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**Subject:** LEGAL GUIDANCE: EO 20-69, AGO-2020-03; Sunshine Meeting/Public Access  
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In light of Attorney General Opinion 2020-03, Governor's Executive Order 20-69, all emergency orders, proclamations and Florida law, the following is offered as legal guidance pertaining to Florida's Sunshine Laws for public meetings with specific focus on public access, during the pendency of the Mayor's and Governor's Emergency Proclamations and Executive Orders related to the COVID-19 emergency. This is being provided with the dual goals of ensuring openness and transparency in government decision-making, while also protecting the public, health, safety and welfare of the community. This new guidance will assist the City of Jacksonville with operating transparently even when the public cannot physically gather in person for meetings. In times of emergency, it is even more important to ensure the public has access to its government.

**GENERAL LAW:**

The Sunshine Law requires that all meetings of any collegial local governmental public body at which official acts are to be taken or at which public business of such body is to be transacted or discussed shall be: (1) open to the public, (2) reasonably noticed to the public and (3) transcribed into minutes for the public.

**EMERGENCY LAW:**

Ordinarily, meetings "open to the public" require allowing members of the public to enter the room where the meeting is taking place so they can listen to and observe the actions of the public body. However, the emergency mandates in place to slow the spread of COVID-19, including the Centers for Disease Control recommendation not to gather in groups of more than 10 people, makes many in-person gatherings impossible or inadvisable.

- In considering the issue of how local governments should conduct public meetings and business under these unique circumstances, Florida's Attorney General states the following in AGO 2020-03, with emphasis as to the underlined:

It is my opinion under existing law that, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if either (1) a statute permits a quorum to be present by means other than in person, or (2) the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency. If such meetings are conducted by teleconferencing or other technological means, public access must be afforded which permits the public to attend the meeting. That public access may be provided by teleconferencing or technological means.

- In response to AGO 2020-03, Florida's Governor, in EO 20-69, suspended any Florida Statute requiring: (1) a quorum to be present in person or (2) a local government body to meet at a specific public place. He also authorized the City to utilize communications media technology to conduct public meetings, such as telephonic and video conferencing as provided in Section 120.54(5)(b)2, Florida Statutes.

The EO does not waive any other requirement under Florida's Constitution or Sunshine Laws including Chapter 286.

- Florida Statutes Section 120.54(5)(b)2 requires, among other things:

- If a public meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for public meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available.

This indicates that the City may conduct public meetings via media technology so long as the public is provided notice of such meeting, which shall include the date, time and general substance of such meeting, as well as the internet website address or link (and/or phone-in passcode/accessibility information) from which the meeting will be broadcast and directions about how to access such website or phone-based app. The City may choose to provide facilities from which the meetings can be observed online; however it is not required to do so.

**EMERGENCY GUIDANCE:**

The following points of guidance with regard to complying with Florida's Sunshine Laws related to public access are in place during the pendency of the Emergency Orders related to COVID-19 as follows:

- If the members of the public body themselves are not physically gathered in one place – for example, if the meeting itself is conducted by telephone or videoconferencing – then members of the public must be able to join in the electronic conferencing in order to listen to or observe the meeting.
- If the members of the public body are physically gathered for a meeting but cannot allow members of the public to be present because of emergency limitations, then the public body must take steps to allow members of the public to listen to or observe the meeting by telephone, website, videoconferencing, television broadcast, or similar method.
- When the public is participating in a public meeting by telephone or other medium of interactive communication, members of the body must take steps to help the public understand the proceedings despite not being physically present. For example, each speaker in the meeting should identify herself by name before speaking or voting so remote listeners or observers can more readily know who is speaking; likewise, each motion should be clearly stated and each vote tally clearly announced and any documents being discussed should be identified. Public participation required for public hearings, or as required by law (e.g., prior to final action or vote) must be accommodated through the appropriate technology as well.
- There must be no cost for the public to access the meeting.
- There must be a method for distributing or otherwise publishing any agenda or other written materials that ordinarily could be picked up in person by members of the public attending the meeting. Those procedures must be explained to the public before the meeting begins.
- Audio or video record the meeting and post to the public body's website so members of the public who could not participate at the time of the actual meeting can later review what occurred.
- Post to a public website in advance any materials that will be distributed during the meeting, such as any agenda, agenda packet, or presentation.

**MISC. MATTERS:**

The telephonic, videoconferencing or web-based method of access should be disseminated to the general public through news media, social media, email and other means a notice explaining why and how the ordinary meeting procedures will change, how the public may receive notice of meetings, and how the public may continue to participate in meetings. The Office of General Counsel and the Ethics Office will be creating summarized guidelines on new meeting procedures for all boards and commissions.

City Council and any other collegial body of the City subject to the Sunshine Laws should tailor these concepts to the needs of their body and as a first order of business when they do meet should adopt procedural and policy rules (or for that matter waiver of their own bylaws or rules) to accommodate the facilitation of these remote-based meetings.

Matters involving private property rights or other private rights affecting the public, including any matters where the collegial body is operating in its quasi-judicial capacity should take into account the issues related to introduction of evidence, preservation of the record and other related due process requirements when deciding whether to convene hearings related to those topics.

Please do not hesitate to contact me individually with any questions or concerns.

Thank you,

- **Jason Gabriel, General Counsel**

- **Carla Miller, Ethics Director**