

A Resolution of the Jacksonville Waterways Commission defining “extraordinary circumstances” so that members may participate and vote on matters before the Commission by using communications media technology (“CMT”).

WHEREAS, The Jacksonville Waterways Commission (“Commission”) consists of 13 members, and a quorum of the membership is 7 members; and

WHEREAS, the City of Jacksonville appreciates the effort and valuable time given by the members of the Commission for their public service serving on the Commission; and

WHEREAS, Executive Order 20-69, issued by Governor DeSantis on March 20, 2020, suspended any Florida statute requiring a quorum to be present in person and further allowed local government bodies to utilize communications media technology (“CMT”) such as telephonic and video conferencing; and

WHEREAS, Executive Order 20-69 expired at 12:01 a.m. November 1, 2020; and

WHEREAS, Florida Attorney General Advisory Legal Opinion AGO 2020-03 concludes that “any statutory quorum requirement to conduct public business requires the quorum to be present; and that members present by electronic means could not count toward establishing the quorum; and

WHEREAS, Florida Attorney General Legal Advisory Opinion AGO 2003-41 concludes that “where a rule or statute contemplates that a meeting will be held in a public place with the members physically present, the participation of an absent member in the meeting by telephone conference should be permitted only in extraordinary circumstances and when a quorum of board members is physically present at the meeting” and further provides that a board may determine when such an absence constitutes an extraordinary circumstance; and

WHEREAS, a guidance memorandum issued by the Office of General Counsel, dated November 3, 2020 and drafted by Deputy General Counsel Lawsikia Hodges, concludes that a City board may permit members to use CMT to attend, participate and vote at public board meetings after Executive Order 20-69 expires, provided that: (1) a physical quorum is present at the meeting place that is reasonable open to the public; (2) extraordinary circumstances adopted by the board exist that prevent a member from physically attending the meeting place in person; (3) the board member and public attending the meeting place in person can hear and understand any board member that attends the meeting via CMT; and (4) such electronic participation by the member is not prohibited by the board’s charter, ordinance, bylaws or other applicable governance documents; and

WHEREAS, in order to insure compliance with various statutory requirements as interpreted by the Florida Attorney General and the guidance memorandum issued by the Office of General Counsel, the Commission desires to define the extraordinary circumstances that would allow a Commissioner to participate and vote using CMT; and

WHEREAS, the Commission does not currently have any specific bylaws or other applicable governance documents; and

WHEREAS, pursuant to Sec. 95.104(c), *Ordinance Code*, rules to implement the provisions of Chapter 95 (Jacksonville Waterways Commission) requires the approval of Council; and

WHEREAS, the Commission requests the approval by the City Council of this procedural rule, now therefore,

Be it Resolved by the Jacksonville Waterways Commission:

Section 1. Participation of Members by Communication Media Technology (“CMT”) allowed under certain circumstances. Unless otherwise allowed by law, a quorum (7 members) of the Commission must be physically present in the public meeting place in order for the Commission to take action. **Once a quorum is physically present** in the public meeting place, other members who have complied with the prior notice outlined below may **participate and vote** using CMT if the following conditions are met:

1. The meeting has been properly noticed;
2. Members of the public are able to attend in-person or via CMT; and
3. Members participating and voting via CMT are doing so because they have requested to do so, and are unable to physically attend the meeting place due to an “extraordinary circumstance,” which includes, but is not limited to:
 - a. the COVID-19 pandemic,
 - b. other health related issues,
 - c. military duty or deployment,
 - d. extraordinary family circumstance, or
 - e. mandatory business obligation.
4. Members participating and voting via CMT must request to do so. The member must make every effort to contact Commission staff at least two (2) business days prior to the meeting, between the hours of 8:00AM and 4:00 PM, in order to make the request and state in

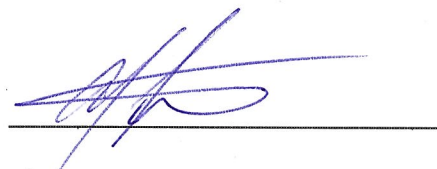
writing that they meet an “extraordinary circumstance” defined above. Such member’s attendance at a Commission meeting via CMT will not be considered an absence for such member.

If a member is not able to notify the staff 2 days prior to the meeting, and the conditions are met to allow virtual attendance by the member, the Commission may take a vote at the meeting to allow the member to participate and vote by CMT. The Commission may also approve additional extraordinary circumstances, as may be presented to the Commission, on a case-by-case basis in the Commission’s good judgment.

Section 2. Notification. A copy of this Resolution shall be provided by the Legislative Services Division for notices regarding the Hybrid Virtual/In-Person Notice for the Jacksonville Waterways Commission.

Section 3. Explanation of Extraordinary Circumstance. A member requesting to participate and vote through CMT is not required to provide specific information regarding the reason for requesting virtual attendance, but shall state in writing that the reason is an “extraordinary circumstance” as defined herein.

Section 4. Effective Date. This Resolution shall become effective upon approval by the City Council.

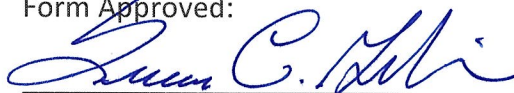


Chairman Ferraro

2-12-21

Date

Form Approved:



Office of General Counsel