increased demand on internet bandwidth and the Webex Meeting platform caused by the “Work From Home Order”, as well as the first-time user learning curve. It is recommended that you use the telephone dial-in numbers for audio during the teleconference for the most reliable connectivity.

Below is a list of best practices when participating in a teleconference to minimize interruptions to the audio or video feed.

1. Call in on time: Please be punctual; callers who dial in late might interrupt the discussion and distract the others.
2. Avoid using your internet service: If possible, do not use cell phones, computers or other gadgets while having the teleconference. Increased demand of teleconference services has strained capacity. There is a potential for poor connection or static outcome that will reduce the value and quality of the teleconference for other parties.
3. Turn off the sounds on your smart phone and do not text.
4. Choose a location with no background noise. Use the mute button on your phone when you're not speaking. Simply turn off the mute feature when you want to contribute to the conversation.
5. Do be courteous to other participants: Take note of the other speakers so that you can also address them by name.
 1. Introduce yourself before speaking so that everyone knows who is talking and can address you by name.
 2. Speak clearly: An audio check should be done before the virtual meeting begins to ensure that everyone can hear you. Speak naturally but slowly and enunciate each word.
 3. Don't shout: If someone can't hear you, make sure the microphone is not covered by your clothing or something else. Yelling will cause viewers to turn down their volume and potentially miss what you have to say.
 4. Don't interrupt other speakers: Wait for an opening in the conversation. Talking over other speakers will cause the audio to become choppy and unintelligible.
 5. Don't carry on side conversations: That includes tuning out of the present conversation to talk to someone else sitting next to you, on the phone, in an IM chat, anywhere and anybody not in the current meeting.
6. Address people by name when you speak to them. Because you have no visual cues, if you simply ask a question or make a remark without indicating to whom you're speaking, other participants may have trouble determining who's being addressed.
7. Direct questions to a specific person instead of posing them to the audience at large. Doing so helps prevent confusion and helps ensure that your question is met with an answer rather than just silence as everyone tries to figure out who is going to respond.