

Zoom meetings are unconstitutional concerning meetings of ALL public bodies, and illegal as proposed by Georgetown Township for the 11/23/20 meeting of the township board. ****Yes, this explanation is long, but that simply demonstrates how egregiously unconstitutional such government action is.****

1. Roll Call - **Point of Order** - members of the public body not physically present do not count as “present” for purposes of roll call and voting.
 - a. Policy 2020-01 states “Public office is a public trust to be used solely to advance the public interest. . . . Public officials must be accountable for their actions. . . . We should avoid creating an appearance of impropriety.”
 - b. The cornerstone of being able to hold someone accountable is being able to confront them face to face.
 - i. “Religion, morality and knowledge being necessary to good government” (Const 1963 Art VIII Sec 1), and being instructed in Matthew 18:15 to bring your concerns directly to the individual(s) with whom you have concern, we cannot rob the people of their regular opportunity to address the public body.
 - c. Hiding behind a computer screen also creates an appearance of impropriety.
 - d. MCL 15.263 (2) “the public body shall . . . establish . . . Procedures by which the absent member may participate in, and vote on, business before the public body.”
 - i. No such procedures were established by this board since this law was put into place on October 16, 2020.
 - ii. But these procedures are ONLY for a member who has “a medical condition or [for a] state of emergency . . . declared pursuant to law . . . by the governor . . .”
 - iii. Our state Supreme Court made it clear on October 2, 2020 that the Governor’s State of Emergency declaration ended on April 30, 2020. The MDHHS Director has NOT declared a state of emergency, nor does the law allow him to do so.
 - e. Public officials violating the law will be held *individually* responsible. MCL 15.272 imposes up to \$2,000 in fines and 1 year in prison. MCL 15.273 also makes a public official “personally liable in a civil action for actual and exemplary damages . . .”
 - f. MCL 42.7 “the township board, by vote of not less than 2 members, may compel the attendance of board members and other officers of the township at a regular . . . meeting A member of the board or any other officer of the township who refuses to attend a meeting . . . is guilty of misconduct in office.”
2. Above all else, public officials are **bound by the terms of the constitution**.
 - a. US Const Art VI states “This Constitution . . . shall be the supreme law of the land . . . any thing in the Constitution or Laws of any State to the contrary notwithstanding.”
 - b. US Const Art VI requires legislative, executive and judicial officers “shall be bound by Oath or Affirmation to support this Constitution.”
 - c. Const 1963 Art XI Sec 1 “All officers, legislative, executive and judicial, before entering upon their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state . . . “
 - d. MCL 15.151 says “All persons . . . employed by the state of Michigan or any governmental agency thereof, and all other persons in the service of the state or any governmental agency, shall, as a condition of their employment, take and subscribe to the oath or affirmation required [in Article XI Section 1 of our state Constitution].”

3. The people have unenumerable rights that come from God, not the government. On the contrary, the government only has a right to act if the people have given express permission to do so in the state or federal constitutions.
 - a. “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed . . .” Declaration of Independence.
 - b. “We the people of the United States, in order to . . . secure the Blessings of Liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.” US Const Preamble.
 - c. “We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom and earnestly desiring to secure these blessings undiminished to ourselves and our posterity,” established our very form of state government. Const 1963 Preamble.
 - d. “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . .” US Const Am XIV.
 - e. “[P]owers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people.” US Const Am X.
 - f. Moreover, the people retain all other rights given to us by God, even though they are not all listed in the Constitution. US Const Am IX and Const 1963 Art I Sec 23.
4. Therefore, our republican form of government requires open access for and participation by the people in all functions of government.
 - a. “The United States shall guarantee to every State in this Union a Republican Form of Government . . .” US Const Art IV Sec 4.
 - b. A republican form of government is “a system of government in which the people hold sovereign power and elect representatives who exercise that power.” Black’s Law Dictionary, Deluxe 8th Edition.
 - c. Moreover, Const 1963 Art I Sec 1 states “All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.”
 - d. Republican form of government necessitates citizen participation and the ability to hold government officials accountable, for which specific tools were preserved for we, the people, to exercise. These tools include, for example:
 - i. “[the unabridged] right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” US Const Am. I.
 - ii. “The . . . right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.” Const 1963 Art I Sec 3.
 - iii. “The [uninfringed] right . . . to fair and just treatment in the course of legislative and executive investigations and hearings” Const 1963 Art I Sec 17.
 - iv. The powers of recall (Art II Sec 8), initiative and referendum (Art II Sec 9), and direct constitutional amendment (Art XII Sec 2).
 - v. The people’s inherent power to establish or modify our State Constitution (Const 1963 Art XII Sec 1-3), County Charters (Const 1963 Art VII Sec 2) and City/Village Charters (Const 1963 Art VII Sec 22).
 - e. “Religion, morality and knowledge being necessary to good government” (Const 1963 Art VIII Sec 1), and being instructed in Matthew 18:15 to bring your complaints and

concerns directly to the individual(s) with whom you have concern, we cannot rob the people of their regular opportunity to address the public body.

- f. With all this in mind, Art IV Section 20 of our state Constitution requires sessions of the legislature to be done with the doors of the legislative chambers physically open to the public. This literal “open-door” requirement also applies to the legislative bodies of local units of government, like townships.
 - g. After all, “That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers . . . [and when forced] under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.” Declaration of Independence.
5. Equal protection violations
- a. Both Article I Section 2 of the Michigan Constitution *and* the 14th Amendment of the US Constitution prohibit the state from denying the people “the equal protection of the laws.”
 - b. Yet, in holding a public meeting by Zoom only, and denying the public physical access to the same, we are necessarily excluding all those people who
 - i. Don’t have reliable, ready access to the internet and an internet-ready device.
 - ii. Are hard of hearing, or deaf, and rely on the reading of lips, facial expressions and body language to communicate with others.
 - iii. Are not knowledgeable of or comfortable with the use of electronic devices.
 - iv. Experience technical difficulties during the meeting.
 - v. Do not understand the specific manner in which the person running the meeting has established to recognize speakers from the public.
6. Holding meetings of public bodies by electronic methods only violates due process provisions.
- a. The 5th and 14th Amendments of the US Constitution and Article 1 Section 17 of the Michigan Constitution prohibit people from being “deprived of life, liberty, or property, without due process of law,” yet physically separating the public body from the public goes to the core of a denial without due process of law.
 - b. Also, MCL 15.253(5) states “a person must be permitted to address a meeting of a public body under rules established and recorded by the public body.”
 - i. And our Board Policy 2015-03 states “all meetings of the board are open to the public, except as otherwise provided by law. Any person may address the board, in accordance with this policy.” It also says that in order to participate in Public Comments, “a person who wishes to speak . . . shall come to the podium . . .”
 - ii. However, holding a meeting by zoom does not allow a person to follow these established and published rules to approach the podium in order to speak.
 - c. Additionally, MCL 15.263a (4) requires public notice on the township’s “homepage or a separate webpage dedicated to public notices for nonregularly scheduled or electronic public meetings,” but no such section has been made for these electronic meetings on our website.
 - d. Moreover, this law also states in subsection (a) the notice must include “why the public body is meeting electronically” (which the notice for 11/23/20 meeting does NOT), and in (d) “How persons with disabilities may participate in the meeting” but only one kind of disability is accounted for in the public notice of this meeting.
 - e. Creating disparities in the ability of the public to effectively participate in the meetings of a public body necessarily undermines the entire process by which any governmental

decisions are made thereto, as the people are being denied their right to participate in government and hold their government officials accountable.

- f. One such example is found in MCL 15.263(1) which states that the “right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting.” As we’ve seen in “public” meetings being held electronically, whether entirely or partially held by electronic methods, those methods effectively strip this right of the people to record and broadcast such meetings due to technology controls and limitations. The law is also very clear that the people have the right to show up and broadcast the meeting with no notice to or approval from the public body.
7. MCL 15.263a was signed into law on October 16, 2020, which purports to allow for “Electronic public meetings; telephonic or video conferencing; permissibility under certain circumstances”
 - a. This law attempts to give permission for virtual meetings of public bodies, and extends this permission retroactively to March 18, 2020. MCL 15.263a(1)(a)
 - b. However, Article 1 Section 9 of the US Constitution, Article 1 Section 10 of the US Constitution, *and* Article 1 Section 10 of the Michigan Constitution expressly forbid the passage of “ex post facto law[s].”
 - c. Ex post facto means “done or made after the fact; having retroactive force or effect.” Black’s Law Dictionary, Deluxe 8th Edition.
 - d. More specifically, although our legislature has tried several times in our history to enact new laws that become effective at various points in time, our state Constitution is very clear - there are only two options. Article 27 Section 27 of our Michigan Constitution requires EACH law to take effect 90 days after it is enacted unless there was a two-thirds vote of the legislature to give it immediate effect. At NO point, are laws allowed to be enacted retroactively.
 - e. Also, to the extent this Open Meetings Act now allows public bodies to limit public participation to electronic methods only due to a “state of emergency or . . . disaster,” it is unconstitutional in violation of Article IV Sec 39 of our state Constitution, which requires “continuity of government in emergencies [and] disasters.”
8. But, the original part of the Open Meetings Act provides that “nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.” MCL 15.261
 - a. Or, in other words, the law specifically acknowledges the right and duty of public bodies to do whatever they need to do to ensure their meetings are truly open to the public.
 - b. As each of us takes an oath to uphold the US and Michigan Constitutions, we have no choice but to conduct public meetings in a manner that is truly open to the public.
 - c. Holding these traditional, in-person, public meetings is the only way to respect our republican form of government; respect both the enumerated and unenumerated rights of the people; protect the right of the people to peaceably assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances; and avoid due process and equal protection violations.