

MEMORANDUM

Agenda Item No. 11(A)(30)

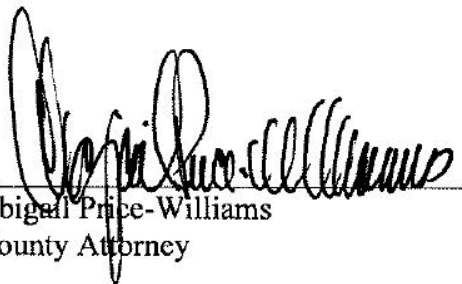
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 5, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact legislation
authorizing a local governing
body to conduct meetings by
means of communications media
technology during a declared
state or local emergency that
directly affects the public health,
safety, or welfare of the local
jurisdiction, such as coronavirus
disease 2019 (COVID-19)

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



Abigail Price-Williams
County Attorney

APW/uw



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 5, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(30)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(30)
5-5-20

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION AUTHORIZING A LOCAL GOVERNING BODY TO CONDUCT MEETINGS BY MEANS OF COMMUNICATIONS MEDIA TECHNOLOGY DURING A DECLARED STATE OR LOCAL EMERGENCY THAT DIRECTLY AFFECTS THE PUBLIC HEALTH, SAFETY, OR WELFARE OF THE LOCAL JURISDICTION, SUCH AS CORONAVIRUS DISEASE 2019 (COVID-19)

WHEREAS, in the State of Florida, the public has a constitutional and statutory right of access to meetings of collegial public bodies where official acts are to be taken or at which the public business of such body is to be transacted or discussed, commonly referred to as the “Sunshine Law”; and

WHEREAS, the Sunshine Law provides that there be reasonable notice of all such meetings and also that minutes of the meetings be promptly recorded and open to public inspection; and

WHEREAS, pursuant to the Florida Constitution, the Florida Legislature may exempt meetings from the requirements of article I, section 24(b), “provided that such law shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law”; and

WHEREAS, in addition to the Sunshine Law, section 286.0114(2), Florida Statutes, mandates that members of the public be given a reasonable opportunity to be heard on any proposition before a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation, or political subdivision; and

WHEREAS, other sections of the Florida Statutes, such as section 166.041, governing municipalities, and sections 125.001 and 125.01, governing counties, have been interpreted to require a majority of municipal or county board members to be physically present in order to meet the requirement for a quorum (“physical quorum requirements”); and

WHEREAS, a declaration of a state of emergency may directly affect jurisdictions governed by a local governing body that is subject to the Sunshine Law and physical quorum requirements; and

WHEREAS, during such a declared emergency, holding a meeting in accordance with the Sunshine Law and physical quorum requirements in order to perform official acts addressing the emergency and other matters necessary for ongoing operations might jeopardize the public health, safety, or welfare, as well as the health, safety, or welfare of the local governing body’s members and staff; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization (“WHO”) declared the outbreak of a new coronavirus, known as SARS-CoV-2, which causes an infectious disease named coronavirus disease 2019 (“COVID-19”) a “public health emergency of international concern”; and

WHEREAS, on March 1, 2020, in response to COVID-19, Governor Ron DeSantis issued Executive Order No. 20-51, directing the State Health Officer and Surgeon General to declare a public health emergency in the state of Florida; and

WHEREAS, given the alarming levels of spread and the severity of the virus, the WHO declared COVID-19 a pandemic on March 11, 2020; and

WHEREAS, in response to the COVID-19 pandemic, public health officials and the United States Centers for Disease Control and Prevention strongly suggested that individuals

experiencing specified symptoms take measures to self-isolate or quarantine, encouraged communities experiencing an outbreak to limit face-to-face contact with others as much as possible, and urged individuals to practice “social distancing” to combat the person-to-person spread of the virus; and

WHEREAS, to enforce social distancing, states, like Florida, and local governments around the country banned large gatherings of people and issued “safer at home” or “shelter in place” orders requiring residents to remain in their residences, subject to limited exceptions; and

WHEREAS, in light of COVID-19, on March 20, 2020, Governor DeSantis issued Executive Order No. 20-69 which suspended any Florida Statute that requires a physical quorum be present in person or requires a local government body to meet at a specific public place, and permitted local government bodies to utilize communications media technology, such as telephonic and video conferencing, to conduct meetings, as provided in section 120.54(5)(b)2., Florida Statutes (“communications media technology”); and

WHEREAS, Executive Order No. 20-69 did not waive any other requirement under the Florida Constitution or the Sunshine Law and is only effective for the duration of the emergency; and

WHEREAS, in addition to COVID-19, Florida has, in the past, faced other emergency situations that have strained the ability of local governing bodies to meet the physical quorum requirements and the Sunshine Law, such as in the aftermath of a hurricane, when there is flooding, downed power-lines and trees, and dangerous road conditions; and

WHEREAS, during such states of emergency, it is important that local governing bodies be able to address issues related directly to the emergency without putting the public, staff, and elected officials at risk by requiring them to be physically present at the meeting; and

WHEREAS, from an economic standpoint, and particularly with many private sector businesses seeing significant declines in revenue as a result of the emergencies, it is also important that local governing bodies have the ability to continue their business operations and not further exacerbate economic impacts by delaying the issuance of contracts in the ordinary course of business; and

WHEREAS, other alternatives can be utilized to comply with the spirit of the law during these critical times; and

WHEREAS, for example, as in the case of COVID-19, communications media technology can be used to permit remote means of access; and

WHEREAS, using communications media technology is already authorized for regular use by some state agencies, irrespective of an emergency situation; and

WHEREAS, use of such technology would not alter a board's responsibility to provide lawful notice of the meeting, to take minutes, and to provide the public with a reasonable opportunity to be heard, unless one of the exemptions of section 286.0114, Florida Statutes, applies; and

WHEREAS, in order for local governing bodies to proceed with business operations more efficiently during declared emergencies that directly affect their communities and without further jeopardizing the overall health and safety of their communities, this Board desires to seek a limited exemption of some of the requirements of the Sunshine Law and physical quorum requirements,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to enact legislation authorizing a local governing body to conduct meetings by means of communications media technology, notwithstanding any state statute or local rule or provision that requires the members of a local governing body be physically present together or meet at a specific public place, during a declared state or local emergency that directly affects the public health, safety, or welfare of the local jurisdiction, such as coronavirus disease 2019 (COVID-19).

Section 2. Directs the Clerk of the Board to send a certified copy of this resolution to the Governor, Attorney General, Senate President, House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County’s state lobbyists to advocate for the actions set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2020 State Legislative Package to include this item and to include this item in the 2021 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	
Rebeca Sosa, Vice Chairwoman	
Esteban L. Bovo, Jr.	Daniella Levine Cava
Jose “Pepe” Diaz	Sally A. Heyman
Eileen Higgins	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Dennis C. Moss	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of May, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

LCK

Leigh C. Kobrinski
Brenda Kuhns Neuman