

**BOARD OF COUNTY COMMISSIONERS
GULF COUNTY, FLORIDA
COUNTY ATTORNEY'S OFFICE**

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DATE AND TIME OF MEETINGS • FOURTH TUESDAY AT 9:00 P.M., E.T.

Memorandum

To: Gulf County Board of County Commissioners
From: Jeremy T.M. Novak, County Attorney
CC: County Administrator, Don Butler
Date: 04/16/2020
Re: Gulf County Board Hybrid Remote Meeting Rules under COVID-19 Declaration and Governor DeSantis Executive Order 20-69

Following the review and analysis of the Gulf County Board of County Commission's policies and procedures as well as the Executive Order issued by Governor DeSantis 20-69 in conjunction with the Attorney General Moody's findings and response for public meetings during the pandemic and following discussions with County officials and staff as well as administrative recommendations, the following policy and procedures are being submitted for this Board's review, consideration and discussion. Following this Board's introduction to the proposed policy at its regular meeting of April 16, 2020 and thereafter further review and discussion of these Hybrid Remote Meeting Rules, it is the recommendation that this Board consider the following policy and procedures for approval and adoption.

PURPOSE:

To set forth authority, policy, definition and procedures for the conducting of Board business and structure and order of its meetings during the current pandemic and social distancing guidelines from the CDC and under the Executive Order(s) issued by Florida Governor DeSantis. The purpose of this policy for the Board of County Commissioners of Gulf County is to enact consistent rules of procedure for its meetings and conducting Board business during this emergency declaration.

UPDATES:

Future updates to this policy will be the responsibility of the Board of County Commission with instruction to the County Administrator and staff for recommendations and thereafter upon final adoption of any amendments by the Board of County Commissioners.

AUTHORITY AND FOUNDATION FOR POLICY AND HYBRID MEETING RULES:

WHEREAS, Gulf County is under Federal, State, and Local States of Emergency for the Covid-19 virus pursuant to Executive Orders of the Governor for the State of Florida (EO Nos. 20-51 and 20-52) and the Gulf County Declaration, dated March 18, 2020, and renewed every seven days thereafter in accordance with law; and

*Reviewed
to BCC
4/16/2020
JR*

WHEREAS, Executive Order Number 20-52, Section 4 (D) authorizes a political subdivision to waive the procedures and formalities otherwise required by law...; and

WHEREAS, Sections 252.46 and 125.01, Florida Statutes, allow Gulf County to create uniform rules and procedures for the conduct of public meetings; and

WHEREAS, Section 252.38, Florida Statutes, authorizes Gulf County to declare a state of local emergency, which it has done, and further authorizes Gulf County to take whatever prudent action is necessary to ensure the health, safety and welfare of the community; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention (“CDC”) and the Florida State Department of Health recommend implementation of community mitigation strategies to increase containment of the virus, including cancellation of large gatherings and social distancing of at least six feet between persons in smaller gatherings; and,

WHEREAS, Article I, Section 24 of the Florida Constitution guarantees a right of public access to all meetings of any collegial public body of the County, and Section 286.011, Fla. Stat., commonly referred to as Florida’s “Sunshine Law” requires meetings of the County to be publicly noticed in advance, open to the public, and documented by minutes that are promptly recorded; and

WHEREAS, the Sunshine Law is a pillar of local governance in Florida with the Florida Supreme Court stating that the Sunshine Law “was enacted in the public interest to protect the public from ‘closed door’ politics...” and as such, should be construed to frustrate all evasive devices; and

WHEREAS, recognizing the compelling need to protect life while at the same time maintaining the functioning and continuity of government, the Governor took the extraordinary measure of issuing Executive Order 20-69 (“EO 20-69”), which suspends any statutory requirement that local governing bodies have a quorum physically present in a specific public place to conduct public meetings; and

WHEREAS, the EO 20-69 specifically authorizes the use of communications media technology (“CMT”), as provided in Section 120.54(5)(b)2., Fla. Stat., to conduct of local governing bodies; and

WHEREAS, Section 120.45(5)(b)2., Fla. Stat., may be interpreted to imply that local government bodies should provide, and publish notice of the location of, a communication media technology facility that may be used by those members of the public that wish to participate in such public meetings but do not have the communications media technology to do so; however, providing such a location, and encouraging members of the public to use said facility, would violate the spirit, intent and purpose of the Governor’s subsequent Executed Order (“EO 20-91”), which prohibits all persons in Florida from leaving their homes except to obtain or provide essential service or conduct essential activities; and

WHEREAS, the use of communication media technology during the declared state of local emergency due to COVID-19 to conduct meeting of the Board of County Commissioners and its boards and committees will allow governance to continue while protecting the health and safety of elected officials, staff and the general public; and

WHEREAS, neither EO 20-69 nor this Emergency Policy and Meeting Rules suspends the requirements of Florida’s public records laws in any way or the Sunshine Law beyond the specific, discrete parameters explicitly set forth in EO 20-69 and this Emergency Policy and Rules.

WHEREAS, Gulf County finds: (a) that the declared COVID-19 public health emergency

presents an immediate danger to the public health, safety, or welfare that requires emergency action; (b) the creation of uniform rules and procedures for the conduct of public meetings by means of remote hybrid meeting rules and technology is necessitated by the immediate danger to allow for continuity of County Government; (c) the creation of such rules and procedures is the minimum action necessary to protect the public interest; and (d) the County's decision to conduct public meetings virtually, in this manner, has been balanced between public safety, the health and safety of the citizens, and the continued delivery of essential critical local governmental services and functions; and

WHEREAS, Gulf County finds: (a) that there is an immediate need for the adoption of these rules and procedures prior to the first Board of County Commissioners public meetings through the available technology; (b) due to the recommended COVID-19 social distancing and public gathering restrictions, the Board of County Commissioners and are possibly unable to meet in person to adopt such rules and procedures prior to their public meeting through these available technologies; (c) these rules and procedures will be adopted by the County Administrator's adoption of these rules and procedures will be immediately published on the County's website, thus ensuring that interested persons are aware of the adoption of these rules and procedures, and that Gulf County's findings herein are judicially reviewable; and (e) the adoption of uniform rules and procedures for the conduct of these meetings utilizing the foregoing procedures is fair under the circumstances; and

WHEREAS, the rules and procedures adopted in this Order are necessary to safely conduct the business of Gulf County and provides notice, fair procedure, public participation and a sufficient opportunity to be heard in compliance with Chapter 286 Florida Statutes and the Florida Constitution; and

WHEREAS, the County Administrator has been authorized by the Board to Order or take any actions he deems necessary for the continuity of County Government during the declared Local State of Emergency; and

NOW, THEREFORE, pursuant to Governor's Executive Orders 20-51, 20-52 and 20-69; Gulf County Board of County Commissioners' Emergency Declaration of March 18, 2020; Chapters 125 and 252, Florida Statutes; Gulf County Comprehensive Emergency Management Plan; and under the direct authority of the Gulf County Board of County Commissioners, the undersigned on behalf of the Board and based on the information known or projected at this time, makes the following order for a Remote Hybrid Meeting Rules and Policy:

GULF COUNTY BOARD REMOTE HYBRID MEETING RULES:

1. Gulf County Board Rules of Procedure and Policy of 7/15/15 apply to Gulf County meetings and remain in full effect with the following temporary policies and additional procedures under the March 18, 2020 Gulf County COVID-19 Emergency Declaration.
2. A hybrid remote public meeting may be conducted to facilitate the phone participation of members of boards / committees / agencies, staff and consultants during the pendency of the COVID-19 pandemic.
3. Social distancing guidelines shall be applicable to all of the in-person components of a hybrid remote public meeting.
4. In accordance with the Governor's Executive Order Number 20-69 and Gulf County Emergency Declaration and Emergency Order(s) authorized thereunder by the Board of County

Commissioners, phone participants in a hybrid remote public meeting may count toward a quorum requirement.

5. A hybrid remote public meeting may be conducted for any, including quasi-judicial proceedings and public hearings as long as all legal requirements can be met.
6. Participants required to provide sworn testimony as part of a hybrid remote public meeting must be present where those participating in-person are physically located.
7. An opportunity for public comment will also provide via email. A public comment email address will be established for each board / committee / agency. The established email address must be included in all meeting notices. Members of the public who are unable to attend the hybrid remote public meeting may submit emails which offer comment, questions and content subject to the Gulf County Public Speaking Ordinance.
8. Until further notice all hybrid remote public meetings will be conducted in the: Donald H. Butler Commissioner Board Room at the Robert M. Moore Administration Building at 1000 Cecil Costin Blvd., Port St. Joe, Florida.
9. All individuals participating in hybrid remote public meetings should identify themselves each time they speak.
10. Individuals participating by phone will not have the benefit of visual presentations unless the meeting is one which is televised (which Gulf County Commission meetings shall be live streamed to the public as technology, connectivity and current systems make possible).
11. Staff will monitor the assigned public comment email address and read public comment into the record at the appropriate time during the meeting.
12. Unless otherwise stated, any of these Emergency Rules and Meeting Policy adopted by this Commission may be temporarily suspended for the meeting in session by a majority of those Commissioners present at said meeting or upon the conclusion of the Emergency Declaration period these temporary meeting rules shall cease.
13. In any instance where the meeting rules and procedure established by these rules are in conflict with state law, county ordinance or court order, or has the effect of violation of any applicable law, ordinance or ruling, or order of the court or administrative agency, or rights thereunder, the procedures established hereunder shall be inoperative to the extent of such conflict or violation.
14. Upon adoption of these Hybrid Remote Meeting Rules and any amendment hereof, the County Administrator shall cause same through the Clerk to the Board to be posted on the County's website and available to the public.
15. These Hybrid Meeting Rules and Policy shall be utilized in conjunction with all other countywide policies and regulations.
16. These Hybrid Remote Meeting Rules and Policy shall be become effective immediately upon adoption.
17. It is the intention of the Board of County Commissioners that the provisions of this policy be adopted, and at such future time, if feasible, codified and that sections of this policy may be

renumbered or re-lettered or such other appropriate word or phrase in order to accomplish such intention.

Passed and duly adopted this 21ST day of APRIL, 2020.

The foregoing policy was offered by Commissioner MCDANIEL, who moved its adoption. The motion was seconded by Commissioner ROGERS and, being put to vote:

DULY PASSED AND ADOPTED THIS 21ST day of April, 2020

ATTEST: Rebecca Norris
CLERK OF COURT

BY: Rebecca Norris
~~DEPUTY CLERK~~

BOARD OF COUNTY COMMISSIONERS
OF GULF COUNTY

BY: Sandy Quinn
Chairman Sandy Quinn

APPROVED AS TO FORM:

BY: Jeremy T.M. Novak
Jeremy T.M. Novak, County Attorney