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MEMO

TO: Dan O'Leary, Mayor
FROM: Kori Land, Asst. City Attorney
DATE: March 16, 2020
RE: City Meeting Options During a Health Pandemic

On March 13, 2020, Governor Walz declared a peacetime emergency pursuant to Minn. Stat. Cha. 12 and enacted Executive Order 20-01. With the rapidly evolving situation surrounding the spread of COVID-19, questions have arisen regarding when and how the City Council or other public bodies can meet remotely should it become impractical for in-person meetings. In the event of an emergency declared by the governor or in the event of a health pandemic, Minn. Stat. § 13D.021 permits the City Council, Planning Commission, and other city commissions to meet via telephone or other electronic means when the following conditions exist:

1. It is determined by the Mayor, City Attorney, or City Administrator that an in-person meeting or a meeting conducted under Minn. Stat. § 13D.02 (meetings conducted via interactive television) is not practical or prudent because of a health pandemic or an emergency declared under Chapter 12;
2. All members of the body participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;
3. Members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration;
4. At least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the health pandemic or emergency declaration; and

5. All votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

When a meeting is conducted via telephone or other electronic means, each commission or council member participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum. Minn. Stat. § 13D.021, subd. 2.

If possible, the City shall allow any member of the public to monitor the meeting electronically from a remote location. Id., subd. 3.

Finally, if telephone or another electronic means is used to conduct a meeting, the public body shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the ability to watch remotely. There should be a good faith effort to provide advanced notice that the meeting will be conducted telephonically or electronically.

In the event these types of remote access meetings are implemented under Minn. Stat. § 13D.021, it is currently unclear as to how to address public hearings. A telephone hotline number might need to be installed and made available at the meetings, allowing members of the public to wait on hold for their turn to speak to the public body, at which time they would be heard by speaker phone. Any optional public hearings, such as routine ordinance amendments, should be postponed until regular in-person meetings are restored. For current planning applications in process that have existing timelines for approval, every effort should be made to honor those statutory deadlines. New planning applicants should be *requested but not required* to wait until the emergency has expired. We can address each application on a case by case basis, balancing the need to preserve due process and yet protect the public. Please feel free to contact our office if you have questions or need clarification on the public hearings process.

Conclusion

The current situation with respect to COVID-19 remains fluid and the City Council, Planning Commission and other committees and commissions will need to evaluate the situation prior to each upcoming meeting of those bodies. City staff are recommended to take such steps as are necessary to prepare for the City to meet via interactive television, telephonic or electronic means in the event it is not practical or prudent to meet in person.

CITY OF SUNFISH LAKE PROCLAMATION AND DECLARATION OF EMERGENCY

WHEREAS, the virus named “SARS-CoV-2,” is a new strain of coronavirus that has not previously been identified in humans and can easily spread from person to person and which causes a disease named “coronavirus disease 2019,” commonly known as “COVID-19,” which is a respiratory disease that can result in serious injury or death; and

WHEREAS, on January 21, 2020 the first case of COVID-19 was detected in the United States; on March 6, 2020 the first case of COVID-19 was detected in the State of Minnesota; and as of March 16, 2020, there are thirty-five known cases of COVID-19 in Minnesota, including cases in Dakota County; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19, beginning on January 27, 2020; and

WHEREAS, on March 13, 2020, President Donald Trump declared that the COVID-19 outbreak in the United States constitutes a National Emergency; and

WHEREAS, on March 13, 2020, Governor Tim Walz declared a Peacetime State of Emergency to authorize and all necessary resources to be used in support of the COVID-19 response; and

WHEREAS, as of March 15, 2020 the World Health Organization Situation Report confirmed a total of 153,517 cases of COVID-19 in over 135 countries, including 5,735 deaths; and as of March 15, 2020 a total of 35 cases of COVID-19 have been reported in Minnesota including two in Dakota County; and

WHEREAS, COVID-19 has been identified by the World Health Organization as a pandemic, and the United States Centers for Disease Control has provided guidance for individuals, healthcare professionals, and businesses to slow the spread of COVID-19, which include cancelling or postponing in-person events that involve more than fifty people for eight weeks; and

WHEREAS, additional local cases will trigger a more aggressive public health response and are predicted to impact residents of Sunfish Lake and those who work in or travel through the City, including City employees; and the need for social distancing, school closings, and quarantine methods to stop the spread of COVID-19 is expected to cause significant challenges; and

WHEREAS, the City finds that this situation threatens the health, safety, and welfare of the citizens of the community and will cause a significant impact on the ability of public safety personnel to address any immediate dangers to the public as a result of COVID-19; and

WHEREAS, the City finds that traditional sources of financial aid, assistance and relief will not be able to compensate for the potential impact of COVID-19, and have determined that the necessary resources to respond to and recover from this pandemic will exceed those resources available within the City of Sunfish Lake, and additional resources will be needed from Dakota County and state and federal sources.

NOW, THEREFORE, THE MAYOR OF THE CITY OF SUNFISH LAKE PROCLAIMS, DECLARES, REQUESTS, AND DIRECTS AS FOLLOWS:

1. Under the authority given by Minnesota Statutes, Section 12.29, declares that a local emergency exists within the City of Sunfish Lake effective March 16, 2020, with all the powers and responsibilities attending thereto as provided by Minnesota Statutes, Chapter 12, and further proclaims that such emergency constitutes a declared emergency pursuant.
2. Directs City Staff to review ordinance and regulatory requirements, operations, civil and legal proceedings, events, and resources to determine whether the foregoing should be adjusted or suspended, and to make recommendations regarding additional emergency regulations to support the employees and residents of the City of Sunfish Lake.
3. Directs all City departments and offices to operate and support the response to this incident, under the direction and coordination of the Emergency Management Director and Emergency Management Team, including implementing new employee protocols, strategies, and processes to ensure that public services are maintained.
4. Directs the City's Emergency Management Director and other appropriate City Staff and elected officials to request and coordinate appropriate aid and resources from surrounding jurisdictions, Dakota County, the State of Minnesota, and the Federal government, as needed.
5. Declares, under Minnesota Statutes, Section 13D.021, that in-person meetings of the City Council, Planning Commission, and other advisory commissions of the City of Sunfish Lake may not be practical or prudent due to the COVID-19 health pandemic and the peacetime emergency declared by Governor Walz pursuant to Minnesota Statutes, Chapter 12, and hereby directs that meetings of the City Council, Planning Commission, and other advisory commissions of the City may be conducted by telephone or other electronic means, and hereby directs City Staff to take such action as may be necessary to enable such meetings to occur via telephone or other electronic means pursuant to Minnesota Statutes, Section 13D.021, until such time as it is no longer impractical or imprudent for the City Council, Planning Commission, and other advisory commission to resume in-person meetings. Meetings held via telephone or other electronic means shall be posted on the City's bulletin board.
6. Requests that the City Council convene an emergency session at its earliest convenience to discuss the situation and this declaration. This emergency declaration shall continue for a period of three (3) days from its effective date of March 16, 2020, unless further extended by or with the consent of the City Council pursuant to Minnesota Statutes, Section 12.29, subd. 1.

Dated this 16th day of March, 2020

Dan O'Leary, Mayor