

**BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
SPECIAL MEETING
June 23, 2020**

The Board of County Commissioners of Leon County, Florida met in regular session at 3:00 p.m. with Chairman Bryan Desloge presiding. Present were Vice-Chairman Rick Minor and Commissioners Nick Maddox, Bill Proctor, Kristin Dozier, Mary Ann Lindley, and Jimbo Jackson. Also present were County Administrator Vincent Long, County Attorney Chasity O'Steen, and Clerk to the Board Beryl H. Wood.

Chairman Desloge called the special meeting to order at 3:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation and Pledge of Allegiance was provided by Chairman Bryan Desloge. It was followed by a roll call.

Pursuant to the Governor's Executive Order 20-69, Emergency Management - COVID-19 - Local Government Public Meetings, as extended by subsequent executive orders, the Leon County Board of County Commissioners held this virtual meeting without having a quorum physically present and using Zoom as the communications media technology. County Attorney Chasity O'Steen explained the virtual meeting process and noticed means by which the public could view the meeting and provide public comment.

Chairman Desloge stated this meeting was called to discuss the increase in COVID-19 cases within Leon County and to determine if the county should impose additional mitigation requirements in response.

DISCUSSION

UPDATE ON CORONAVIRUS DISEASE 2019 (COVID-19)

Citizen Comments for this meeting totaled 1,241 that were received via online submission by the adjournment of the meeting, of which 1002 of the comments were in support of mandating the wearing of face coverings, 182 were opposed and 57 comments were on other COVID-19 matters. (Due to the large number of comments received; they will be included in the official record. However, for a complete detailed list of all public comments for this particular meeting, please contact the Clerk of Court's Office).

- Claudia Blackburn, Health Officer for the Florida Department of Health in Leon County, discussed the increase in COVID-19 cases. She shared it may be attributable to the Phase II openings. She noted there is a need to continue to follow the CDC guidelines: social distancing, face coverings, avoid large crowds, and washing hands frequently. She encouraged people to help prevent the spread of coronavirus.
- County Administrator Long referenced that there was a total of 1,200 public comments that were received for today's meeting. He noted the primary focus is to protect the health and safety of the citizens by reducing the spread of the virus. He stated that the Board may wish to consider adopting other measures to further mitigate the spread of COVID-19 such as mandating the wearing of face coverings. He highlighted the social media campaign "It's not too much to mask" and providing masks to any citizen who may need them.

- Chair Desloge reflected on the increase in COVID-19 cases and questioned if the trends will continue.
- Claudia Blackburn stated that she believes the increase may continue.
- Chairman Desloge stated that he consulted with local healthcare providers, the Leon County Health Department, the local universities/colleges, FMA, and the Retail Federation. In addition, he shared that the Surgeon General has now recommended wearing face coverings. The Chairman passed the gavel to Vice-Chairman Minor.
- *He motioned to authorize the Chair to execute a proclamation to include the countywide requirement that all individuals wear face coverings in business establishments, and to adopt the definition of a face covering, business establishment and lodging establishment from the Monroe County Ordinance, including the exceptions taken from other jurisdictions; require businesses post signs requiring the wearing of face coverings; and in addition include that face coverings may not be worn with the intent to conceal the identity of the individual, similar to the City of Tampa order. He stated that the Proclamation would be effective at 12:01 a.m. on Thursday, June 25th.*
- Commissioner Maddox commended Chairman Desloge's research and seconded the motion.
- Commissioner Lindley confirmed with County Attorney O'Steen that the order is silent as to whether schools are covered, but that it does include local, state, and federal offices.
 - County Attorney O'Steen commented on the follow up at the last meeting on face coverings. She provided an overview of the face covering requirement from other counties all of which have robust justifications for the face coverings. She discussed the Board's action at this special meeting would operate under the County's emergency powers and violations for noncompliance would carry a penalty of a second-degree misdemeanor.
- Commissioner Lindley inquired if the County could provide signs to businesses indicating that face coverings must be worn in the business and confirmed with County Administrator Long that the County is working on providing the signage for their use. She asked if the order would include public transit and churches and confirmed with County Attorney O'Steen that public transit would be included and asked for Board direction on including or exempting churches.
 - County Attorney O'Steen stated the applicability to schools could be re-evaluated at a later time since the order renewed weekly and confirmed that penalty for noncompliance is a civil citation under the Monroe County Ordinance, which would be different than if the Board exercises its emergency orders powers under Chapter 252 and the Leon County Code of Ordinances.
 - Chair Desloge, as the maker of the motion, stated the motion includes non-profit, governmental and quasi-governmental entities, and that is his intent to include churches.
- Commissioner Jackson inquired if pre-existing medical conditions are exempt and commended the efforts to educate the community.
- Commissioner Dozier stated that the goal is to include all establishments under a roof. She reflected on the large number of comments received and stated that the overwhelming majority supported mandating the wearing of face covering. She questioned if Alachua County's medical exemptions may be included for clarity and stated her support of adding it in the motion.
 - County Attorney O'Steen responded that the robust language from the Alachua County order could be added should the maker of the motion agree. She stated

that Monroe County's ordinance included reference to a provision in the American Disabilities Act which says that you do not have to accommodate someone with a disability when it constitutes a danger to the public health, safety and welfare.

- Chair Desloge shared that the order would be renewed once a week and confirmed with County Attorney O'Steen that adjustments could be made as needed when renewed.
- Commissioner Dozier stated that she would like to see an ordinance instead of the order, so that violations could be dropped to a civil penalty. She confirmed with County Attorney O'Steen that violations could start with a sliding scale of education first before penalties in an ordinance.
- Commissioner Dozier inquired if the order includes guidelines for procedures when a business has an employee who tests positive. She reflected that restaurants are getting inconsistent information and are looking for consistency and guidance.
 - County Administrator Long confirmed that it could be added at the Board's direction.
- Claudia Blackburn noted that they investigate cases in restaurants on a case-by-case basis and at this time there are no standard guidelines. She stated they have not received any language where they have to close after a positive test. Dozier asked that they look into this and provide a recommendation.
- Commissioner Maddox confirmed with County Attorney O'Steen that enforcement of the order would be by law enforcement and that an ordinance could provide for other options for enforcement.
 - County Attorney O'Steen confirmed that the majority of Florida counties are operating under their emergency powers with the exception of Monroe County, which in part adopted an ordinance for the flexibility of enforcement and penalties.
- Commissioner Proctor disagreed with Commissioner Dozier's comments. He stated he wouldn't support the measure of mandating wearing face coverings outdoors especially for protestors. He confirmed with Claudia Blackburn that approximately 50% of the COVID-19 positive cases are among African-Americans. He shared he didn't want to escalate violence and the persecution of protestors for not wearing masks. He confirmed with County Attorney O'Steen that state facilities would be included in the order and that they could institute stricter requirements and that there is an exemption for exercising. He reflected on the need to exempt outdoor protests. He clarified with County Attorney O'Steen that protests, not taking place under the roof of a business establishment, would not be subject to the face covering requirement, and confirmed that by voting yes on the motion he was not voting for a means for police to hassle protestors for not wearing face coverings.
- Commissioner Dozier stated she only wanted to support indoor requirements to wear masks and encourage masks for outdoors.
- Commissioner Minor questioned if the requirement is to wear a mask if social distancing is not possible.
- Chairman Desloge noted that in all public places they would be required to wear masks, but in a non-public area, where you could socially distance yourselves, you wouldn't have to wear a mask. He clarified with County Attorney O'Steen that under the emergency order the penalty for a violation is a second-degree misdemeanor with a penalty of a fine up to \$500 or up to 60 days imprisonment in the County jail or both; and that adopting a County ordinance, including the required public hearing, would provide for a means to lessen the penalties.
- Chairman Desloge confirmed his support of Commissioner Dozier's amendment to include the medical exemptions from the Alachua County order. County Attorney O'Steen

read aloud the medical exemption in the Alachua County order. He accepted the amendment. Commissioner Maddox also accepted the amendment.

- Commissioner Maddox expressed concern about the penalties included in the order. He confirmed with County Attorney O’Steen that violation of the emergency order is a second-degree misdemeanor criminal offense; that enforcement would be by all law enforcement in the County; and that law enforcement does have some discretion.
- Commissioner Minor reflected on passing the emergency order and then conducting a public hearing on an ordinance in order to change the penalties. He confirmed with County Attorney O’Steen that a public hearing for an ordinance must be advertised and could possibly be brought forth to the Board at the July 14th meeting. He expressed his support of the motion but stated his concern that the penalties are far too severe and stated the importance of getting the order in place.
- Commissioner Proctor commented on the importance of wearing a mask in the black community. He also cautioned against the high penalties under the order and questioned County Attorney O’Steen on how fast it would take to get the ordinance in place.
 - County Attorney O’Steen confirmed that there is a provision under Section 125.66, Florida Statutes, that provides for the emergency enactment of ordinances, with the waiver of the public hearing notice requirement and confirmed that an emergency ordinance could be approved at a special meeting by a 4/5 vote of the Board, declaring an emergency exists and the emergency enactment of the ordinance is necessary.
- Commissioner Jackson stated he supported the motion. He shared he was not prepared today to discuss an ordinance, but that they could operate under an emergency order.
- Commissioner Maddox stated his support for the motion and asked if an ordinance with lesser penalties could be brought back at the next meeting on July 14th or sooner. He asked Chairman Desloge if he would like to amend the motion.
- Chairman Desloge concurred that the order should be adopted today but didn’t amend his motion. He expressed his support of an ordinance being brought back on July 14th or sooner if needed and that the request for the ordinance should be made by a separate motion. He asked that they target the July 14, 2020 meeting.
- *Commissioner Desloge moved, seconded by Commissioner Maddox, to approve a countywide amended continuing proclamation declaring a continuing local state of emergency including the requirement for the Use of Face Coverings as follows:*

An individual in a business establishment in the County must wear a face covering while in that business establishment.

a. Definitions. For purposes of this Proclamation, the following terms are defined as follows:

- i. Face Covering. “face covering” is a material that covers the nose and mouth and that fit snugly against the sides of the face so there are no gaps. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. Coverings with materials made of multiple layers is highly encouraged. A cloth face covering may be factory-made or sewn by hand, or the cloth face covering can be improvised from household items. CDC has posted additional information regarding how to make, wear, and wash a cloth face covering at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.*

- ii. *(b) Business Establishment. A “business establishment” means a location with a roof overhead under which any business is conducted, goods are made or stored or processed or where services are rendered. The term “business establishment” also includes locations where non-profit, governmental, places of worship, and quasi-governmental entities facilitate public interactions and conduct business.*
- iii. *(c) Lodging Establishment. A “lodging establishment” shall have the same meaning as the term “transient public lodging establishment” has in section 509.013(4)(a)1, Florida Statutes (2019).*

(c) The requirements do not apply to:

- i. *A child under the age of 6;*
- ii. *Persons who have trouble breathing due to a chronic pre-existing condition or individuals with a documented or demonstrable medical problem;*
- iii. *Persons exercising while observing at least 6 feet of distancing from another person;*
- iii. *Restaurant and bar patrons while eating or drinking. It is the intent of this provision that a face covering will be worn while traversing a business establishment for ingress and egress, to use the facilities, and while otherwise standing when persons are unable to maintain at least 6 feet of distancing;*
- iv. *Business owners, managers, and employees who are in an area of a business establishment that is not open to customers, patrons, or the public, provided that 6 feet of distance exists between persons. This exception does not apply to employees who are present in the kitchen or other food and beverage preparation area of a business establishment.*
- v. *An individual in a lodging establishment who is inside of the lodging unit, including, but not limited to, a hotel room, motel room, vacation rental unit, timeshare unit, or similar unit.*

(d) Every business establishment is required to post signage notifying all persons of the requirement to wear a face covering.

(e) Nothing shall require or allow a person to wear a face covering to conceal the identity of the wearer in violation of Florida Statutes.

The motion carried 7-0.

Commissioner Minor relinquished the gavel to Chairman Desloge at the closing of the motion.

Commissioner Dozier expressed concern on the severe penalties included in the order.

- County Attorney O’Steen shared that under the regular circumstances 10-days’ notice and publication in the newspaper would be required to advertise for a

public hearing, but if a need for an emergency ordinance is passed by a 4/5 vote of the Board the notice requirement could be waived.

- Commissioner Dozier motioned to ask staff to bring back an ordinance mirroring the emergency order but with civil penalties, at a special meeting on June 30th.
- Commissioner Maddox stated he would second the motion.
- Chairman Desloge confirmed with County Attorney O'Steen that an emergency order could be effective immediately upon the adopted ordinance being filed by the Clerk of Court and accepted by the Department of State.
- Commissioner Proctor inquired if the order could be amended to include the intent of the Board that the penalty be a civil penalty instead of a criminal penalty.
 - County Attorney O'Steen responded that the law enforcement and the State Attorney's Office would have discretion and prosecutorial authority in how to enforce and prosecute a criminal offense; however, she stated that since June 23rd meeting is a special meeting, there is the possibility that the Board could adopt the ordinance by a super majority vote at this meeting that changes the order that was just passed to an ordinance.
- Commissioner Dozier expressed that she would support adopting the ordinance at this meeting but reflected on the need for clarification of the civil penalties.
 - County Attorney O'Steen clarified that the Board would need to vote that an emergency exists and there was a need for an emergency ordinance, by a 4/5 vote before proceeding with a vote to adopt an emergency ordinance.
- Commissioner Dozier withdrew her previous motion and motioned to declare that an emergency exists and the need for the enactment of an emergency ordinance.

Commissioner Dozier moved, duly seconded by Commissioner Minor, to declare that an emergency exists and the need for the enactment of an emergency order. The motion carried 7-0.

- Chair Desloge asked County Attorney O'Steen for clarification on the next step.
 - County Attorney O'Steen reviewed the Alachua County and Monroe County civil penalties.
- Commissioner Minor made a motion to adopt an ordinance that mirrors the previously approved proclamation and includes modeling penalties as outlined in the Alachua County ordinance.
- Commissioner Dozier seconded the motion.
 - Commissioner Maddox questioned if the first offense could be a warning instead and expressed concern that the fines were too high and stated his support of first offense a warning, second a fine of \$125 and third offense a \$250 fine with a court appearance.
 - Chair Desloge stated his support of the penalties in the Alachua ordinance.
- Commissioner Dozier stated her support of a penalty and confirmed with County Attorney O'Steen and County Administrator Long that law enforcement does have some discretion to give a warning.
- Commissioner Minor clarified that the Alachua penalties would be enforced by law enforcement. He stated that he would accept a friendly amendment to adjust the fines to \$75 for first offense, \$125 for second offense and up to \$500 with a mandatory court appearance for the third offense; but if none he stated his support of the motion as made. Commissioner Proctor stated the cost of the manpower to write a warning would not be cost-effective and stated his support of at least a \$50 fine for the first offense.
- Commissioner Proctor stated that many do not have access to face coverings and stated his support of lessening the fines. He made an amendment to adjust the penalties to \$50 for

the first offense, \$125 for the second offense, and \$250 with a court appearance for the third offense.

- Commissioner Minor accepted the amendment to the motion.
- Commissioner Dozier also accepted the amendment.
- Commissioner Proctor reflected on the need for the County to provide and distribute face coverings and to promote their availability to the public.
 - County Administrator Long confirmed that the County is broadly distributing face coverings and starting on Wednesday there will be 30,000 face coverings available from FEMA at County facilities; and he stated that Claudia Blackburn has confirmed that the Leon Health Dept. has another 230,000 on the way and will be available on Friday.
- Commissioner Dozier stated that she received a suggestion from a local business owner that plastic face shields may be better suited for restaurant employees and asked if the County could explore that option for employees.
 - County Administrator Long confirmed that the Office of Economic Vitality and Emergency Management are engaged on the Personal Protective Equipment issue and will continue to do that work.

Commissioner Minor moved, seconded by Commissioner Dozier to approve an ordinance that includes all the provisions in the previously adopted proclamation order with fines in the amount of \$50 for first offense, \$125 for second offense, and up to \$250 with a mandatory court appearance for the third offense.

The motion carried 7-0.

The ordinance goes into effect once the Clerk of Court files with the State.

- Chair Desloge stated that the face covering requirement will go into effect at 12:01 a.m. Thursday morning and confirmed with County Attorney O'Steen that the ordinance will go into effect once there is confirmation of receipt from the Dept. of State. He stated that more information will be available on the County website and confirmed with County Administrator Long that Frequently Asked Questions (FAQ) will be posted and distributed to the community after the meeting.
- Commissioner Dozier reflected on the long lines to enter the Patient First testing center on Mahan Drive and confirmed that contact tracing by the Health Department will be included for those patients testing at that site. She reflected on the lines blocking access to other businesses on Mahan and questioned if the site could be moved. She asked that the testing data from the Patients First be included in the daily update to the Commissioners.
 - County Administrator Long confirmed that citizens are going to Patients First for the rapid test and that the County is working with the Health Department to make the rapid test available through other providers. He confirmed that the Patient First data will be included in the daily updates.


ADJOURN:


There being no further business to come before the Board, the meeting was adjourned at 5:40 p.m.

LEON COUNTY, FLORIDA

ATTEST:



BY: 
Rick Minor, Chairman
Board of County Commissioners

BY: 
Gwendolyn Marshall, Clerk of Court
& Comptroller, Leon County, Florida