

**Summary Minutes of the
ISLAMORADA, VILLAGE OF ISLANDS
(HYBRID) SPECIAL CALL VILLAGE COUNCIL MEETING**

Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036
Thursday, May 13, 2021
5:30 PM

Hybrid Meeting Occurred Utilizing Communications Media Technology (CMT)

Pursuant to the Centers for Disease Control (CDC), social distancing guidelines established to contain the spread of the COVID-19 virus, the Special Call Village Council Meeting was conducted utilizing Communication Media Technology (CMT) via a Zoom video conferencing application. Only Council Members and essential staff members required to conduct the meetings were in physical attendance due to the limited room capacity. The general public was able to virtually attend and participate in Council meetings utilizing the Zoom meeting infrastructure.

CALL TO ORDER / ROLL CALL

Mayor Pinder called the meeting to order at 5:32 p.m. Village Clerk Kelly Toth called the roll with the following Councilmembers being present on roll call: Mayor Buddy Pinder, Vice Mayor Pete Bacheler, Councilman Mark Gregg, Councilman David Webb and Councilman Henry Rosenthal. Village Clerk Kelly Toth and Deputy Clerk Stephanie Conde were also present. Village Attorney Roget Bryan and Acting Village Manager Maria Bassett, along with other pertinent staff appeared virtually.

PLEDGE OF ALLEGIANCE AND INVOCATION

Fire Chief Terry Abel led the Pledge of Allegiance. Mayor Buddy Pinder provided the prayer.

VIRTUAL MEETING PROCEDURES

Village Attorney Roget Bryan provided the virtual meeting procedures.

PUBLIC COMMENT

Mayor Pinder opened public comment; no comment was offered.

DISCUSSION AND DIRECTION

TAB 1: Governor DeSantis' Executive Order 21-102 suspending COVID-19 restrictions

Village Attorney Roget Bryan explained that the Governor's Executive Order suspended all local COVID-19 restrictions and mandates on individuals and businesses; that on May 5, 2021 Monroe County rescinded its mask ordinance, Ordinance 032-2020, ; and that the Village was still under the State's State Declaration of Emergency through June 26, 2021.

Acting Village Manager Maria Bassett reported that since Monroe County rescinded the mask ordinance, she established a policy within Village Hall that made mask wearing optional, but strongly encouraged; social distancing is still encouraged; Zoom meetings with staff can still be

requested; and that Founders Park was still at 50% capacity pending the discussion by Council at the May 20 meeting regarding events.

Councilman David Webb asked the Village attorney about the options the Council had with regard to in-person attendance, installation of Plexi glass et cetera. The Village Attorney explained that policy decisions could be made by Council as long as they were not tied to any local emergency order or directive, noting that there currently were no local emergency orders or directives. Council discussion ensued regarding concerns about the risk of infection remaining high until more people were vaccinated; Monroe County BOCC meetings were now open to the public allowing in-person attendance with attendance also via communications media technology; and the difficulties some businesses have had enforcing the mask mandate.

Councilman Mark Gregg asked the Village Attorney for a summary of the options available to the Council for the Council Chambers to restrict exposure to infection. He noted that he was aware that they could not require anyone to wear a mask or request to see proof of vaccination. Village Attorney Roget Bryan reiterated the prohibitions in Executive Order 21-02; explained that the Council could still take measures related to public health and safety as long as they were not tied to an emergency order that restricted the rights of individuals or businesses; and that private businesses could require patrons to wear masks and have their own policies as they were not tied to an emergency order or directive. He commented that meetings were open to the public; Village Hall had been open to the public for many months while other government entities were closed, with the exception of a period in January when there was an outbreak among a few staff members; the policy at Village Hall was that masks were encouraged but not required; suggested having a preliminary discussion with the Acting Village Manager and staff regarding reduced capacity for Council meeting attendance which could be done at the May 20 meeting; and encouraged the Council to remain consistent with the County's position and the Governor's guidance, which is what the Council had done thus far.

Councilman Gregg stated he was unsure of what the current State of Emergency allowed and that he did not know what measures could be taken in the Council Chambers without violating some order; expressed his concerns regarding in-person attendance by people not wearing masks and the HVAC system circulating the air in the room; noted the age of Councilmembers being 60 years and older and that they were classified in the COVID-19 vulnerable group; and noted that some people that wanted to attend may feel uncomfortable if they had to sit next to someone without a mask. Mayor Pinder stated that individuals that were uncomfortable attending a meeting in person could still participate via the Zoom platform; that he was informed by Monroe County Mayor Michelle Coldiron that 85% of the 65 and older population in Monroe County had been vaccinated; that if the Village was going to continue to follow Monroe County then Village meetings would be open to in-person attendance supplemented by participation through the Zoom platform and noted that Miami-Dade County and Miami Beach meetings were open to the public.

Councilman Gregg expressed concern regarding the number of visitors to Islamorada; suggested that people attending the meeting may have travelled overseas noting the variants of the virus; and commented that the air in the Council Chambers was being circulated. He stated that due to the Governor's Order, in order for him to fulfill his duty as a Councilman he had to be in a room with

people that did not want to wear a mask who might be infected. Councilman Webb stated he was not sure Councilman Gregg's statement was accurate and noted Section four (4) of the Executive Order stated, "Nothing herein prohibits a political subdivision of the State from enacting ordinances pursuant to regular enactment procedures to protect the health, safety and welfare of its population." He opined that COVID could not be excluded from this and asked the Village Attorney if the Council had the authority to require a mask for in-person attendance at Village Council meetings. Mr. Bryan stated that the interpretation provided by many other government attorneys was that it would equate to a local government restriction based on COVID-19 which is specifically what Executive Order 21-109 relates to. Councilman Webb provided an example of restrictions imposed by a dentist and asked why the Council could not have similar protocols. The Village Attorney stated the primary difference was the Executive Order targeted local governments. He explained that there was no COVID state of emergency that a local government could declare; however, we were still under a State Declaration of Emergency specifically for COVID which runs through June 26, 2021. He explained with regard to requiring masks in the Council Chambers, the Council did not have the ability to impose that restriction due to the Executive Order; that the mask mandate created by Monroe County no longer existed; and restated that the Executive Order specifically targeted COVID-19 restrictions imposed by local governments. Vice Mayor Pete Bacheler stated that the Village could allow in-person attendance and encourage mask wearing. Councilman Rosenthal noted the optional mask wearing policies of private businesses. He stated he would be in favor of in-person attendance and encouraging the public to wear masks, but that masks would not be mandatory; and that he preferred deciding on the matter rather than deferring the decision to the May 20 meeting.

Councilman Gregg stated he would like to know what non-COVID related restrictions the Council could require regarding the room occupancy; expressed his anger at the Governor's decision with regard to the position elected officials were in who had a real concern about the spread of the virus at a government meeting; suggested breaking the room up to provide a safe distance between Council and the public and possibly opening the doors.

Councilman Webb asked if the seating area for the public could be divided into two sections one for those wearing masks and the other section for those without a mask. The Village Attorney said he was not able to opine on the question. He stated there may be another way to approach the idea. Councilman Webb stated that he supported Councilman Gregg's position, but that it should not keep other people from doing what they wanted to do because those people were afraid of getting sick. He stated he would like the podium pushed back away from the dais, additional Plexi glass added to the dais on his right, and requested an announcement be made at the beginning of the meeting to direct the public not approach the Council unless invited to do so and suggested reasonable measures be taken that would not violate the Governor's order. Mayor Pinder, with support from Councilman Gregg, suggested erecting Plexi glass across the room dividing the Council from the public. Discussion ensued regarding protective measures such as installing UV light in the HVAC system and reconfiguring the dais. The Village Clerk asked if it was an option to distance the chairs in the Council Chambers for those who preferred in-person attendance and to also provide overflow seating using bleachers and a TV monitor outside while still allowing for public comment at the podium. The Village Attorney stated that it was an option and that there

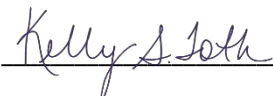
were precautionary measures that could be taken that were not tied to an emergency directive. He stated some of the measures could be implemented before the next meetings next week. Acting Village Manager Maria Bassett stated staff would look at measures that could be put into place before the next meeting. She asked the Village Attorney if two Councilmembers could participate remotely as long as there was a physical quorum. Mr. Bryan stated he could look at it. He stated the implications of Executive Order 20-69 was to have physically present quorums of elected officials; that there were broader policy considerations for Council for having all Councilmembers physically present and that there was a way to approach tailoring the need for one or two Councilmembers, based on specific health reasons, to attend virtually. Mayor Pinder directed the Acting Village Manager to push the podium further back, install a barrier behind the Clerk's desk, and add another Plexi glass partition on the right-side of Councilman Webb. The Village Clerk suggested that she could make masks available at the meetings and offer them to those attending that did not have one. Acting Village Manager Maria Bassett stated that the barrier may be a product other than hard acrylic and noted the Hybrid (Zoom) option would still be available for the meetings. Vice Mayor Pete Bacheler stated that he understood the concerns expressed by Councilman Webb and Councilman Gregg; stated that he did not want to deter the public; opined that the number of people attending that did not want to wear a mask would be minimal; noted the fluctuating COVID-19 numbers; expressed support for the suggested measures; and noted he would like to see Founders Park opened up more. Ms. Bassett stated the two air conditioners in the Council Chambers were separate and that staff would look into getting the UV lights for the air intake. She asked if it was Council's preference that staff continue to participate in the meetings via Zoom. Council expressed agreement. Mayor Pinder noted that Mayor Michelle Coldiron informed him they were going to continue the Zoom option for the public. Councilman Webb expressed continuing the Zoom option in perpetuity.

Councilman Gregg stated he would like to know what the new prohibitions were related to the laws that go into effect on July 1, 2021. Mayor Pinder and Councilman Webb commented that Bob Eadie with the Monroe County Florida Department of Health would be providing an update at the May 20 meeting. Councilman Rosenthal confirmed that the Council meetings on the May 19 and May 20 would be open to in-person attendance.

ADJOURNMENT

Councilman Henry Rosenthal made a motion to adjourn. Vice Mayor Pete Bacheler seconded the motion. The meeting adjourned at 6:41 p.m.

Approved by Council June 9, 2021.



Kelly S. Toth, CMC
Village Clerk