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TO: The Internal Operations Standing Committee
The Honorable Roy McCalister, Jr., Chair

FROM: David Whitaker, Director
Legislative Policy Division Staff 

DATE: May 22, 2020

RE: **Continuation of Virtual City Council Meetings**

City Council President Brenda Jones asked the Legislative Policy Division (LPD) to “provide an opinion on the Detroit City Council continuing with virtual meetings pending the expiration of Executive Order 2020-75 allowing virtual meetings.” The following is LPD’s opinion.

Background

On March 10, 2020, in response to the growing COVID-19 crisis, Governor Gretchen Whitmer issued Executive Order 2020-4, declaring a state of emergency in the state of Michigan pursuant to her authority under the Michigan Constitution of 1963 (section 1, article 5), the Emergency Management Act (MCL 30.401 *et seq.*), and the Emergency Powers of the Governor Act (MCL 10.31 *et seq.*).

Recognizing the necessity of balancing public health concerns with the ability of governmental bodies to continue to function, on March 18, 2020, the Governor issued Executive Order 2020-15, providing for the suspension of some aspects of Michigan’s Open Meetings Act (MCL 15.261 *et seq.*) (OMA) to allow public bodies subject to the Act to meet virtually while still protecting the rights of citizens to “attend” the meeting and comment. Subsequently, on April 15, 2020, the Governor issued Executive Order 2020-48, clarifying and extending the relief granted by EO 2020-15. The EO 2020-48 expired on May 12, 2020. On May 6, 2020, the

Governor issued the current guidance, EO 2020-75, which extends the duration of the prior Order to June 30, 2020.

Discussion

The Governor's Executive Order grants public bodies subject to the OMA, such as the Detroit City Council, the authority to conduct virtual meetings - provided the public has real-time access to the meetings and the opportunity to be heard. City Council has been operating under appropriate provisions, in compliance with the Governor's Orders (EO 2020-15, 2020-48, and 2020-75) and therefore, the OMA, since mid-March when the state of emergency was declared. The new EO 2020-75 specifically extends a public body's ability to satisfy the OMA's public meeting requirements without meeting in person - and endangering public health - through June 30, 2020. City Council can, therefore, continue to conduct public meetings in this fashion until June 30, 2020, or until the Governor issues a new order continuing the temporary suspension of the requirements of MCL 15.263, which mandates that "all meetings of a public body shall be open to the public and shall be held in a place available to the general public." If no such extension is forthcoming, however, subsequent meetings would be required to be in person and open to the public.

It is evident that several pre-conditions will have to be met before public meetings with the community in attendance will be held at the Coleman A. Young Municipal Center (CAYMC). These include termination of the Governor's "Stay Home, Stay Safe" declaration - most recently extended until May 28, 2020 by EO 2020-96, but subject to further extension¹ - as well as the Mayor's determination that CAYMC can be safely reopened to City staff and the public.

Should the Council have further questions, LPD will respond.

¹ The Governor's March 10, 2020 Declaration of State of Emergency, EO 2020-4, states that, "[t]he state of emergency is terminated when emergency conditions no longer exist and appropriate programs have been implemented to recover from any effects of the emergency conditions, consistent with the legal authorities upon which this declaration is based and any limits on duration imposed by those authorities."