

MEMORANDUM

Special Item No. 1

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

DATE: November 16, 2020

FROM: Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Resolution suspending, for the duration of the coronavirus disease 2019 (COVID-19) state of emergency, any provision of County law, rule or regulation that would prevent members of the Board of County Commissioners or any other County board or committee from using communications media technology to participate in and vote on matters when (1) the quorum of such board or committee is physically present and (2) the remote presence is medically necessary

Resolution No. R-1160-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto, and Co-Sponsors Commissioner Esteban L. Bovo, Jr., Commissioner Daniella Levine Cava, Commissioner Jose "Pepe" Diaz, Chairwoman Audrey M. Edmonson, Commissioner Sally A. Heyman, Commissioner Joe A. Martinez, Commissioner Jean Monestime, Commissioner Dennis C. Moss and Vice Chairwoman Rebeca Sosa.



Geri Bonzon-Keenan
Successor County Attorney

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MEMORANDUM

(Revised)

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SUBJECT: Special Item No. 1

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

Special Item No. 1

11-16-20

R-1160-20

RESOLUTION NO.

RESOLUTION SUSPENDING, FOR THE DURATION OF THE CORONAVIRUS DISEASE 2019 (COVID-19) STATE OF EMERGENCY, ANY PROVISION OF COUNTY LAW, RULE OR REGULATION THAT WOULD PREVENT MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS OR ANY OTHER COUNTY BOARD OR COMMITTEE FROM USING COMMUNICATIONS MEDIA TECHNOLOGY TO PARTICIPATE IN AND VOTE ON MATTERS WHEN (1) THE QUORUM OF SUCH BOARD OR COMMITTEE IS PHYSICALLY PRESENT AND (2) THE REMOTE PRESENCE IS MEDICALLY NECESSARY

WHEREAS, on March 9, 2020, the Governor of Florida issued Executive Order Number 20-52, declaring a state of emergency for the State of Florida related to coronavirus disease 2019 (“COVID-19”); and

WHEREAS, on March 12, 2020, the County Mayor declared a state of local emergency for all of Miami-Dade County; and

WHEREAS, transmission of COVID-19 typically occurs when an infected person coughs, sneezes, or talks, and droplets from his or her mouth or nose are launched into the air and land in the mouths or noses of people nearby and are then inhaled into their lungs; and

WHEREAS, recent studies, and the advice of the medical doctors consulted by the County, indicate that people who are infected with COVID-19, but do not have symptoms, likely also play a role in the spread of COVID-19, since people can spread the virus before they know they are sick; and

WHEREAS, COVID-19 does not impact all infected individuals equally with older individuals and people with certain underlying conditions experiencing significantly higher risks of serious adverse health outcomes including death; and

WHEREAS, on March 19, 2020 the Florida Attorney General issued Advisory Legal Opinion 2020-03 to the Florida Governor opining that “local government bodies may only conduct meetings by teleconferencing or other technological means if either (1) a statute permits a quorum to be present by means other than in person, or (2) the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency”; and

WHEREAS, the Florida Attorney General further opined that, consistent with prior Attorney General opinions, “a county commissioner physically unable to attend a meeting because of medical treatment could participate and vote in commission meetings where a quorum of other commissioners was physically present”; and

WHEREAS, section 1.08 of the Miami-Dade County Home Rule Charter, adopted in 1957, requires members of the Board of County Commissioners to be “present at a meeting” in order to participate in the vote on any action of the Board but does not identify under what conditions physical or virtual presence may be required to vote on matters before the Board; and

WHEREAS, similar provisions of the County Code require members of other county boards or committees, such as county advisory boards and competitive selection committees, to be present at a meeting to vote on any action; and

WHEREAS, on March 20, 2020, pursuant to chapter 252, Florida Statutes, the Governor issued Executive Order 20-69, as extended by Executive Orders 20-112, 20-123, 20-139, 20-150, and 20-246, and as amended by Executive Orders 20-179 and 20-193 (“local government meeting executive orders”), suspending the requirements of any state statute that requires a quorum to be present in order for a local government body to meet at a specific public place; and

WHEREAS, the local government meeting executive orders permitted local government bodies, such as the Board of County Commissioners, to conduct meetings remotely using communications media technology, such as telephonic and video conferencing, and to both establish quorum and allow members to participate in voting utilizing virtual rather than physical presence; and

WHEREAS, the local government meeting executive orders expired on October 31, 2020 and are no longer in effect; and

WHEREAS, section 252.38, Florida Statutes, provides that “[s]afeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state” and, as such, grants broad authority to counties “to waive the procedures and formalities otherwise required of the political subdivision by law” to undertake certain legislative acts during a declared state of emergency; and

WHEREAS, section 1.02(A) of the Miami-Dade County Home Rule Charter authorizes the Board of County Commissioners to adopt its own rules of procedure as it relates to the conduct of meetings under the Miami-Dade County Home Rule Charter; and

WHEREAS, certain board members may be at greater risk of adverse health consequences from a COVID-19 infection during this declared state of emergency; and

WHEREAS, the medical condition of members of the Board of County Commissioners and other County boards and committees may preclude their ability to be physically present at meetings during the COVID-19 state of emergency; and

WHEREAS, requiring physical presence of a member of the Board of County Commissioners to cast a vote on any matter before the Board would deprive Commission districts of their duly elected representative on the Board of County Commissioners and their voice in any legislative item before the Board; and

WHEREAS, state law only requires the physical presence of those members of local governing boards necessary to constitute a quorum and permits members who are not necessary to constitute a quorum of the board to participate remotely using communications media technology when medically necessary; and

WHEREAS, for the duration of the COVID-19 state of emergency, the Board desires to exercise its authority under the Miami-Dade County Home Rule Amendment to the Florida Constitution, the Miami-Dade County Home Rule Charter, and Florida Statutes to suspend any County law, rule or regulation that would prevent the participation of members of the Board of County Commissioners or any other county board or committee using communications media technology when (1) a quorum of the Board of County Commissioners or any other county board or committee is physically present, and (2) the remote presence of members of the Board of County Commissioners or any other county board or committee is medically necessary,

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

Section 1. The foregoing recitals are incorporated herein as legislative findings of the Board.

Section 2. Pursuant to the Miami-Dade County Home Rule Amendment to the Florida Constitution, the Miami-Dade County Home Rule Charter, and Florida Statutes, this Board hereby suspends, for the duration of the COVID-19 state or local state of emergency, any and all provisions of county law, rule or regulation that would prevent members of the Board of County Commissioners or any other county board or committee from using communications media technology to participate in and vote on items during meetings when: (1) a quorum of the Board of County Commissioners or other board or committee is physically present; and (2) the remote

presence is medically necessary. For competitive selection committees and other boards or committees with no quorum requirement then a majority of the members of such board or committee must be physically present.

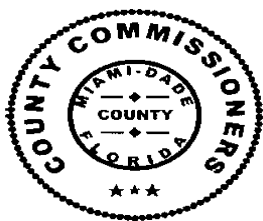
Section 3. Any member of the Board of County Commissioners who must use communication media technology to participate in and vote on items at a meeting of the Board or a Committee thereof as provided herein shall provide written notification to the Chairperson of the Board, the Committee Chairperson if applicable, the County Attorney, and the Clerk of the Board as soon as practicable but in no event later than the start of such scheduled meeting.

Section 4. This Board further finds that the remote presence of a Board member utilizing communications media technology during the COVID-19 state of emergency when medically necessary meets the requirement of section 1.08 of the Miami-Dade County Home Rule Charter that members of the Board be “present at a meeting” in order to participate in the vote on any action of the Board.

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto, and the Co-Sponsors are Commissioner Esteban L. Bovo, Jr., Commissioner Daniella Levine Cava, Commissioner Jose "Pepe" Diaz, Chairwoman Audrey M. Edmonson, Commissioner Sally A. Heyman, Commissioner Joe A. Martinez, Commissioner Jean Monestime, Commissioner Dennis C. Moss and Vice Chairwoman Rebeca Sosa. It was offered by Commissioner **Javier D. Souto** , who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of November, 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "OR", is written over a horizontal line.

Oren Rosenthal