

City Commission Agenda Work Session
Meeting Minutes
July 29, 2020
(Approved)

This meeting was conducted partially via teleconference Pursuant to Executive Order No. 20 -69, issued by the Office of Governor Ron Desantis on March 20, 2020, extended via Executive order no. 20-112, and further extended by Executive Orders No 20-114, and 20-150 municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54 (5)(b)2, Florida Statutes.

The City of Lake Wales held this hybrid virtual public meeting using the GoToMeeting Web/Teleconference service.

7/29/2020 - Minutes

1. CALL TO ORDER & ROLL CALL

Commissioners Present: Terrye Howell, Curtis Gibson, Al Goldstein, Robin Gibson, Mayor Fultz arrived late.

Staff Present: James Slaton, Interim City Manager; Jennifer Nanek, City Clerk

Mayor Fultz called the meeting to order at 3:00 p.m.

Mayor Fultz read a statement:

Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron DeSantis on March 20, 2020, extended by Executive Order 20-112, and further extended by Executive Order No 20-114, and 20-150 municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media

technology such as telephonic or video conferencing, as provided by Section 120.54(5)(b)2, Florida Statutes. Procedures for public participation will be explained by the City Attorney shortly. Albert Galloway, Jr., City Attorney, read a statement on Procedures for this partial virtual Public Meeting.

Mr. Galloway asked the Commissioners, "are you comfortable with all the notice provisions set forth and these uniform rules of procedures we have established for this Virtual meeting? The Commissioners answered affirmatively.

2. City Manager Comments

James Slaton, Interim City Manager, reminded the Commission of the upcoming Park Avenue open house Workshop which will include a virtual meeting and an in person workshop on Thursday from 9am -2pm. The public will be able to get their questions answered.

The next Commission Meeting is Tuesday at 6pm. We will have Dr. Jackson, Director of the Health Department, will the COVID-19 update.

3. DISCUSSION ITEMS

3.1. Reauthorization Of Citizens Advisory Task Force (CATF)

[Begin Agenda Memo]

SYNOPSIS

The City Commission needs to re-authorize the Citizens Advisory Task Force (CATF) to provide public input for the forthcoming CDBG application.

RECOMMENDATION

Staff recommends that the City Commission

1. Re-authorize the CATF
2. Reappoint three past members to the Citizens Advisory Task Force (CATF) that are still interested in serving. Janice Snell, Durinda Wells, and Linda Kimbrough are recommended for appointment.
3. Appoint new members. Narvell Petersen and Eddy Rivers live in that neighborhood and are willing to serve.

BACKGROUND

In November 2015, the City Commission authorized the CATF to review the CDBG grant application for the C Street Sewer Project and to provide input. The last meeting was held in December 2015. Those members consisted of Durinda Wells, Geraldine Anderson, Linda Kimbrough, Janice Snell and Clinton Horne. In order to apply for a Housing Rehabilitation CDBG grant in October, this task force must be re-authorized. This group would meet in the next few months to review and comment on the proposed application.

The CATF must have at least 5 members, all of which must be residents of the City. At least 51% of the CATF members need to be from low to moderate income (LMI) households - so the smallest size CATF is 5 members - that means that 3 must be LMI. Also, none can be elected officials and no more than one can be a City employee.

OTHER OPTIONS

None.

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item. We should know by the end of this year if the City is awarded this grant.

3.II. RESOLUTION 2020-26 Extended State Of Emergency Declaration

[Begin Agenda Memo]

SYNOPSIS: Resolution 2020-26 declares a State of Emergency for Lake Wales in response to concerns related to COVID-19. This will be in effect from August 7, 2020 until September 7, 2020.

RECOMMENDATION

Staff recommends adoption of Resolution 2020-26 State of Emergency Declaration from August 7th, 2020
September 7th 2020.

BACKGROUND

In response to the threat of COVID-19 Mayor Fultz issued a State of Emergency on March 13th for seven days and issued three more 7 day States of Emergency after that. The current state of emergency was extended twice more at the beginning of April and again in May, June and July. The current State of Emergency which was approved by the City Commission on July 7th will expire August 7th. According to Chapter 9 in our Code of Ordinances, the City Commission must approve a State of Emergency to last 30 days.

OTHER OPTIONS

Do not approve Resolution 2020-26.

FISCAL IMPACT

There is no fiscal impact from the resolution itself. There will be some costs to the City as we respond to this threat. These costs are being tracked. A declared State of Emergency will allow the City to seek possible reimbursement for those costs.

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item.

Commissioner Goldstein if this and other items related to the state of emergency will be voted on after the presentation by Dr. Jackson and will we know if the Executive Order allowing virtual meetings will be extended? Mr. Slaton confirmed that the presentation will be first.

Albert C. Galloway, Jr., City Attorney, explained that if the Executive Order allowing virtual meeting is not extended then Commissioners, at least a majority of them, will have to be present in the Commission Chambers to meet a quorum. Deputy Mayor Robin Gibson confirmed that a quorum means three of them. Mr. Galloway said yes. Deputy Mayor Robin Gibson asked if four will be needed to be in person for the Emergency Ordinance. Mr. Galloway said no. Deputy Mayor Robin Gibson said that only one other Commissioner would need to appear in person on Tuesday but all five can vote. Commissioner Goldstein said that he was certain the Governor would extend the order otherwise the state would be in turmoil.

Commissioner Goldstein asked about the meeting tomorrow. Mr. Slaton said the workshop tomorrow was all virtual. Friday is the in person open house.

Mr. Galloway reviewed the constitutionality of the two ordinances concerning masks. Anyone can challenge them. So far they have been declared constitutional.

3.III. Emergency Ordinance 2020-01 - Requirement To Wear Face Masks

[Begin Agenda Memo]

SYNOPSIS:

The City Commission will consider adopting Emergency Ordinance 2020-21, requiring the wearing of face masks or similar coverings in certain public places.

RECOMMENDATION

It is recommended that the City Commission take the following action(s):

1. Adopt Emergency Ordinance 2020-21.

BACKGROUND

The City Commission expressed a desire to mandate the wearing of face masks in public inside the city limits of Lake Wales during the July 21, 2020 City Commission meeting. The proposed Emergency Ordinance:

- Does not require a second reading
- Expires in thirty (30) days
- Imposes a noncriminal civil citation for non-compliance
- Requires a super majority affirmative vote of the City Commission to adopt

OTHER OPTIONS

The City Commission may 1) direct staff to revise the proposed Ordinance prior to adoption or 2) may elect not to approve the Emergency

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item. He explained the distinction of an Emergency Ordinance. Four members need to approve this and it expires in 30 days.

Deputy Mayor Robin Gibson asked about the details of the Leon County issue which did something similar. Albert Galloway, Jr., City Attorney, reviewed the case and that the issues were substantive. Commissioner Goldstein asked about enforcement. Mr. Galloway said it was a civil fine.

Mr. Slaton explained the details of this Ordinance and the following one and the differences. He asked the Commission if they want to include churches.

Deputy Mayor Robin Gibson said to not include those. We don't have standing as far as churches and the schools will have their own rules. Commissioner Curtis Gibson said Polk County Schools already are requiring masks and he is in favor of letting them make their own decisions.

Commissioner Goldstein said the County and some cities have not moved forward with a mandate while some cities have. He is concerned that a mandate may be overturned.

Commissioner Howell asked about businesses. Can the City regulate this? Mr. Galloway said yes as they are public spaces. We are requiring individuals to wear masks not requiring businesses to require masks. Commissioner Curtis Gibson said many businesses such as Wal-Mart are dropping the mask requirement as it is leading to arguments with customers. Are we requiring businesses to put up signs requiring masks? Mr. Galloway said it would be helpful. Mr. Slaton reviewed the section of the ordinance about penalties.

Commissioner Goldstein said he objected to putting this burden on the police department. Commissioner Curtis Gibson agreed.

Mayor Fultz reviewed some of the exceptions in the Ordinance. This is an important for the protection of our Citizens. Many feel this is a violation of personal rights but we have a job to do. We need to protect our citizens.

Commissioner Curtis Gibson said he supports wearing masks and we currently have a resolution encouraging the wearing of masks. He sees many wearing masks. He does not like requiring masks. We have a lot of economic issues and we need not put another burden on our businesses. How will our law enforcement enforce this? Will they only target certain people to comply?

Deputy Mayor Robin Gibson said he did not want criminal penalties only civil. Mayor Fultz agreed.

Commissioner Howell asked if we are telling businesses what to do. Mr. Galloway said that businesses are being asked to make a reasonable effort to get people to wear masks. Commissioner Curtis Gibson said the Ordinance says "must". Commissioner Howell asked if we have the authority to tell businesses to do this. Mr. Galloway explained we have police power to regulate the safety and welfare of the citizens during a pandemic. Commissioner Howell asked if this is valid for 30 days. Mr. Galloway said yes, if enacted this Ordinance would be valid for 30 days. It would require a super-majority vote.

Commissioner Goldstein said this is ridiculous. There are many experts that think masks don't work. We are wasting time on this.

Mayor Fultz said we need to put the Ordinance through the process to vote.

Mr. Galloway said he drafted this at the request of the Commission and he can change elements of this if the Commission wishes. Commissioner Curtis Gibson asked Mr. Galloway how long it took him to draft this. Mr. Galloway said two hours.

Mr. Slaton said we can revise it to include civil penalties of a fine. Mayor Fultz said we should have a low amount for a penalty. He doesn't want to punish people he wants people to comply.

3.IV. ORDINANCE 2020-15 Wearing Masks

[Begin Agenda Memo]

SYNOPSIS:

The City Commission will consider adopting Ordinance 2020-15, requiring the wearing of face masks or similar coverings in certain public places.

RECOMMENDATION

It is recommended that the City Commission take the following action(s):

1. Adopt Ordinance 2020-15.

BACKGROUND

The City Commission expressed a desire to mandate the wearing of face masks in public inside the city

limits of Lake Wales during the July 21, 2020 City Commission meeting. The proposed Ordinance:

- Does require a second reading
- Expires upon adoption of a repealing Ordinance
- Imposes a noncriminal civil citation for non-compliance
- Does not require a super majority affirmative vote of the City Commission to adopt

OTHER OPTIONS

The City Commission may 1) direct staff to revise the proposed Ordinance prior to adoption or 2) may elect not to approve the Ordinance.

FISCAL IMPACT

None.

ATTACHMENTS

[End Agenda Memo]

James Slaton, Interim City Manager, reviewed this item and explained the differences between this and the previous item. A regular ordinance would be required to rescind it.

Commissioner Curtis Gibson said the Florida League of Cities has no recommendation on this. Does staff have a recommendation? Mr. Slaton said that staff recommends approval.

Commissioner Howell asked if the businesses make an effort on education do they avoid fines. Albert Galloway, Jr., City Attorney, said yes so long as they make a reasonable effort to educate their customers. She asked if she can call the police on someone without a mask. Mr. Galloway said he doubts the Police will respond to these complaints. The purpose is more education than enforcement. Commissioner Curtis Gibson asked if the police will fine those not in compliance. Mr. Galloway said they could but officers will have discretion.

Commissioner Goldstein said we should reinforce our resolution encouraging masks and not waste our time on the mandate.

Deputy Mayor Robin Gibson said we don't have to get too worked up on this. The ordinance gives people an option to stay six feet away from others. There are serious consequences to this disease.

3.V. RESOLUTION 2020-25 Citizens And Police Community Relations Advisory Committee

[Begin Agenda Memo]

SYNOPSIS:

Resolution 2020-25 modifies the Citizens and Police Community Relations Advisory Committee, expanding the committee to 6 members from 3 members, allowing for each Commissioner to appoint members and changing the meeting schedule to monthly.

RECOMMENDATION:

Staff recommends the City Commission adopt RESOLUTION 2020-25.

BACKGROUND

At a recent City Commission Workshop staff was directed to prepare a resolution to modify the Citizens and Police Community Relations Advisory Committee. This resolution expands the Committee to 6 members from 3 members and provides each Commissioner the ability to appoint one member each. The 6th member will continue to be appointed by the Chief of Police. This resolution also changes the meeting frequency from quarterly to monthly.

The Lake Wales City Commission on May 3, 2011 adopted Resolution 2011-05 to establish the Citizens and Police Community Relations Advisory Committee "to provide a forum for respectful discussion that will lead to a greater partnership and stronger working relationship between all community members and the police department."

The primary goal of the Community Relations Committee was to improve the relationship between the

community and the police department.

The main provisions of Resolution 2011-05 were as follows:

- A three-member Community Relations Committee was created. Two citizen members were appointed by the Mayor with the approval of the Commission, and one police officer member was appointed by the Police Chief.
- The committee regularly met once a month in the Municipal Administration Building, but any member of the committee could call a special meeting if one was deemed to be necessary. The committee and its members were subject to the Sunshine Law and other applicable State laws and City ordinances.
- The committee provided a forum in which citizens could express opinions or concerns and positively resolve issues they may have with police policies or procedures.
- The committee did not serve as a means to circumvent the Police Officers Bill of Rights by providing a forum for discussion of complaints regarding officer misconduct.

Resolution 2011-05 was later amended with the adoption of Resolution 2012-02, which expanded the committee from three members to five (one police officer and four citizens) and removed the restriction of holding the meetings in the City Administration Building, allowing the meetings to take place anywhere in the community determined by the committee.

A final amendment, Resolution 2014-07, changed the meeting schedule of the Community Relations Committee from monthly to quarterly. Although the committee was effective in providing constructive dialogue between citizens and the police department, citizen attendance eventually declined, which led to the amended meeting schedule. The previous amendment expanding the board to four citizen members was not carried forward in this particular amendment.

Due to a lack of involvement, the committee eventually stopped meeting altogether around 2016. The committee, however, was not among the 10 boards officially dissolved by the commission on Feb. 7, 2017 through Resolution 2017-02.

The Police Chief and the City Commission have indicated an interest in re-establishing a Citizen and Police Community Relations Advisory Committee. A copy of the current Resolution, 2014-07, is attached for the Commission to review and to provide any desired changes to staff.

Input received has indicated possible interest in amending the committee member appointment process, with the Commissioners and the Mayor appointing one committee member each. If this is the desired direction of the Commission, the committee size would need to be expanded to six (five citizens and one police officer).

FISCAL IMPACT

None.

[End Agenda Memo]

Mr. Slaton said he is bringing this back Tuesday for a vote.

4. COMMUNICATIONS AND PETITIONS

5. CITY COMMISSION AND MAYOR COMMENTS

James Slaton, Interim City Manager, said that if any Commissioners have topics to discuss he can put them on future agendas.

Deputy Mayor Robin Gibson said he didn't know that the pay classification had to be approved by the Commission. Our City Attorney didn't know. While Human Resources brought a legal opinion saying that we are complying he didn't think we were complying with the language in the Ordinance. He said that this doesn't belong in the Ordinance. City Manager is in charge of Administration. City Commission should not be involved in Administration. There needs to be a clean line of authority or accountability.

Commissioner Howell said she is in favor or clean and clear. This needs to be clean and clear to the City Manager as well as the City Manager.

Commissioner Curtis Gibson said he likes it the way it is. The City Manager should not give raises without going through the Commission.

Mayor Fultz thanked Mr. Galloway for his efforts on the mask ordinances. We will vote on them Tuesday. Commissioner Howell asked that some words and phrases be reviewed for clarity.

Commissioner Howell asked about the Advisory Board. She wants to get that going. Mr. Slaton said we will vote on that on Tuesday.

Commissioner Curtis Gibson said we need a longer qualifying process so there is more time for voters to get to know candidates.

Commissioner Curtis Gibson said he preferred for the City Clerk to stay under City Commission where the Commission hires and fires the Clerk. This provides a safeguard.

Commissioner Curtis Gibson said he was concerned about the letter sent out about shutting off water. We need to be mindful that many are suffering hardships. He encouraged more education to let people know that they can set up a payment plan.

Commissioner Curtis Gibson read a note of thanks from Southern Homes.

Jennifer Nanek, City Clerk, let the Commission know that the Charter Review Committee will meet tomorrow night at 7pm.

6. ADJOURN

The Meeting was adjourned at 4:16 p.m.

Mayor

ATTEST:

City Clerk