

RESOLUTION 2020-04

A RESOLUTION OF THE CITY COMMISSION OF POLK CITY, FLORIDA (CITY), RATIFYING AND CONFIRMING ALL ACTIONS AND DECISIONS OF THE CITY COMMISSION RENDERED BY RESOLUTION FROM APRIL 3 TO JUNE 4, 2020; EXTENDING ITS DECLARED STATE OF EMERGENCY DUE TO THE NOVEL CORONAVIRUS DISEASE 2019 (COVID-19); PROVIDING AN EFFECTIVE DATE.

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, Florida law, including §§ 286.011 and 166.041, Florida Statutes, 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.

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, 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, the City Commission found that there was a clear and present danger in holding a public “in person” meeting for those attending and those who come in contact with those attending, both now and if there are future similar pandemic events; 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, 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 Wauchula (the “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, in order to mitigate or prevent these impacts, on March 16, 2020, the City Commission then found that it is necessary to declare a state of emergency within the entire incorporated limits of the Polk City pursuant to the City’s Charter, Chapter 252, Florida Statutes, through the adoption of Resolution No. 2020-02 (the “March 16 Resolution”); and,

WHEREAS, the City Commission 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 ordinance nos. 2020-02, 2020-03, and 2020-04 to enable it to declare civil emergencies and to hold commission meetings using communications media technology; and,

WHEREAS, 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 in order to mitigate or prevent these impacts, on April 3, 2020, the City Commission then found that it is necessary to approve Resolution No. 2020-03 pursuant to the City's Charter, Chapter 252, Florida Statutes, 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; and,

WHEREAS, beginning on June 15, 2020, the City Commission has reinstated in person, live meetings of the City Commission; and,

WHEREAS, in an abundance of caution, the City now wishes to adopt a resolution ratifying all actions and decisions rendered by the City Commission by verbal motion or written resolution while it was compelled by its obligation to protect the public health, safety, welfare, and human life to hold virtual meetings; and,

WHEREAS, the City has followed all applicable requirements of its Charter, the City Code, and state statute, and has made all necessary findings required by law to ratify and confirm the actions and decisions referred to below.

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

SECTION 1. RATIFICATION OF CITY COMMISSION ACTIONS AND DECISIONS RENDERED. The City hereby ratifies, readopts, and confirms all actions and decisions rendered by the City Commission by verbal motion or written resolution between April 3 and June 4, 2020.

SECTION 2. EXTENSION OF EMERGENCY DECLARATION. A state of local emergency is hereby extended for all of Polk City, Florida effective June 15, 2020, until the expiration of the State of Florida's emergency declaration by Executive Order #20-52 or until further notice, whichever first occurs. 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 3. CITY MANAGER AUTHORIZATIONS. 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,

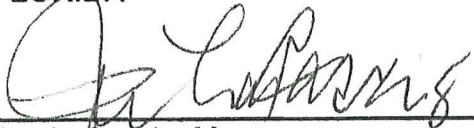
(k) To temporarily suspend or modify utility rates, fees, charges, billing termination, and/or service policies set by ordinance or resolution.

SECTION 5. TERM. 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. EFFECTIVE DATE. Upon its adoption by the City Commission, this resolution shall be effective as of June 15, 2020, and Resolution No. 2020-03 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 JUNE, 2020.

**CITY COMMISSION OF POLK CITY,
FLORIDA**



Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Manager/Clerk

APPROVED AS TO FORM & LEGALITY



Thomas A. Cloud, Esquire, City Attorney