



RESOLUTION NO. 2021-06

A RESOLUTION OF THE CITY COUNCIL OF NEPTUNE BEACH, FLORIDA DEFINING "EXTRAORDINARY CIRCUMSTANCES" THAT WOULD ALLOW A MEMBER OF THE COUNCIL TO ATTEND, PARTICIPATE AND VOTE REMOTELY UNDER CERTAIN CONDITIONS; PROVIDING FOR AUTOMATIC APPROVAL OF THE COUNCIL FOR SUCH PARTICIPATION IN COVERED CIRCUMSTANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Neptune Beach desires to create a rule of procedure regarding attendance by members of the Council at Council meetings via communications media technology ("CMT"); and

WHEREAS, there is no Florida statute and no case law on the subject for guidance, so Florida Attorney General Legal Advisory Opinions were utilized in forming a policy regarding the use of CMT; 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, the City Council, upon analysis of such Advisory Opinion and related materials, concludes that it may permit members to use CMT to attend, participate and vote at public board meetings, regardless of any additional authorization by executive order or otherwise, provided that: (1) a physical quorum is present at the meeting place that is reasonably 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 otherwise prohibited by the City's Charter, Code of Ordinances, or by state law; and

WHEREAS, the Council does not currently have any Charter or Code provisions or resolutions governing attendance of Council members by CMT; and

WHEREAS, the City Council determines that establishing conditions for which automatic approval is granted for Council member participation by CMT is in the best interest of the

orderly and efficient transaction of City business and for the health, safety, and welfare of the City Council, City staff, and members of the public attending Council meetings; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Neptune Beach, Florida:

SECTION 1. The City Council shall be deemed to have automatically granted authorization for Council members to attend, participate, and vote on matters that come before the Council via communications media technology ("CMT"), so long as the following conditions exist:

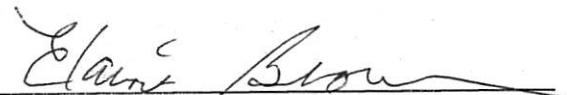
1. A quorum of the membership is physically present in the public meeting place;
2. The meeting has been properly noticed;
3. Members of the public are able to attend in-person or via CMT;
4. The Member(s) participating via CMT provide advance notice to the City Clerk of their intention to participate via CMT; and
5. Members participating and voting via CMT are doing so because they have requested in writing to do so, and have stated that they are unable to physically attend the meeting place due to an "extraordinary circumstance as defined by the Council." The Council has determined, in its good judgment, that an "extraordinary circumstance" includes, but is not limited to:

- a. the COVID-19 pandemic or other matter for which a state of emergency is declared by the State of Florida, City of Jacksonville, or City of Neptune Beach;
- b. other health related issues,
- c. military duty or deployment,
- d. extraordinary family circumstance, or
- e. mandatory business obligation.


SECTION 2. All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

This Resolution adopted by the City Council of Neptune Beach, Florida, at the Special Council Meeting held this 15th day of March, 2021.


Elaine Brown, Mayor

ATTEST:


Catherine Ponson, City Clerk

