

City of Palm Coast, Florida Agenda Item

Agenda Date : 09/01/2020

Department	CITY CLERK	Amount
Item Key	8698	Account
		#
Subject	RESOLUTION 2020-XX APPROVING HYBRID CMT/VIRTUAL MEETING PROCESSES	
Presenter :		
Background :	<p>In August, the City Manager provided Council with an update to Board and Committee meetings being postponed, delayed, or cancelled due to the COVID-19 pandemic. Council requested staff provide a Hybrid CMT meeting process option.</p> <p>Staff and legal prepared the hybrid processes to be in compliance with all State and local laws and CDC recommendations.</p> <p>Approving this Hybrid CMT meeting process will assist with allowing all Boards and Committees to further conduct business for the City of Palm Coast.</p> <p>Staff recommends approval of the attached proposed resolution outlining the hybrid CMT/Virtual meeting processes.</p>	
Recommended Action :	ADOPT RESOLUTION 2020-XX APPROVING HYBRID CMT/VIRTUAL MEETING PROCESSES	

RESOLUTION 2020-_____
COMMUNICATION MEDIA TECHNOLOGY (CMT) MEETING PROCESSES
DURING THE COVID-19 STATE OF EMERGENCY

**A RESOLUTION OF THE CITY OF PALM COAST,
FLORIDA, APPROVING COMMUNICATION MEDIA
TECHNOLOGY (CMT) MEETING PROCESSES
DURING THE COVID-19 STATE OF EMERGENCY;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
CONFLICTS; PROVIDING FOR IMPLEMENTATION
AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, on March 1, 2020, the Governor issued Executive Order 20-51 directing the Florida Department of Health to issue a Public Health Emergency; and

WHEREAS, on March 1, 2020, the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of the COVID-19 virus; and

WHEREAS, on March 9, 2020, the Governor issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of the COVID-19 virus; and

WHEREAS, on March 15, 2020, Mayor Milissa Holland issued a local State of Emergency for the City of Palm Coast as a result of the COVID-19 virus; and

WHEREAS, on March 16, 2020, President Donald J. Trump and the Centers for Disease Control and Prevention ("CDC") issued the "15 Days to Slow the Spread" guidance advising individuals to adopt far-reaching social distancing measures; and

WHEREAS, one of the purposes of directions from the Governor is to slow the potential for direct and community spread of the highly infectious COVID-19 virus; and

WHEREAS, on March 20, 2020, Governor DeSantis issued Executive Order 20-69 allowing local government bodies to utilize Communications Media Technology (CMT), such as telephonic and video conferencing, as provided in section 120.54(5)(b)2, Florida Statutes; and

WHEREAS, on July 29, 2020, Governor DeSantis issued Executive Order 20-179 amending and extending EO 20-69; and

WHEREAS, on August 7, 2020, Governor DeSantis extended Executive Order 20-69, as amended by EO 20-179, to allow local government bodies to continue to use CMT for public meetings until October 1, 2020; and

WHEREAS, the deadlines set forth in Section 166.033 and 125.022, Florida Statutes, have not been explicitly extended by any of the Governor’s emergency orders to date regarding COVID-19. This includes the deadline for a county or municipality to issue a letter of completeness and hold a hearing on land use applications; and

WHEREAS, the health safety and welfare of the City of Palm Coast residents, businesses, and visitors and staff is of the utmost importance to the City and additional future measures may be needed to protect the community; and

WHEREAS, Section 252.38(3), Florida Statutes, provides authority for local governments, such as the City of Palm Coast, to take actions in emergency situations and to waive the procedures and formalities otherwise required of political subdivisions by law pertaining to: performing of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community; entering into contracts; incurring obligations; employing of permanent and temporary workers; utilizing of volunteer workers; renting equipment; acquiring and distributing, with or without compensation, of supplies, materials and facilities; and appropriating and expending of public funds.

WHEREAS, Section IV City Council, of the City Charter provides: “(4) *Powers and duties of the Mayor (a) Powers. In addition to the regular powers invested in any other Council member, the Mayor shall: be recognized by the governor for purposes of military law; have the power to declare an emergency situation; ...*”; and

WHEREAS, City Council desires to adopt processes for CMT Meetings for City Council and its Boards/Committees during the COVID-19 State of Emergency.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. APPROVAL OF HYBRID/CMT PROCESSES. The City Council of the City of Palm Coast hereby approves the Hybrid/Communication Media Technology (CMT) processes during the COVID-19 State of Emergency as follows:

1. The following rules and procedures for conducting Hybrid Virtual Meetings shall be followed when the City of Palm Coast City Council, City of Palm Coast Planning and Land Development Regulation Board, or any of their appointed boards and committees, desires to conduct a Hybrid Virtual Meeting or to provide public access to a Hybrid Virtual Meeting.
2. Notice—All notices of Hybrid Virtual Meetings shall make the public aware of the ability to participate virtually, and such notices shall:
 - (a) state how persons interested in attending may do so, including references to any television or internet-based method(s) of viewing or participating in the Hybrid Virtual Meeting; and

- (b) identify the time of the Hybrid Virtual Meeting and the physical location of the hybrid meeting; and
- (c) identify the location and method where members of the public can address the voting members at or near the physical location of the meeting; and
- (d) include a contact phone number where participants with disabilities, and persons without access to the technology that will be utilized for the meeting, can obtain assistance in participating in the meeting (collectively referred to herein as the “CMT Information”).

The CMT Information will be posted on the respective agendas, available on the City’s website, 5 days prior to each Hybrid Virtual Meeting, at <https://fullsite.palmcoastgov.com/agendas>.

All notices for Hybrid Virtual Meetings shall be published, sent and/or posted (as applicable) at least five (5) days in advance of the Hybrid Virtual Meeting, unless a longer time period for a specific agenda item is required by state law. Notwithstanding the foregoing, emergency meetings of the City Council may be conducted by placing the required CMT Information on the City’s website within a reasonable period of time prior to the emergency meeting, given the circumstances. All public notices will continue to comply with Florida Statutes and the City of Palm Coast Unified Land Development Code.

3. Procedures—Hybrid Virtual Meetings shall be conducted in accordance with the City Council’s general Rules of Procedure adopted pursuant to Resolution 2017-101, the rules of procedure for any other City boards conducting Hybrid Virtual Meetings, and historical practice, except as set forth herein. The following procedures for conducting Hybrid Virtual Meeting shall be used:
 - a. In order to ensure that appropriate social distancing is maintained at the physical location of the meeting, presenting staff is not required to attend at the physical location of the meeting. City staff may view and participate in the Hybrid Virtual Meeting by the means set forth in this Resolution and the Hybrid Virtual Meeting notice. In no event shall the maximum number of people at the physical location of the Hybrid Virtual Meeting exceed the allowance of attendees as set forth by the State of Florida’s Executive Order(s) and in accordance with CDC recommendations.
 - b. For quasi-judicial agenda items:
 - i. Witnesses are not required to be physically present to be sworn and may be sworn through audio or video technology.
 - ii. Applicants who elect to have their items considered at a Hybrid Virtual Meeting shall agree to: (a) waive the right to cross-

examination of witnesses; (b) waive the right to challenge the validity, adequacy or constitutionality of the rules and procedures set forth in this Resolution or of the Hybrid Virtual Meeting; and (c) release the City from any liability associated with the applicant's decision to proceed at a Hybrid Virtual Meeting. Such waivers shall be provided in writing in advance of the Hybrid Virtual Meeting. Quasi-judicial Applicants that do not provide such waivers shall be continued to the next available meeting that does not utilize CMT. In addition, the City reserves the right to continue any quasi-judicial item that the Land Use Administrator or City Council determines is not appropriate to be conducted through CMT, even if the land use applicant provides the required waivers and as long as statutory review deadlines are met or waived.

- iii. Quasi-judicial Emails and Documentary Evidence. The procedure for receiving Quasi-judicial Emails and Documentary Evidence on quasi-judicial agenda items shall be provided in the Hybrid Virtual Meeting notice. Notices shall include an e-mail address where remote participants can send in comments, exhibits, PowerPoints, videos, or other documents that meeting participants wish to be considered at the Hybrid Virtual Meeting (collectively, "Documentary Evidence") for any quasi-judicial agenda items. The notice shall also include the deadline for submission of Documentary Evidence.

Documentary Evidence shall be limited to items on the published agenda and shall be submitted by the deadline set forth in the Hybrid Virtual Meeting notice. All Documentary Evidence will become part of the record of the quasi-judicial hearing. The City reserves the right to reject Documentary Evidence that is unrelated to items on the published agenda or submitted after the submission deadline. The City further reserves the right to redact or reject Documentary Evidence containing obscene material or material that is confidential pursuant to state law.

Quasi-judicial related emails should indicate that they are intended for public participation and may be submitted to the City Clerk up until 5pm the day before the meeting. The City reserves the right to redact or reject emails containing obscene material or material that is confidential pursuant to state law. Emails pertaining to matters on the agenda shall be placed in the record for review prior to the Hybrid Virtual Meeting if received by the City Clerk by 5pm on the day before the meeting.

- c. In order to ensure that all speakers at the Hybrid Virtual Meeting are properly recorded and heard, all speakers at the Hybrid Virtual Meeting must be recognized by the Chair prior to speaking, and no more than one person shall speak at the same time, unless otherwise allowed by the Chair. Participants attending the meeting by CMT will be muted and required to raise their hand by pressing *9 and wait to be unmuted and recognized to speak by the Chair.
 - d. If one or more voting members is attending the meeting by CMT, all votes on all action items shall be by roll call vote. In such event, the entire consent agenda may be approved by one roll call vote. If no voting members are attending the meeting by CMT, voice votes shall be permitted for all action items, except for those actions requiring a roll call vote by applicable law or City Council rules of procedure.
4. Public Participation—The public shall be permitted to participate in Hybrid Virtual Meetings in the manner provided herein.
- a. Procedure for attending the meeting virtually at the time provided in the Hybrid Virtual Meeting notice. All virtual (call-in) participants will be placed in a queue and will indicate they wish to speak by “raising their hand” by pressing *9 on their phone. The chair will recognize that member of the public and they will be unmuted. Once they are unmuted, their opportunity to speak will begin.
 - b. Procedure for attending the public comment podium location identified in the Hybrid Virtual Meeting notice. The public comment podium location shall have CMT available for the public to view, hear and speak at the Hybrid Virtual Meeting. In the event any person(s) cannot view, hear and speak at the Hybrid Virtual Meeting due to a failure of the CMT at the public comment podium location, such person(s) may request to attend the Hybrid Virtual Meeting at the location where some, if not all voting members may be physically present, and such request shall be granted provided that appropriate social distancing and maximum capacity requirements can be maintained at such location.
- Persons attending at the public comment podium location shall observe all social distancing and safety requirements imposed and posted by the City, and shall be required to wear a face covering in accordance with City of Palm Coast and surrounding municipalities’ Proclamation “COVID-19 Do Your Part Wear A Mask” issued in June 2020. Persons in attendance shall only speak at the Hybrid Virtual Meeting when directed by the Chair.
- c. The public participation methods identified above shall be the only methods for the public to participate in the Hybrid Virtual Meeting.

Although members of the public are encouraged to utilize the virtual platform to participate in Hybrid Virtual Meetings, all evidence, testimony, and argument presented through one of these public participation methods identified above shall be afforded equal consideration by the Board, regardless of the method of communication.

5. Location- City of Palm Coast Hybrid Virtual Meetings can be held at any location within the City of Palm Coast, with proper notice as provided for herein, to help ensure that adequate technology, virtual public access and COVID-19 safety protocols can be met. Unless otherwise determined by the City, the physical location of all Hybrid Virtual Meetings (for those that physically attend the meeting) shall be at either the Community Wing of City Hall, 160 Lake Ave. Palm Coast, FL 32164 OR at the Palm Coast Community Center, 305 Palm Coast Parkway NE, Palm Coast, FL 32137.
6. Disruptions and Adjournment. Individuals participating virtually and those in attendance must keep in mind that there is a delay in the broadcast of the Hybrid Virtual Meetings. The chair may need to account for this as the meeting is conducted. If a CMT meeting is interrupted or disrupted by a technological defect, the Chair may temporarily recess the meeting until the defect is repaired. If the issue cannot be resolved in a reasonable amount of time, the Chair has the option of adjourning the meeting. The temporary recess or adjournment of a meeting will be implemented to ensure compliance with the Sunshine Law.

SECTION 2. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Resolution are severable, and if any phrase, clause, sentence, paragraph or section of this Resolution shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Resolution.

SECTION 3. CONFLICTS. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

SECTION 4. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 5. EFFECTIVE DATE. This Resolution shall become effective immediately and shall remain in effect until modified or terminated by subsequent Resolution or until the Local State of Emergency for COVID-19 expires or is rescinded.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 1st day of September 2020.

CITY OF PALM COAST, FLORIDA

ATTEST:

Milissa Holland, Mayor

VIRGINIA A. SMITH, CITY CLERK

Approved as to form and legality

William E. Reischmann, Jr., Esq.