

Check Out Your By-laws - Are Your Meetings Legal?

Consider this situation. The president of a nonprofit organization emails her executive committee several questions; asking each member to vote for approval or disapproval.

One committee member responds, “I do not think in Oklahoma that a Board can vote online like this? I think it can be done on the phone with everyone at the same time but not this way.”

Is he correct?

Although I am not an attorney, I was asked to research the question and discovered some interesting points. Along the way, I verified my findings with a lawyer through the Center for Nonprofits in Oklahoma City.

- **First**, if an organization is subject to Oklahoma’s Open Meeting Act, holding a meeting or voting electronically is probably not permitted. Provisions exist for video conference meetings but only for specified groups. If your organization is subject to the Act, I refer you to it.
- **Second**, Title 18, Section 1027 of the Oklahoma Statutes addresses the issue for both nonprofit and for-profit organizations. It says in part, “Unless otherwise restricted by the certificate of incorporation or bylaws: ... Members of the board of directors of any corporation, or any committee designated by the board, may participate in a meeting of the board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear or otherwise communicate with each other. Participation in a meeting pursuant to the provisions of this subsection shall constitute presence in person at the meeting.”

Note that the Statute references by-laws, committees as well as board members, plus the ability to communicate; regardless of for-profit or nonprofit status.

My example organization, a private nonprofit and not a public body subject to the Open Meeting Act, can, under Oklahoma law, legally conduct business electronically. However, its own by-laws state: “Robert’s Rules of Order will govern any provision not covered by the By-laws.” Its by-laws do not otherwise reference the conduct of business. So, it must follow whatever Roberts says.

The latest edition of Robert’s Rules of Order allows videoconference and teleconference call meetings, under certain conditions, if authorized by the organization’s by-laws. It suggests restricting the use of email for meeting notification or voting and not conducive for conducting discussion or deliberation.

While generally accepted as the authority on proper parliamentary procedure, the law does not require using Roberts Rules of Order. In light of today’s technology, the American Institute of Parliamentarians has developed a set of guidelines for conducting electronic meetings. Not surprising, one calls for authorization in the by-laws.

Two points related to electronic meetings appear very important. One, how the organization’s by-laws address the issue. Two, all participants must have equal access with the ability to communicate with each other.

My example organization plans to amend its by-laws to sanction electronic meeting and voting procedures in a variety of formats; including language that will cover advancing technology.

What do your organization’s by-laws say – or not say?