RESOLUTION NO. 2020-R-135

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, SUSPENDING, FOR THE DURATION OF THE CORONAVIRUS DISEASE 2019 (COVID-19) STATE OF EMERGENCY, ANY PROVISION OF THE CITY CODE THAT WOULD PREVENT MEMBERS OF THE CITY COUNCIL OR ANY OTHER CITY BOARD 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; FURTHER AUTHORIZING THE ESTABLISHMENT OF HYBRID MEETINGS FOR MEETINGS OF THE CITY COUNCIL AND CITY BOARDS THAT TAKE PLACE DURING THE COVID-19 STATE OF EMERGENCY; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.

WHEREAS, it is well established in opinions issued by the Florida Attorney General that in order to establish a quorum, the requisite number of members must be physically present, and that if a quorum is physically present, the participation by of an absent member by telephone/video is permissible due to extraordinary circumstances; and

WHEREAS, the Center for Disease Control and Prevention has advised that in order to slow the spread of the Coronavirus/COVID-19, individuals should adopt far-reaching social distancing measures; and

WHEREAS, finding it necessary and appropriate to take action to ensure that Coronavirus/COVID-19 remains controlled and that residents and visitors in Florida remain safe and secure, on March 20, 2020, the Governor of the State of Florida issued Executive Order No. 20-69 (“Order”) suspending 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

WHEREAS, the Order also expressly permitted local government bodies to utilize communications media technology, such as telephonic and video conferencing, as provided in section 120.54(5)(b)(2), F.S.; and

WHEREAS, the Order did not waive any other requirement under the Florida Constitution or “Florida’s Government in the Sunshine Law,” including Chapter 286, F.S.; and
WHEREAS, the Order required that local government bodies adopt rules of procedure for virtual meetings, in accordance with section 120.54(5)(b)(2), F.S.; and

WHEREAS, on April 28, 2020 the Mayor and City Council adopted Resolution No. 2020-R-43 which established Rules of Procedure for virtual meetings and virtual quasi-judicial meetings; and

WHEREAS, the Governor’s local government meeting executive orders expired on October 31, 2020 and are no longer in effect; and

WHEREAS, on October 27, 2020, the Mayor and Council found that emergency conditions due to COVID-19 still existed due to the rising case numbers and positivity rates in the South Florida Region and that due to the medical circumstances of members of the Council and its boards, voted to continue the use of virtual hearings (with a physical quorum at City Hall) through the end of the 2020 calendar year; and

WHEREAS, various provisions of the City Code require that city boards must establish quorum and that members be “present at a meeting” in order to participate in the vote on any action but does not identify under what conditions physical or virtual presence may be required to vote on matters; and

WHEREAS, certain council and 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 City Council and other City boards and commissions may preclude their ability to be physically present at meetings during the COVID-19 state of emergency; and

WHEREAS, the City Council now wishes to continue utilizing a hybrid virtual hearing format where a quorum of the members of the City Council is physically present in City Hall, while staff, applicants, and the public attend the meeting virtually; and

WHEREAS, the City Council finds that if a member of the City Council feels unsafe attending the Council meeting in person due to the risks associated with the Coronavirus/COVID-19 pandemic, and instead wishes to attend the meeting virtually or telephonically, that is considered an “extraordinary circumstance” thereby allowing the member to attend the meeting in that fashion so long as there is a physical quorum present in City Hall.
NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. Suspension of Code Provisions. The Mayor and City Council hereby suspend, for the duration of the COVID-19 state or local state of emergency, any and all provisions of the City Code that would prevent members of the City Council or any other city board or commission from using communications media technology to participate in and vote on items during meetings when: (1) a quorum of the City Council or other board or committee is physically present; and (2) the remote presence is medically necessary.

Section 2. Establishment of Hybrid Meetings. The City Council hereby finds that if a member of the City Council or City Board feels unsafe attending the Council meeting in person due to the risks associated with the Coronavirus/COVID-19 pandemic, and instead wishes to attend the meeting virtually or telephonically, that is considered an “extraordinary circumstance” thereby allowing the member to attend the meeting in that fashion so long as there is a physical quorum present in City Hall.

Section 3. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 8th day of December, 2020.

PHILIPPE BIEN-AIME
MAYOR

ATTEST:

VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

JEFF H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ATTORNEY
Vote:
Mayor Philippe Bien-Aime
Vice Mayor Alix Desulme, Ed.D.
Councilman Scott Galvin
Councilwoman Carol Keys, Esq.
Councilwoman Mary Estimé-Irvin

Moved by:   Galvin
Seconded by:  Keys

X  (Yes)    (No)
X  (Yes)    (No)
X  (Yes)    (No)
X  (Yes)    (No)
X  (Yes)    (No)