

RESOLUTION NUMBER 23-102

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, MAKING FINDINGS; PROVIDING PROVISIONS FOR ELECTRONIC PARTICIPATION DURING CERTAIN AGENDA ITEMS FOR PARTICULAR MEETING(S) UNDER CERTAIN CONDITIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the question has arisen as to whether electronic participation (remote testimony or remote statements/comments by members of the public not physically present at a meeting) should be allowed as to particular agenda items at certain public meetings of the Town of Fort Myers Beach; and

WHEREAS, after discussion during a public meeting among the members of the Fort Myers Beach Town Council and after allowing input from the public, a procedure has been decided upon which would grant to the Mayor the reasonable discretion to determine whether a person or persons will be permitted to participate electronically in a public meeting; and

WHEREAS, the Town Council has determined it is in the best interest of the Town of Fort Myers Beach and its residents and business owners to adopt this Resolution.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby grants to the Mayor (and the Vice-Mayor in the absence of the Mayor), the reasonable discretion to allow or disallow electronic participation as to specific agenda item(s) at specific meetings (including Town Council meetings and other Town meetings as deemed appropriate by the Mayor) using the following criteria in exercising such discretion:

- a) Whether there is good cause shown for wishing to participate in a meeting electronically (such as illness or otherwise being unable to attend in person). In no case will electronic participation be permitted if the person wishing to participate electronically would be able to attend in person.

- b) Whether the testimony or comments that are desired to be made electronically relate to a quasi-judicial hearing, in which case if one person is allowed to comment or testify remotely, all persons who are otherwise unable to attend in person shall also be allowed to participate electronically.
- c) Whether the subject matter of the agenda item personally affects the person wishing to participate electronically, or if the agenda item is a matter of general concern to the community but does not affect the requesting person to a greater extent than the effect on the rest of the community.
- d) Such other reasonable considerations as determined by the Mayor on a case-by-case basis.

Section 3. Any decision by the Mayor to allow electronic testimony or comments as to a particular agenda item shall be made, if at all, no less than four (4) calendar days before the applicable meeting. Such decision shall be posted on the Town’s website stating the call-in information for the meeting, and whether electronic testimony or comments are allowed for one person, or for the public in general.

Section 4. This Resolution relates only to electronic participation by members of the public and does not relate to electronic participation by elected or appointed Town officials, Town staff members, or Town consultants.

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Atterholt and seconded by Council Member Woodson, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King	Aye
Bill Veach	Aye
Karen Woodson	Aye

ADOPTED this 11th day of September 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL
Dan Allers

 Dan Allers, Mayor

ATTEST:

Amy Baker

 Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Becky Vose
Becky Vose (Sep 11, 2023 16:26 EDT)
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 11th day of September 2023.

Signature: *Dan Allers*
Dan Allers (Sep 11, 2023 16:22 EDT)
Email: allersd@fmbgov.com

Signature: *Amy Baker*
AMY BAKER (Sep 21, 2023 10:57 EDT)
Email: AMY@FMBGOV.COM