



MINUTES

EMERGENCY COMMISSION MEETING

THURSDAY, JULY 2, 2020 AT 5:30 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A South, St. Augustine Beach, FL 32080

I. CALL TO ORDER

Mayor England called the meeting to order at 5:30 p.m.

II. PLEDGE OF ALLEGIANCE

Mayor England led the Pledge of Allegiance.

III. ROLL CALL

Mayor England asked City Clerk Raddatz for roll call.

Present: Mayor England, Vice Mayor Kostka, Commissioner George (virtually), Commissioner Rumrell (virtually) and Commissioner Samora.

Also present were: City Manager Royle, Assistant City Attorney Taylor, Police Commander Ashlock, and City Clerk Raddatz.

IV. SECTION 1-5 OF THE CITY CHARTER: VOTE TO DETERMINE THAT MEETING IS AN EMERGENCY (Super Majority Vote Required)

Mayor England introduced Item IV and advised that this meeting is to consider one agenda item to consider wearing facemask while physical distancing is not possible. She advised that there was a 500% increase in COVID-19 cases since Phase II.

Mayor England opened the Public Comments section. The following addressed the Commission:

Tom Reynolds, 50 Brigantine Court, St. Augustine Beach, FL, asked to have an emergency meeting on stopping the Republic National Convention and police officers and hazmat pay but not just for masks. Private business needs to regulate themselves.

Motion: approve the emergency meeting. **Moved by** Mayor England, **Seconded by** Commissioner Samora.

Roll Call was as followed:

Mayor England	Yes
Vice Mayor Kostka	No
Commissioner George	Yes
Commissioner Rumrell	Yes

Commissioner Samora

Yes

Motion passes 4 to 1.

V. CONSIDERATION OF PROPOSED RESOLUTION TO REQUIRE FACEMASKS WHEN MAINTAINING PHYSICAL DISTANCE IN BUSINESSES NOT POSSIBLE

Mayor England introduced Item V and then asked Flagler Hospital representative to the podium.

Ms. Nangela Pulsfus, Chief Clinical Officer for Flagler Hospital, 314 Marsh Point Lane, St. Augustine, FL, advised that the COVID-19 has transmission of 40% within homes and suggested everyone stay six feet away from each other and advised that there are currently 23 hospitalization of COVID-19 cases in the hospital and a few needed ventilators.

Commissioner George asked about an article that said that facemasks do not help reduce COVID-19.

Ms. Pulsfus advised that she could not comment on anything she did not read but believes that mask coverings would help reduce the spread.

Commissioner Samora asked about Flagler Hospital's capacity.

Ms. Pulsfus advised that there are 18 COVID patients and 8 are critical.

Vice Mayor Kostka asked about the types of face coverings.

Ms. Pulsfus would not comment on the types of face coverings that are available but advised face coverings are beneficial. Testing is available at Care Fast, CVS, and Flagler Hospital. She explained that on Wednesday Flagler Hospital will start testing again but did not know the costs involved and commented that there are higher numbers now than previous months.

Mayor England asked with the rise in cases, do we have sources for contact tracing.

Ms. Pulsfus said that the Department of Health and the CDC could help with that. Flagler Hospital has an app for contact tracing, which should help.

Vice Mayor Kostka asked if they are short on Personal Protection Equipment (PPE).

Ms. Pulsfus advised no.

City Clerk Raddatz, at Mayor England's request, advised there were 77 who wanted mandatory facemasks and 11 who did not want mandatory facemasks.

Assistant City Attorney Taylor advised that in the City's Charter, emergency orders can be adopted but advised that to have more of a legal foundation St. Johns County should approve the City's resolution. He explained that Florida Statutes 252 says that an Emergency

Management Director should be hired for the City if they wanted to do emergency orders. The City's emergency management plan follows St. Johns County, so there is a conflict between the City, county, and state regulations. He explained that if the City approves this resolution it could be legally challenged on whether it is constitutional and passes the test of scrutiny. He commented that there are several legal challenges regarding mandating masks across the State of Florida, but because the lawsuit is so new no judgement has been taken.

Commissioner George asked if we have an emergency order instead of a resolution would that limit the concern.

Assistant City Attorney Taylor advised that an emergency order would be better if the City did have their own Emergency Management Director.

Commissioner Rumrell asked if this resolution has enforcement and whether it conflicts with the Constitution of the United States.

Assistant City Attorney Taylor remarked that logistically there could be a problem with the Police Department and Code Enforcement keeping up with enforcement of the resolution.

Mayor England explained that she would like to have businesses require facemasks and if the individual refuses to wear a mask, then the businesses could identify the person refusing and give their name to the City's Code Enforcement Officer. She remarked that wearing the masks would help to reduce the spread and advised that enforcement is not her number one priority.

Assistant City Attorney Taylor commented that in Duval County Sheriff's Department did not arrest individuals for not wearing facemasks but if the person did not leave when the business owner asked them to the Sheriff's Office would site them for trespassing.

Commissioner Rumrell asked if this would be a law.

Assistant City Attorney Taylor advised that the resolution would not have a foundation if the County does not want to ratify it, but it might not be challenged. He explained that if St. Johns County did not ratify the City's resolution, it would put the resolution in limbo.

Commissioner Samora asked whether ratification could be done by the St. Johns County Administrator or by the St. Johns County Board of Commissioners.

Assistant City Attorney Taylor advised either authority could do it.

Mayor England advised that she is increasingly alarmed by the number of COVID-19 cases. She explained that she did not want tourists or residents to get sick and since the City links more with the City of St. Augustine than St. Johns County it makes sense to have similar regulations. Publix Manager is encouraging their clients to wear facemasks. She agreed with the CDC that facemasks are important along with other components to stop the spread of

COVID-19. There are several exceptions for people who have medical conditions and restaurant's cooks who are in hot kitchens may not wear facemasks, but all others should to stop the spread of the coronavirus. Police will not enforce the resolution, but the businesses would be the first line of defense and could identify the individual(s) who are not wearing masks and then tell the Code Enforcement Officer. The City has the authority to reduce the number of new COVID-19 cases and keep the community safe. Stopping the spread would eliminate hospitalization and deaths.

Mayor England opened the Public Comments section. The following addressed the Commission:

Tom Reynolds, 50 Brigantine Court, St. Augustine Beach, FL, urged the Commission to vote no and not to interfere with business regulations and said that the new Assistant City Attorney should be able to answer a question regarding emergency authority.

Joslyn Soto, 354 Ocean Forest Drive, St. Augustine Beach, FL, explained that she was a geriatric doctor at Flagler Hospital but was speaking for herself. In the last five days COVID-19 hospitalizations have increased by two to three cases a day at Flagler Hospital. She explained that there was a dedicated COVID-19 unit at Flagler Hospital with 24 patients currently. She recommended facemasks to be worn because they help.

Janine Rainville, 10 Coquina Blvd., St. Augustine Beach, FL, explained that she does not feel safe in the grocery store and has walked to work with signs to support people to wear facemasks because of the public health crisis.

Hester Longstreet, 11 13th Street, St. Augustine Beach, FL, thanked the Commissioners for voting for this and explained that enforcement should be done with it. She commented that she has lost many friends to COVID-19.

Mayor England closed the Public Comments section and asked for further Commission discussion.

Commissioner George advised that she supports wearing facemasks if it helps and thinks it would be constitutional under this emergency. Businesses are struggling and there might be another shutdown if the number of COVID-19 cases increase. She commented that the resolution does have ADA compliance.

Commissioner Rumrell explained that he believes everyone should wear a facemask; however, he does not agree with enforcement. He wanted the businesses be talked to first. People are wearing facemasks more because of the transmission. He commented that the City can make a law, but an individual could go across the street out of the City's jurisdiction and not wear it.

Mayor England advised that the businesses would agree to the resolution and need this resolution to back the businesses up. They can post a sign at the business just like "No Shoes, No Shirt, No Facemask, No Service." The business could allow non-facemask wearing individuals to enter their business if they refuse to wear a facemask, but then try to identify them and give it to Code Enforcement to discuss it with them. The Police Department will not get involved. She repeated that this is not about enforcement as much as mandating the facemasks because most people will comply.

Commissioner George said businesses do not have to enforce it and the market can control it. The point would be well received and there would be no liability to the City. There may or not be a challenge and it would not make the resolution a moot point.

Commissioner Rumrell explained without enforcement it gives people false hope. Businesses should be held more responsible for their own business. He remarked that he is an advocate for property rights and does not like regulating without enforcement and the City is not setup to enforce it.

Mayor England asked Commissioner Rumrell if he would do nothing if there was no enforcement even if it would help the businesses to feel like they have the City behind them.

Commissioner Rumrell said that the City could implore that all businesses, residents, and tourists to wear masks but should not regulate without enforcement.

Commissioner George advised people want to protect their health, but tourists do not wear the masks while on vacation. She asked if the City could do an ordinance after this and then repeal the resolution.

Commissioner Samora advised that the CDC has a strong recommendation and why would they override them with a City law. He recommended educating the public, businesses, and tourists.

Commander Ashlock advised that Police Officers educate sometimes instead of enforcing a violation or arresting an individual depending on what the violation is.

Commissioner Samora advised having a law on the books can promote education and messaging and explained that there are tons of comments on this issue. He agreed that no one likes wearing a facemask, but this is a global pandemic and has shut down countries around the world. Facemasks will slow the spread of the pandemic. Having a resolution would give a strong message but is not overbearing. A resolution is flexible and will give an opportunity for messaging. He suggested if someone cannot socially distance, wear a facemask. He requested to modify the penalty to \$50, not \$500 and asked why exception K in the resolution was removed.

Mayor England advised exception K in the resolution was removed in case someone applied for a special permit of 50 or more people in a confined space, for example the Farmers Market at the pier.

Commissioner Samora advised that permitting could be allowed when socially distancing and facemasks can be worn. He asked whether the Commission wants to keep this resolution going for 30 or 60 days.

Mayor England suggested to keep the resolution in effect as long as the state of emergency is in effect. That way it does not have to be revisited every few months.

Commander Ashlock explained that there is a mechanism in place for trespassing if an individual will not leave after the business owner tells them to because they are not wearing a facemask.

Vice Mayor Kostka remarked that she has received more emails on this topic than any other and could not respond to all the emails personally but has been in touch with the residents. She agrees with wearing facemasks and agrees with the CDC that facemasks help. There has been an increase in COVID-19 infections and explained that she felt it was because most of Florida has come out from Phase I to Phase II. She commented that there was no easy fix and said the Governor DeSantis said there will be more cases from the July 4th celebrations. Socially distancing and facemasks are already encouraged, and people should be personally responsible for their actions. Deaths have not sufficiently increased, but people will get sick. She remarked that without St. Johns County ratifying the City's resolution, it will not be legal and can be challenged. She explained that the challenges have not gone to court yet, so the outcomes are not known. This might be an overreach of government regulations and the Constitution as well as our rights and advised that under Section III.C it could violate HIPPA regulations to identify persons. She said that this would be an enforcement nightmare and feels that the community should work together to educate. Building Official Law advised that his department only has one Code Enforcement Officer and his department would not be able to enforcement this regulation with no resources. She mentioned that she has seen people arguing in Publix about not wearing facemasks and if regulations are made, people might take enforcement in their own hands. Six businesses that she knows have gone back to take out only service because people are not wearing facemasks. She explained that the Department of Business and Professional Regulations (DBP), CDC, and the Health Department already regulates this. Sometimes the public misinterprets language and it can bring worse fighting amongst the community. Governor DeSantis suggested that if the cases increase to go back to Phase I. She suggested more messaging and the City and businesses need more resources. She asked if this would start on for July 4th and asked if the businesses would have enough supplies on hand to give facemasks to everyone. She explained that there should be a list created on when to wear facemasks and when it is not appropriate to wear facemasks and give it to our local businesses, communicate it with the residents, and the tourists.

Commander Ashlock commented that he was not aware of any physical altercations from people not wearing facemasks; however, he has received quarantine complaints from out-of-town visitors.

Vice Mayor Kostka asked how this affects the businesses and our economy.

Mayor England advised that the Communications and Events Coordinator is doing a frequently asked questions listing for the businesses and will get the communication out tomorrow.

Vice Mayor Kostka asked how the tourists will know.

Mayor England advised that the hotels would tell their guests and will answer questions.

Vice Mayor Kostka explained that all the agencies have already done these regulations and they are already in place. She mentioned that there were only three COVID-19 cases in the City boundaries. She requested that on page 14, Paragraph 5, of the resolution be removed because it is misleading and to change facemasks to "facecoverings or polymer shields."

Assistant City Attorney Taylor advised that this motion requires a supermajority vote.

Commissioner George suggested changing the penalties to \$50 for first offense, \$250 for second offense, and \$500 for three or more offenses.

Commissioner Samora agreed.

Motion: to approve the resolution with the following changes: to further articulate the penalty to \$50 for first offense, \$250 for second offense, and \$500 for third or more offense, to remove the fifth whereas paragraph, and to remove paragraph K in Section 3. **Moved by** Commissioner George, **Seconded by** Commissioner Samora.

Discussion ensued regarding changing the vote to a warning for the first offense, \$50 for second offense, and \$250 for three or more offenses; whether to wait to vote on this resolution and bring it to St. Johns County Emergency Commission meeting on Tuesday and have them ratify it before voting on it; keeping the penalty at \$500; Texas now is mandating all facemasks to be worn in public; whether to use messaging instead of having this resolution and revisit the resolution at a later date if it does not work.

Mayor England asked for a Roll Call was as followed:

Mayor England	Yes
Vice Mayor Kostka	No
Commissioner George	Yes
Commissioner Rumrell	No
Commissioner Samora	Yes

Motion did not pass because it is not a supermajority vote. Vote 3 to 2.

Discussion ensued regarding mandating employees to wear facemasks; all public buildings and employees have six feet of space while working and do not have to wear facemasks because they comply.

Assistant City Attorney Taylor advised that that the Commission could pass the resolution tonight, but table it until the Commission has reviewed it at Monday's Regular Commission meeting in case there is any changes necessary.

Motion: to approve the resolution with the following amendments: removing the word "mandatory" from the title, remove "shall" and replace it with "should" in Section 2, removing Section 4 of the enforcement provision and to be ratified by St. Johns County. **Moved by** Commissioner George, **Seconded by** Mayor England.

Vice Mayor Kostka asked if St. Johns County still must ratify the City's resolution.

Assistant City Attorney Taylor advised no, not if there is no enforcement.

Commissioner George amended her motion for the need for ratification.

Mayor England seconded the amendment.

Assistant City Attorney Taylor asked Commissioner George to restate her motion.

Motion: to approve the resolution with the following amendments: 1) removing the word "mandatory" from the title, 2) in Section in its entirety remove "shall" and replace it with "should" 3) removing Section 4 of the enforcement provision and 4) removing Section 5 in regards to ratification. **Moved by** Commissioner George, **Seconded by** Mayor England.

Discussion ensued what should replace the word mandatory in the title.

Mayor England asked to redraft the resolution and give a copy of the redrafted resolution to the Commission on July 6th Regular Commission meeting.

Assistant City Attorney Taylor advised that he would.

Commissioner Rumrell requested the words "strongly recommends" in the resolution. He requested to read the resolution where it says strongly recommends.

Assistant City Attorney Taylor read the sections of the resolution that were changed. He asked to leave the matter tabled in case there were any changes to the resolution due to the notice.

Commissioner George asked why this resolution must be tabled. She asked that the City Attorney prepare an ordinance for first reading with the penalties and it be read at the July 6th Commission meeting.

Mayor England asked for roll call.

Roll Call was as followed:

Mayor England	Yes
Vice Mayor Kostka	Yes
Commissioner George	Yes

Commissioner Rumrell	Yes
Commissioner Samora	Yes

Motion passes unanimously.

Commissioner George requested that the agenda item for an ordinance for first reading be heard on July 6th Regular Commission meeting but asked the Commission if they object or support it.

The Commission supported the ordinance to be drafted for first reading and be brought to the July 6th Commission meeting.

VI. PUBLIC COMMENTS

Done in Section V.

VII. ADJOURNMENT

Motion: to adjourn. **Moved by** Commissioner Samora, **Seconded by** Mayor England.

Roll Call was as followed:

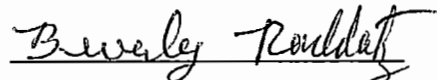
Mayor England	Yes
Vice Mayor Kostka	Yes
Commissioner George	Yes
Commissioner Rumrell	Yes
Commissioner Samora	Yes

Motion passed unanimously.

The meeting was adjourned at 8:35 p.m.


Margaret England, Mayor

ATTEST:


Beverly Raddatz, City Clerk