

Testimony of Susan Clark
Senate Government Operations Committee
S.55, Changes to Open Meeting Law, v.3.1
February 16, 2024

Thank you for inviting me to testify on S. 55, and thanks to the committee for taking up these important issues of public process.

I'm Susan Clark. I am the Town Moderator of Middlesex and have served as Moderator since 2005. I'm also the chair of the Middlesex Town Meeting Solutions Committee, which was formed in 2001 to strengthen participation in Middlesex's town meeting and our town's civic affairs in general. Professionally, am a facilitator and trainer working with communities across the Northeast to improve public engagement. I am the coauthor of two books about local, deliberative democracy: *All Those In Favor*, about Vermont town meetings, and *Slow Democracy*, a book highlighting best-practice models of inclusive, deliberative, empowered local democracy. And, way more fun, last year I collaborated with the Secretary of State's Office and Vermont Humanities on *Freedom & Unity: A Graphic Guide to Civics and Democracy in Vermont*.

So as you can see, local democracy is my passion, and I'm delighted that your committee is looking at ways to improve local democracy. I am strongly in favor of the elements of this bill that promise guidance on best practice regarding use of technology, and support for trainings and purchase of equipment. My town, and really all of the towns I've worked with, are very aware of the changes in technology and want to facilitate virtual participation where needed. So thank you for stepping up with guidance.

Let me address two parts of your bill specifically:

First, as a Town Moderator, let me address Section 8, "Working Group on the Accessibility of Annual Meetings."

For many years—between 2008-2020--the Town of Middlesex offered remote town meeting participation (RTMP). So I moderated many hybrid town meetings where people participated from home.

The goal of that project was to allow active participation by those who physically could not attend, while maintaining an efficient town meeting for those in the room. If you create a Working Group to study this, I would be happy to share the details of how this worked in Middlesex, but it boiled down to a laptop and additional large monitor, a webcam on a tripod, a good internet connection, a phone, cables, and a whole *bunch* of volunteers.

No one else was doing this so we were on our own figuring this out. We had the support of the Secretary of State at the time (Deb Markowitz) but times have changed. With vastly increased

national scrutiny about voter fraud preceding the 2020 election, the Vermont Secretary of State's Office told us to cut it out until we received legal and technical guidance on how to positively ensure voter identification (i.e. that the voters participating from home were who they said they were).

There's no question in my mind that remote town meeting participation is doable. One of the great advantages of Vermont towns' small scale is that local officials (e.g. JPs or members of the Board of Civil Authority) could literally visit anyone who requested remote town meeting participation access, get any necessary confirmation and make arrangements for secure access. But at this point, we need guidance from attorneys and tech folks on best practice.

So while I am enthusiastic about the creation of a working group, I am concerned that you're off-target in this group's charge. Rather than spending their time and expertise and your money collecting complaints, a much more productive assignment would be to research and offer best-practice advice for making Annual Meetings accessible. I have wished for two decades for the legal and technical skills for this research. Please put your energy there, not in a status report.

In Middlesex's RTMP project, we were working to accommodate voters who could not attend Town Meeting for health/accessibility related reasons, and for reasons of public service. So the approach we took was to offer this service more along the lines of a handicap parking sticker—to accommodate folks who need it—rather than as an “absentee ballot” to accommodate anyone who asked.

As a Town Moderator who has done this, I would strongly advise that this be the targets of your working group as well.

We wanted those parameters for two reasons: First, because in order to do this right you need an “ombudsman” (a staff person or, more likely, a volunteer, like everything else we do locally) who serves as a partner to the remote participants. There's a limit to how many remote participants one volunteer can help effectively; and there's a limit to how many trained volunteers a town has. And the other reason is, we wanted to retain the quality of the meeting for those who were in the room—not create a significant audio or visual distraction.

Because remember that town meeting is not just voting – it's governing. These are human interactions, trying to find a common understanding and make binding decisions. It takes undistracted time together.

S. 55 states: “In all cases accessibility and safety for members of the public and members of the public body should be paramount.” I agree that accessibility and safety are crucial, AND I believe we must prioritize these within the context of creating the best possible quality democratic system. We can do both! But it takes care. We want to improve access to the system, while simultaneously retaining excellent in the system we're creating access to.

This leads me to the second part of S. 55 I'd like to address: The mandate for hybrid meetings.

As I stated, I am very enthusiastic about your offering support, training, and guidelines for hybrid meetings. As access to the internet increases across Vermont over time, it might be appropriate to include a hybrid mandate in the future. But that time is not now.

In addition to still lacking equitable access to internet across the state, towns have widely varying facilities and staffing capabilities. It is best-practice to have one person running the technology—a person to make sure to solve tech glitches. Then ideally there's another person (sometimes called an ombudsman, avatar, or partner) who is actually interfacing with the participants, making sure their comments get shared, that they can hear, that they move the camera if needed, etc. All of these details will get easier over time, but right now, towns are far from ready. A mandate is premature.

Ask any professional facilitator who has led a variety of style of meetings -- in-person meetings, fully remote meetings, and hybrid meetings: Which type of meeting takes the most know-how, and has the most things that could go wrong? They'll tell you hybrid. And frankly, even in the best cases, hybrid meetings tend to be both a worse experience for the folks at home, and a worse experience for the folks in the room. In fact, I know professional facilitators who simply won't run them--the quality is too diminished.

I'm not saying we shouldn't have hybrid meetings. Obviously I think they're needed (or I wouldn't have offered our town meeting this way for over a decade). Many towns already offer them, and all towns need to know how to accommodate requests for them—hence the need for the training and guidance your bill includes.

But Vermont's towns are not ready for a situation where they'll be breaking the Open Meeting Law if they run into tech glitches or volunteer recruitment issues. Towns still need the flexibility to choose when it's best to have in-person, or fully remote, or hybrid meetings.

So, there are many priorities in play here—democratic access, as well as excellence in process. Democratic quantity, democratic quality. These are both very good things, and we would do well not to see them as in competition, but in dynamic tension. What I hope for Vermont, and for your work on this committee, is that we see this as a moment to think holistically about improving democracy *as a system*.

Thank you for your work in supporting Vermonters, our communities, and our local democracy.