

POLK CITY

City Commission Special Emergency Meeting (3 pm)

April 3, 2020

Teleconference via ZOOM – refer to the city’s website:
mypolkcity.org, for more information

CALL TO ORDER – Mayor Joe LaCascia

INVOCATION –

PLEDGE OF ALLEGIANCE

ROLL CALL – Sheandolen Dunn, Assistant to the City Manager

ESTABLISHMENT OF A QUORUM

AGENDA

- 1. Emergency Ordinance 2020-03**, an Ordinance of Polk City, Florida, authorizing the City Manager to make provisions for electronic attendance by elected and appointed officials at City Meetings during periods of a declared public health emergency; providing for repealer; providing an effective date
- 2. Resolution 2020-03**, a Resolution of the City Commission of Polk City, Florida (City), amending and extending its declared state of emergency due to the Novel Coronavirus Disease 2019 (COVID-19); authorizing and directing the City Manager to take whatever prudent actions which may be necessary to protect the health, safety and welfare of the citizens of the City and customers of the City’s Utilities Systems pursuant to this declaration; ratifying and affirming such actions taken by the City Commission and City Manager prior to and in furtherance of its March 16, 2020, Emergency Declaration; providing an effective date

CITY MANAGER ITEMS

CITY ATTORNEY ITEMS

COMMISSIONER ITEMS

Vice Mayor Kimsey
Commissioner Blethen
Commissioner Carroll
Commissioner Harper
Mayor LaCascia

ANNOUNCEMENTS

ADJOURNMENT

Please note: Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Commission with respect to any matter considered during this meeting, he or she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the American with Disabilities Act, a person with disabilities needing any special accommodations to participate in city meetings should contact the Office of the City Clerk, Polk City Government Center, 123 Broadway, Polk City, Florida 33868 Telephone (863) 984-1375. Polk City may take action on any matter during this meeting, including items that are not set forth within this agenda. Minutes of the City Commission meetings may be obtained from the City Clerk's office. The minutes are recorded, but are not transcribed verbatim. Persons requiring a verbatim transcript may arrange with the City Clerk to duplicate the recordings, or arrange to have a court reporter present at the meeting. The cost of duplication and/or court reporter will be at the expense of the requesting party.

EMERGENCY ORDINANCE NO: 20-03

AN ORDINANCE OF POLK CITY, FLORIDA, AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR ELECTRONIC ATTENDANCE BY ELECTED AND APPOINTED OFFICIALS AT CITY MEETINGS DURING PERIODS OF A DECLARED PUBLIC HEALTH EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 1, 2020, Ron DeSantis, Governor of the State of Florida, issued Executive Order No. 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 that a Public Health Emergency exists in the State of Florida as a result of COVID-19; and,

WHEREAS, on March 9, 2020, Governor DeSantis declared that a state of emergency exists in the State of Florida as a result of the continued spread of COVID-19; and,

WHEREAS, in order to mitigate or prevent these impacts, on March 16, 2020, the City Commission of Polk City, Florida, found it necessary to declare a state of emergency within the entire incorporated limits of Polk City, Florida pursuant to the City's Charter, and the City's home rule authority, including that set forth in Article VIII, Section 2(b), Florida Constitution, Chapter 252 and Section 166.021, Florida Statutes; and,

WHEREAS, the current outbreak of Coronavirus (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 either City personnel or members of the public to a risk of infection while ensuring public access and open government; and,

WHEREAS, Florida law, including Florida Statutes Sections 286.011 and 166.041, requires that meetings of elected and appointed officials ("Bodies"), for the conduct of public business, must be held following procedures (notice, access of meetings, opportunity to be heard, the taking of minutes, etc.) that ensure that the public is able to participate in and be aware of the decision making process (the "Sunshine Law"); 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 an 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, on March 20, 2020, Governor DeSantis issued Executive Order Number 20-69 which suspends any Florida Statute that requires a quorum to be present in person or requires a local government body to meet at a specific public place and permits local government bodies to utilize communications media technology such as telephonic and video conferencing, as provided in section 120.54(5)(b)2., Florida Statutes; 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 citizens, residents and visitors of the City of Wauchula, Florida; and,

WHEREAS, the City Commission finds there is a clear and present danger in holding a public “in person” meeting for those attending and those who come in contact with those attending; and,

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

WHEREAS, the City Commission finds that it is in the best interest of the personnel and citizens of the City to authorize the City Manager to provide, when he/she determines appropriate, 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 Wauchula pursuant to the City’s Charter, 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.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF POLK CITY, FLORIDA:

SECTION 1. LEGISLATIVE FINDINGS. The above recitals represent the legislative findings of Polk City, Florida, relative to the provisions of this Ordinance and are incorporated herein by reference.

SECTION 2. DECLARATION OF EMERGENCY. Pursuant to state law and based upon the Legislative Findings set forth in the above-stated Recitals, the City Commission of Polk City hereby finds and declares that an emergency exists requiring immediate action by the City Commission. By virtue of the threat to public health and safety by virtue of the threat to the City's financial health and home rule powers, it is necessary for the City to implement this regulation, which can only be accomplished by the adoption of this Emergency Ordinance

SECTION 3. LIMITED AUTHORIZATION FOR PUBLIC MEETINGS WITHOUT PHYSICAL PRESENCE. The City Manager is hereby authorized, pursuant to the Home Rule authority of the City Commission, during a declared public health emergency to:

- a) arrange for the City Commission to meet electronically;
- b) promulgate rules of procedure that will ensure compliance with the Sunshine Law;
- c) provide technology and administrative support as necessary to fulfill these objectives.

Such a meeting may only be conducted without the physical presence of the City Commission members if an emergency is declared based upon an infectious disease, and only so long as (1) the meeting be properly noticed, (2) minutes be taken, and (3) the public be permitted to attend via technology such as teleconferencing or web-based conferencing.

SECTION 4. SEVERABILITY. If any provision of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision and such holding shall not affect the validity of any other provision, and to that end, the provisions of this ordinance are hereby declared severable.

SECTION 5. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. EFFECTIVE DATE. This emergency ordinance shall take effect immediately upon its passage, and shall expire on August 31, 2020. Nothing contained in this ordinance shall give rise to any vested rights, equitable estoppel, or claim for continuing any specific land use.

INTRODUCED AND PASSED AS AN EMERGENCY ORDINANCE this ___th day of April, 2020.

POLK CITY, FLORIDA

Joe LaCascia, Mayor

ATTEST:

Patricia R. Jackson, City Clerk

APPROVED AS TO FORM AND
LEGALITY:

Thomas A. Cloud, Esquire
City Attorney

RESOLUTION 2020-03

A RESOLUTION OF THE CITY COMMISSION OF POLK CITY, FLORIDA (CITY), AMENDING AND EXTENDING ITS DECLARED STATE OF EMERGENCY DUE TO THE NOVEL CORONAVIRUS DISEASE 2019 (COVID-19); AUTHORIZING AND DIRECTING THE CITY MANAGER TO TAKE WHATEVER PRUDENT ACTIONS WHICH MAY BE NECESSARY TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE CITY AND CUSTOMERS OF THE CITY'S UTILITIES SYSTEMS PURSUANT TO THIS DECLARATION; RATIFYING AND AFFIRMING SUCH ACTIONS TAKEN BY THE CITY COMMISSION AND CITY MANAGER PRIOR TO AND IN FURTHERANCE OF ITS MARCH 16, 2020, EMERGENCY DECLARATION; PROVIDING AN EFFECTIVE DATE.

AMENDED & EXTENDED DECLARATION OF STATE OF EMERGENCY POLK CITY, FLORIDA

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and,

WHEREAS, the Governor of the State of Florida has issued Executive Order numbered 20-52, attached hereto as Exhibit "A" and incorporated herein by reference declaring, that a State of Emergency exists in every county in the State of Florida as a consequence of Coronavirus Disease 2019 (COVID-19), a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and,

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

WHEREAS, on March 9, 2020, Governor DeSantis declared that a state of emergency exists in the State of Florida as a result of the continued spread of COVID-19; and,

WHEREAS, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern; and,

WHEREAS, on March 13, the President of the United States issued a national emergency declaration regarding COVID-19; 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 citizens, residents and visitors of Polk City, Florida; and,

WHEREAS, in order to mitigate or prevent these impacts, on March 16, 2020, the City Commission of Polk City, Florida, found it necessary to declare a state of emergency within the entire incorporated limits of Polk City, Florida pursuant to the City's Charter, and the City's home rule authority, including that set forth in Article VIII, Section 2(b), Florida Constitution, Chapter 252 and Section 166.021, Florida Statutes; and,

WHEREAS, Section 252.38, Florida Statutes, provides for emergency management powers of political subdivisions of the State of Florida, including, without limitation, counties such as Polk County, and municipalities such as Polk City (City); and

WHEREAS, pursuant to Section 252.38(3)(a), Florida Statutes, the Legislature has empowered municipalities to declare a state of local emergency; and

WHEREAS, Section 252.38(3)(a), Florida Statutes, empowers municipalities to waive the procedures and formalities otherwise required by law pertaining to:

- A. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- B. Entering into contracts;
- C. Incurring obligation;
- D. Employment of permanent and temporary workers;
- E. Utilization of volunteer workers;
- F. Rental of Equipment;
- G. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities;
- H. Appropriation and expenditure of public funds.

WHEREAS, the City also possesses broad home rule powers that authorize it to protect the public health, safety, and welfare, declare emergencies, and protect its citizens, and has by those powers adopted this day emergency ordinance nos. 2020-02 and 2020-03 to enable it to declare civil emergencies and to hold commission meetings using communications media technology; and,

WHEREAS, COVID-19 is a direct threat to the public which may require expedient action to protect the health, safety and welfare of the community; and,

WHEREAS, the CDC currently recommends mitigation measures in communities with COVID-19 cases, including staying at home when sick, keeping away from others who are sick and staying at home when a household member is sick with respiratory disease

symptoms or if instructed to do so by public health officials or a health care provider; and,

WHEREAS, it is necessary and appropriate to take action to ensure that COVID-19 remains controlled and that residents and visitors in Florida remain safe and secure; and,

WHEREAS, the City now wishes to amend, extend, and update its March 16 Resolution to invoke its home rule powers for the purpose of better protecting the lives of its citizens, residents, employees, and visitors.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF POLK CITY, FLORIDA, THAT:

SECTION 1. A state of local emergency is hereby extended for all of Polk City, Florida effective April __, 2020, until the expiration of the State of Florida's emergency declaration by Executive Order #20-52 or until further notice, whichever first occurs. The City Commission hereby rescinds its cancellation of City commission meetings effective immediately but retains its cancellation of all other City board meetings until further notice. Until further notice, the City Commission also authorizes the City Manager to close the City Library and any other city building or facility for such time as may be deemed reasonable and practical by the City Manager. This delegation shall expire on upon the expiration of the State of Florida's emergency declaration by Executive Order #20-52, unless earlier terminated or modified by the City Commission.

SECTION 2. The City Manager is hereby authorized and directed to take whatever prudent actions that may be necessary to protect the health, safety, and welfare of the citizens of the City and customers of the City's utilities systems. In addition to those powers granted under § 252.38(3)(a), Florida Statutes, the City Manager is delegated the following powers and authority while the state of emergency declared hereby exists:

- (a) To order the evacuation of certain areas of the City;
- (b) To declare curfews during specified hours of the day;
- (c) To declare certain areas of the City subject to quarantine or accessible only under specified conditions;
- (d) To prohibit the sale of merchandise, goods or services at more than the normal average retail price;
- (e) To implement emergency procurement procedures;
- (f) To suspend or regulate the sale of alcoholic beverages, explosive or combustibles;
- (g) To restrict water usage;
- (h) To suspend local building regulations;
- (i) To ration fuel, ice and other essentials;

- (j) To temporarily modify personnel policies; and,
- (k) To temporarily suspend or modify utility rates, fees, charges, bullying termination, and/or service policies set by ordinance or resolution.

SECTION 4. The state of emergency declared hereby shall activate any City emergency plans applicable thereto. Nothing herein shall preclude the grant of additional powers or authority to the City Manager or other appropriate City officials by further declaration or proclamation if necessary to prevent or mitigate the effects of the emergency conditions created by COVID-19.

SECTION 5. The state of emergency declared hereby shall continue in effect from day to day until declared to be terminated by the City Commission.

SECTION 6. Upon its adoption by the City Commission, this resolution shall be effective as of April , 2020, and Resolution No. 2020-02 is hereby superseded, repealed, and replaced by this Resolution. This Resolution shall remain in effect unless repealed by the City Commission.

RESOLVED, PASSED, AND CERTIFIED AS TO PASSAGE THIS __ DAY OF APRIL 2020.


**CITY COMMISSION OF POLK CITY,
FLORIDA**

Joe LaCascia, Mayor

ATTEST:

Patricia R. Jackson, City Clerk

APPROVED AS TO FORM & LEGALITY



Thomas A. Cloud, Esquire, City Attorney