

RESOLUTION NO. 21-13

**A RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA,
ESTABLISHING RULES FOR BOARD MEMBER ATTENDANCE VIA
COMMUNICATIONS TECHNOLOGY MEDIA; AND PROVIDING FOR
SEVERABILITY AND AN EFFECTIVE DATE.**

Recitals

WHEREAS, the Florida Attorney General has observed that a governing board's use of communications media technology to increase public participation at meetings and the use of such media to allow members of a board or commission to participate in a duly noticed public meeting does not necessarily raise Sunshine Law issues but rather implicates the ability of a board or commission to conduct public business with a quorum (Inf. Op. to Stebbins, December 1, 2015);

WHEREAS, the Florida Attorney General has opined that if a quorum is required to conduct official business, local government boards may conduct meetings by telephone conferencing or other communications media technology if they are authorized to do so by general law or the in-person requirement for constituting a physical quorum is duly suspended (AGO 20-03);

WHEREAS, regardless of the foregoing, the Attorney General has opined that if a local governing board has a physical quorum of its members present, then one or more members may participate remotely via interactive communication media technology, provided that such attendance is required due to extraordinary circumstances or illness (AGO 03-41);

WHEREAS, the Attorney General has not defined "extraordinary circumstances," but instead has opined that what constitutes extraordinary circumstances is a determination that must be made in the good judgment of the local governing board (AGO 03-41); and

WHEREAS, the City Council is the local governing board for the City of Belle Isle and has the authority to establish rules and procedures for the conduct of municipal board meetings under its jurisdiction.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BELLE ISLE:

SECTION 1. *Recitals.* The foregoing recitals are incorporated herein and found by the City Council to be true and correct statements as to the legislative findings of the City Council.

SECTION 2. *Board Member Remote Participation.* City Commissioners and other members of municipal boards and advisory committees of the City of Belle Isle who are unable to attend a scheduled meeting due to a physical disability or illness or who are out of town, state, or the country may participate and vote in a board meeting via the use of communications media technology in accordance with this Resolution, provided that a quorum is physically present at the meeting. The Member(s) who is/are not physically present at the meeting may not be counted for purposes of determining whether a quorum is present.

SECTION 3. *Communications Media Technology.* A board member participating remotely via communications media technology may use any method or technology available as long as (i) such method or technology is compatible with that currently utilized and employed by the City; and (ii) the method and technology enables the remotely participating member to fully participate in the meeting and listen to discussions among board members, staff, and the public, adequately communicate with all other members of the board, staff, and public; and be heard by other board members, staff, and the public. (AGO 92-44 and 94-55). Though preferred, a board member need not be visible via video technology during the meeting; however, such board member must be able to see and review any agenda items and supporting documentation presented to the board for review, as well as any evidentiary diagrams, photographs, or other items that may be presented to the board during a quasi-judicial hearing or proceeding. If technical difficulties occur and a remotely participating member's access to the meeting is impaired or disconnected, the mayor has the authority to discontinue any such remote participation and continue the meeting absent such participation. As a guideline, if an interruption in service or technical failure lasts longer than fifteen (15) minutes in duration, remote participation should be terminated and the meeting resumed in an ordinary fashion absent such remote participation.

SECTION 4. *Restrictions / Recording / Minutes.* Each member of the Council or any other board of the city will be limited to participating remotely via communications media technology in two (2) board meetings per calendar year, regardless of whether such remote participation occurs for the entire duration of the meeting or a portion thereof. Any meeting in which a board member appears remotely via communications media technology will count toward the aforementioned two (2) meeting limit. This limit will not apply, nor will remote participation be counted toward such limit, with regard to (i) emergency meetings and/or (ii) meetings conducted when physical quorum requirements have been duly suspended or removed by official act of the legislature or Governor. Any remote participants must be verbally and audibly identified during roll call, and remote participation must be expressly noted in the record and minutes of the meeting. Furthermore, the clerk, or such other person as may be assigned by the City Manager, will be responsible for monitoring and announcing the entrance, exit, or re-entrance into the meeting of any remote participants and making notes thereof in the meeting minutes.

SECTION 5. *Severability.* If any section, subsection, sentence, clause, or phrase of this Resolution is, for any reason, held to be unconstitutional by a court of competent jurisdiction, such holding will not affect the validity of the remaining portions of this Resolution.

SECTION 6. *Effective Date.* This Resolution will take effect immediately upon adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE THIS _____ DAY OF JULY, 2021.

Nicholas Fouraker, Mayor

Attest:

Yolanda Quiceno, CMC City Clerk

Approved as to form and legality
City Attorney