

RESOLUTION NO. 2020-243

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, RESCINDING RESOLUTION NO. 2020-107; AUTHORIZING THE CITY MANAGER TO ARRANGE FOR PUBLIC MEETINGS BY USE OF COMMUNICATION MEDIA TECHNOLOGY AND FOR VIRTUAL ATTENDANCE BY USE OF SUCH TECHNOLOGY BY ELECTED AND APPOINTED OFFICIALS DURING A DECLARED PUBLIC HEALTH EMERGENCY; ADOPTING UNIFORM PROCEDURES FOR VIRTUAL AND HYBRID MEETINGS FOR EMERGENCY SITUATIONS; COMMITTING TO OPEN GOVERNMENT AND PUBLIC PARTICIPATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Novel Coronavirus (COVID-19) is a severe acute respiratory illness that can spread quickly among humans through respiratory transmission and presents with symptoms similar to those of influenza; and

WHEREAS, Governor Ron DeSantis issued Executive Order Number 20-52 on Monday, March 9, 2020, declaring a state of emergency statewide in accordance with Section 252.38, Florida Statutes, and authorizing each political subdivision within the State to "waive the procedures and formalities otherwise required of the political subdivision by law pertaining to . . . [the] [p]erformance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;" and

WHEREAS, the Governor's Executive Order 20-52 acknowledges that special duties and responsibilities placed on state, regional, and local agencies in responding to the emergency may require them to suspend the application of the statutes, rules, ordinances, and orders they administer; and

WHEREAS, specifically, Section 4(D) of Executive Order 20-52 provides for political subdivisions within the State to "waive the procedures and formalities otherwise required . . . by law pertaining to:

- 1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community;
- 2) Entering into contracts...;
- 3) Incurring obligations;
- 4) Employment of permanent and temporary workers;
- 5) Utilization of volunteer workers;
- 6) Rental of equipment;
- 7) Acquisition and distribution, with or without compensation, of supplies, materials and facilities;
- 8) Appropriation and expenditure of public funds;” and

WHEREAS, Section 4(D) of Governor DeSantis’ Executive Order 20-52 expressly authorizes the City Commission to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in accordance with Section 252.38, Florida Statutes; and

WHEREAS, Chapter 252, Florida Statutes, among other things, confers upon the City Commission the emergency powers provided for in Chapter 252 in order to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state; and to “make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31-252.90, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power delegated to it by the Governor or the division.” Section 252.46(1), Florida Statutes; and

WHEREAS, the City of Coconut Creek is threatened by COVID-19 because of the extraordinary ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the residents and visitors of the City of Coconut Creek, particularly the elderly and those who are immunosuppressed or otherwise have high-risk medical conditions; and

WHEREAS, on March 12, 2020, the Mayor of the City of Coconut Creek, Florida, proclaimed and declared the existence of a City-wide “**STATE OF EMERGENCY**” and has continuously renewed such Declaration, authorizing that all proper and lawful actions necessary to swiftly resolve the emergency and return the City to a condition of normalcy shall be taken; and

WHEREAS, Governor DeSantis, Broward County, and the United States Centers for Disease Control and Prevention (“CDC”) have issued a number of additional emergency declarations, emergency orders and operational recommendations limiting activities and imposing restrictions designed to limit physical interaction and contact between people, requiring self-isolation for various populations, and urging at-risk populations to stay at home, thereby reducing the opportunities for community spread of COVID-19; and

WHEREAS, due to the apparent ability to spread rapidly among humans, during this declared State of Emergency, the traditional public meeting, including compliance with the physical quorum and public attendance requirements of the Sunshine Law, may unnecessarily expose the residents and visitors of Coconut Creek, including the City’s elected officials, appointed board members, employees, and first responders to COVID-19; and

WHEREAS, Section 312 of the City of Coconut Creek City Charter authorizes certain emergency measures to be taken under emergency conditions; and

WHEREAS, to reduce the spread of COVID-19, the CDC recommends implementation of community mitigation strategies to increase containment of the virus; and

WHEREAS, Florida Law, including Florida Statutes Sections 286.011 and 166.041, requires that meetings of elected and appointed officials, for the conduct of public business, must be held following procedures (notice, access to meetings, opportunity to be heard, the taking of minutes) that ensure that the public is able to

participate in and be aware of the decision making process (the “Sunshine Law”); and

WHEREAS, public meetings have traditionally been conducted in spaces with people in close proximity with each other and in groups varying in size, but generally much larger than ten people; and

WHEREAS, as of November 13, 2020, the Florida Department of Health reports a total of 875,096 COVID-19 cases with 17,704 deaths in Florida and 93,868 cases and 1,585 deaths in Broward County (https://www.floridadisaster.org/globalassets/covid19/state_reports_latest_14_nov.pdf); and

WHEREAS, the current outbreak of COVID-19 has made the City Commission acutely aware that provisions must be made to ensure that the business of municipal governance can occur without unnecessarily exposing City officials and employees or members of the public to a risk of infection while ensuring public access and open government; and

WHEREAS, previously, when asked whether a public body complies with the Sunshine Law when one or more members of the Body wish to participate in a meeting electronically from a remote location, the Florida Attorney General (“AG”) has opined that a quorum of the Body must be physically present in order to allow a member, who due to “extraordinary circumstances” is unable to physically attend the meeting, to appear and participate electronically; and

WHEREAS, on March 19, 2020, the AG issued AGO 2020-03 which provides that “unless and until legislatively or judicially determined otherwise, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if either a statute permits a quorum to be present by means other than in-person, or the in-person requirement for constituting a quorum is lawfully suspended by the Governor during the state of emergency;” and

WHEREAS, the City Commission also possesses broad home rule powers that authorize it to protect the public health, safety, and welfare, declare emergencies, and protect its residents and visitors; and

WHEREAS, COVID-19 has created or imminently threatens to create conditions that may severely affect the public health, safety, welfare and security of the residents and visitors of the City; and

WHEREAS, the City Commission recognizes that the pandemic generates surges in infection rates and finds that, particularly during periods of elevated infection rates, there is a clear and present danger in holding public “in person” meetings for those attending and those who come in contact with those attending, particularly for vulnerable populations; and

WHEREAS, the technology exists to conduct public meetings using technology with which the City can comply with the provisions of the Sunshine Law while preserving human life; and

WHEREAS, in order to protect the City’s residents and visitors, the extremely threatening trajectory of the COVID-19 virus calls for emergency action and commitment to the social distancing protocols of the CDC and the President of the United States; and

WHEREAS, on April 15, 2020, the City Commission adopted Resolution No. 2020-107, allowing and providing procedures for meetings to be held virtually without a quorum physically present in the meeting room, but physically present through electronic means, with the use of Communications Media Technology (“CMT”) (“Virtual Meetings”) during the COVID-19 pandemic and the City Commission desires to repeal and replace such resolution with more current guidelines to provide for both Virtual Meetings and Hybrid Meetings, those meetings held with a quorum physically present in the meeting room and electronic participation of other members with the use of CMT (“Hybrid Meetings”); and

WHEREAS, the City Commission finds that it is in the best interests of the City Commission, Boards, Committees, City personnel, and residents and visitors of the City to authorize the City Manager to provide for the City Commission and members of the various Boards and Committees to be able to attend meetings electronically during a declared public health emergency, pursuant to the City's Charter, Chapter 252, Florida Statutes, Section 4(D) of Governor DeSantis' Executive Order 20-52, and the City's home rule authority, including that set forth in Article VIII, Section 2(b), Florida Constitution, and Section 166.021, Florida Statutes, or as otherwise permitted and authorized by state law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: Recitals. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution.

Section 2: Limited Authorization For Public Meetings Without Physical Presence. That the City Manager is hereby authorized, pursuant to the home rule authority of the City Commission, Chapter 252, Florida Statutes, Section 4(D) of Governor DeSantis' Executive Order 20-52, as continuously extended; and based upon the Legislative Findings set forth in the above-stated recitals, during a declared public health emergency, or if otherwise authorized by state law, to:

- A. Arrange for the City Commission, Boards, and Committees to conduct meetings with electronic participation ("Virtual") or through a combination of in-person and electronic participation ("Hybrid") as the City Manager determines is necessary based on an evaluation of all national, state, county orders and guidelines and relevant risk factors and health statistics.
 - 1. Such meetings may only be conducted without the physical presence of a quorum of the City Commissioners, Boards, and Committees, if an emergency is declared by the State, Broward County or the City of Coconut Creek based upon an infectious disease or is otherwise permitted and authorized by state law, and only so long as (1) the meeting is properly noticed, (2) minutes are taken, and (3) the public is permitted to attend via technology such as teleconferencing or web-based conferencing.
 - 2. The City Manager shall plan and coordinate all Virtual or Hybrid Meetings to ensure, to the extent practicable, substantial compliance with Section 286.001, Florida Statutes, "Florida's Sunshine Law."

- B. Provide technology and administrative support as necessary to fulfill these objectives, ensure compliance with the public meeting requirements of Florida law and the Uniform Rules for Virtual and Hybrid Meetings Conducted Utilizing Communications Media Technology (CMT) below.

Section 3: Meeting Procedures Adopted. That the City Commission hereby adopts the following “Uniform Rules for Virtual and Hybrid Meetings Conducted Utilizing Communications Media Technology” for use at all Virtual and Hybrid Meetings conducted with or without the physical presence of a quorum of the City Commission as permitted by state law, or by the Governor of the State of Florida, Emergency Order of Broward County, or Emergency Declaration of the City of Coconut Creek during a state of emergency:

Uniform Rules for Virtual and Hybrid Meetings Conducted Utilizing Communications Media Technology (CMT)

A. Applicability.

1. Pursuant to state law, if applicable, or during a state of emergency as declared by the Governor of the State of Florida, Broward County of the City of Coconut Creek, and any applicable extensions, regular, special or emergency meetings of the City Commission or any City board called pursuant to existing procedures or the City Charter or City Code, may be held virtually without a quorum physically present in the meeting room, but physically present through electronic means, with the use of Communications Media Technology (“CMT”) (“Virtual Meetings”) or through a combination of a quorum physically present in the meeting room and electronic participation of other members with the use of CMT (“Hybrid Meetings”) and all business may be conducted consistent with the ongoing needs of the City. Unless otherwise permitted by state law, Virtual Meetings may be utilized exclusively only during a State of Emergency which includes, or is supplemented, by a waiver of state requirements that:
 - a. a quorum of the government body must be physically present in person and
 - b. meetings must be held at a specific public place.
2. These CMT Rules shall apply to all Virtual and Hybrid Meetings.

B. Meetings.

1. Meeting Platform - Technology. Virtual and Hybrid Meetings shall utilize CMT which:
 - a. Allows remote access by City Officials and staff which ensures sufficient audio clarity and functionality so that all meeting participants and the participating public can clearly hear and understand what is being said;

- b. Utilizes a platform with a user interface which is readily available and free to the public to access the meeting;
 - c. Provides opportunities to view and/or hear the meeting;
 - d. Provides a mechanism to record or otherwise preserve the meeting; and
 - e. Allows the meeting chair, in conjunction with technical assistance from staff, to maintain order and ensure all parties are afforded a reasonable opportunity to participate in the meeting.
2. Public Participation. The public shall be afforded the opportunity to provide public comment and exhibits prior to the meeting.
- a. Comment requirements.
 - 1) All comments shall be limited to a total of three (3) minutes or the equivalent of no more than four hundred (400) words; and
 - 2) All written or audio comments should begin with the speaker's name and address and the agenda item to which the comment pertains.
 - b. Comments Prior to the Meeting. The public shall have the ability to provide public comment prior to the meeting utilizing:
 - 1) A designated email address;
 - 2) A dedicated City voicemail line; and
 - 3) US postal or other mail delivery service to deliver written comments or exhibits to the City Clerk.
 - c. Consideration of Comments. All public comments received prior to 6:00 p.m. the night before the meeting will be included as part of the record for the meeting and will be considered by the Commission or board before any action is taken.
- C. Notice.
- 1. Regular and Special Meetings. All regular and special meetings shall be noticed at least seven (7) days in advance of the scheduled meeting in accordance with State Law and the City's Code of Ordinances.
 - 2. Emergency Meetings. All emergency meetings shall be noticed no less than twenty-four (24) hours in advance of the scheduled meeting in accordance with State Law.
 - 3. Meeting Notices.
 - a. Publishing venue. Meeting notices for all meetings shall be published as required by State and County law and the City's Code of Ordinances and shall also be noticed on the City's Website.
 - b. Notice requirements. All Public Notice for Virtual and Hybrid Meetings, whether, Regular, Special or Emergency meetings, shall be provided as required by the City's Code of Ordinances, with the inclusion of the following information:
 - 1) Meeting Platform with address or link to access the meeting through the platform;

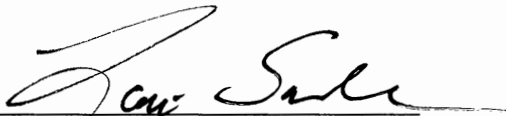
- 2) Other meeting viewing/ audio locations (City's Website and Zoom Call in Number (specific to scheduled meeting);
 - 3) Instructions for utilizing mail, phone messaging, or email, with the specific phone number and email address, to provide public input before the meeting; and
 - 4) Instructions for requesting a reasonable accommodation.
- D. Meeting Procedures. All regular parliamentary procedures for small boards shall be followed throughout the meeting in addition to the following protocols which shall be followed to maximize public participation:
1. Speakers shall be identified by name when called on by the Mayor or chair;
 2. If a speaker has not been identified by the Mayor or chair prior to speaking, the speaker shall identify himself/herself by name for the record;
 3. All general public comments received prior to a meeting shall be played or read into the record by staff during the appropriate agenda item without response between individual comments. Response or discussion of any matter presented during "Input from the Public" or on any public hearing item shall occur after all public comment has been received for that item;
 4. All Votes shall be by roll call in order to ensure the identity of each speaker;
 5. Meeting recordings shall be available through the City Clerk Department after the meeting; and
 6. All comments received in any form shall be printed, saved, or in some way memorialized and recorded for the public record.


Section 4: That Resolution No. 2020-107 is hereby rescinded in its entirety.

Section 5: That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, or if any provisions within this resolution conflict with any local, state, or federal law or constitutional provision, except as specifically waived, or conflicts with or is superseded by a subsequently-issued Broward County Emergency Order, Executive Order of the Governor of the State of Florida or the President of the United States, it shall not affect the validity of the remaining portion or applications of this resolution.

Section 6: That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this 3rd day of December, 2020.


Louis Sarbone, Mayor

Attest:

Leslie Wallace May
Leslie Wallace May, City Clerk

Sarbone Aye
Rydell Aye
Tooley Aye
Belvedere Aye
Welch Aye

File Path:O:\Documents\HEALTH PANDEMIC PLANNING\CORONAVIRUS (COVID-19)\Sunshine and response to public records\Public Meetings\Hybrid Virtual- In person Meetings\Post 20-69 Hybrid Proceedings\Hybrid virtual procedures resolution.docx
Initials: kmm
Date: 11/13/20