



MEETING DATE: March 30, 2020

SUBJECT: Resolution 44-R-2020: A RESOLUTION OF THE TOWN OF MEAD, COLORADO ADOPTING A POLICY CONCERNING PROCEDURES FOR REMOTE PARTICIPATION IN REGULAR AND SPECIAL MEETINGS IN EMERGENCY SITUATIONS

PRESENTED BY: Marcus McAskin, Town Attorney

SUMMARY

Town staff and the Town Attorney are recommending that the Board of Trustees proceed to adopt an **Emergency Electronic Participation Policy for Regular and Special Meetings** (the “Policy”). The Policy is attached to the Resolution as **Exhibit 1**.

By way of background, the Town of Mead adopted a disaster declaration declaring a public health emergency related to COVID-19 on March 21, 2020 (the “Disaster Declaration”). Section 3 of the Disaster Declaration provides that the Disaster Declaration “. . . shall remain in effect until the Mayor issues a written declaration terminating the local disaster emergency.”

The Town has also previously adopted Resolution No. 38-R-2020, a Resolution Adopting Supplementary Rules and Procedures for Emergency Meetings (“Emergency Meeting Procedures”), which provides procedures for remote participation in emergency meetings. The Policy has broader application than the Emergency Meeting Procedures previously adopted and:

- (1) Adopts procedures applicable to regular or special meetings of the Town Board and all Town Committees conducted electronically during the pendency of any emergency or local disaster declaration (“Electronic Participation”);
- (2) Permits quasi-judicial matters to be scheduled and heard by the Town Board or Town Committees, as applicable, and provides an applicant (for a specific scheduled item) to choose whether the item will be heard: (i) at a regular or special meeting via Electronic Participation, or (ii) whether the item will be delayed until such time as a traditional public hearing may be conducted; and

- (3) Contains guidelines to ensure that members of the public are afforded an adequate opportunity to participate in the meeting conducted via Electronic Participation, with such participation to be commensurate with similar opportunities that are routinely provided during public hearings, including the opportunity to submit written comments to the Town prior to a hearing.

FINANCIAL CONSIDERATIONS

No additional cost to the Town, other than the fixed costs associated with conducting regular and special meetings in accordance with the Policy.

STAFF RECOMMENDATION/ACTION REQUIRED

No motion required. Approval of the March 30, 2020 consent agenda will approve the Resolution. If the Resolution is pulled off of consent, Staff recommends approval of the Resolution, following discussion by the Board. A suggested motion is set forth below.

Suggested Motion – “I move to adopt Resolution 44-R-2020, Adopting a Policy Concerning Procedures for Remote Participation in Regular and Special Meetings in Emergency Situations.”

ATTACHMENTS

Resolution No. 44-R-2020
Policy (**Exhibit 1** to Resolution)

**TOWN OF MEAD, COLORADO
RESOLUTION NO. 44-R-2020**

**A RESOLUTION OF THE TOWN OF MEAD, COLORADO
ADOPTING A POLICY CONCERNING PROCEDURES FOR REMOTE
PARTICIPATION IN REGULAR AND SPECIAL MEETINGS IN EMERGENCY
SITUATIONS**

WHEREAS, the Town of Mead is a statutory town in the State of Colorado (“Town”);
and

WHEREAS, pursuant to § 24-33.5-709 of the Colorado Revised Statutes (C.R.S.), the
Town Manager and Mayor have authority to declare a local disaster or emergency; and

WHEREAS, the Town government must continue to operate during a local disaster or
emergency, while taking measures to protect the health, safety, and welfare of its employees,
officials, and the public; and

WHEREAS, on March 21, 2020 the Town adopted a disaster declaration declaring a
public health emergency related to COVID-19 (the “Disaster Declaration”); and

WHEREAS, pursuant to Section 3 of the Disaster Declaration, the Disaster Declaration
“. . . shall remain in effect until the Mayor issues a written declaration terminating the local
disaster emergency”; and

WHEREAS, the Town has also adopted Resolution No. 38-R-2020, a Resolution
Adopting Supplementary Rules and Procedures for Emergency Meetings (“Emergency Meeting
Procedures”), which provides procedures for remote participation in emergency meetings; and

WHEREAS, the Town Board of Trustees (“Town Board”) desires to adopt procedures
for remote participation in all regular and special meetings held in emergency situations or
during the pendency of a local disaster declaration, in which the Emergency Meeting Procedures
would not apply; and

WHEREAS, the Town Board has determined that it is in the best interest of the public
health, safety, and welfare of the residents, employees, and officials of the Town of Mead to
adopt an Emergency Electronic Participation Policy for Regular and Special Meetings, as set
forth in this Resolution.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of
Mead, Weld County, Colorado, that:

Section 1. Adoption of Policy. The Emergency Electronic Participation Policy for
Regular and Special Meetings, attached hereto and incorporated herein as **Exhibit 1**, is hereby
adopted.

Section 2. Effective Date. This resolution shall be effective immediately upon adoption.

Section 3. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 4. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 30th DAY OF MARCH, 2020.

ATTEST:

TOWN OF MEAD

By: _____
Mary E. Strutt, MMC, Town Clerk

By: _____
Colleen G. Whitlow, Mayor

EXHIBIT 1

Emergency Electronic Participation Policy for Regular and Special Meetings

I. Applicability and Purpose.

The purpose of this Emergency Electronic Participation Policy for Regular and Special Meetings (“Policy”) is to specify the circumstances and means under which the Town Board of Trustees (“Town Board”) and all advisory boards, commissions, and committees of the Town as set forth in Chapter 3 of the Mead Municipal Code (“Committees”) shall be authorized to conduct regular and special meetings by telephone or other electronic means of participation, such as video-conferencing, that is clear, uninterrupted and allows two-way communication for the participating members (“Electronic Participation”). Electronic Participation has inherent limitations because Electronic Participation may preclude a member of the Town Board or members of one of the Committees from contemporaneously observing documentary information presented during meetings; from fully evaluating a speaker’s non-verbal language in assessing veracity or credibility; and from observing non-verbal explanations during a speaker’s presentation or testimony. The Town Board finds that these limitations, inherent in Electronic Participation, may produce inefficiencies in meetings, increase the expense of meetings, and alter the decision-making process. As such, the Town Board and Committees shall only utilize this Policy upon the adoption by the Town Board of a resolution declaring, or the Mayor and/or Town Manager declaring, a local disaster emergency pursuant to C.R.S. § 24-33.5-709.

This Policy does not apply to emergency meetings, which shall be conducted in accordance with the Supplementary Rules and Procedures for Emergency Meetings (“Emergency Meeting Procedures”), adopted by the Town Board by Resolution No. 38-R-2020.

II. Statement of General Policy.

The Town Board and Committees may conduct a regular or special meeting by Electronic Participation only in accordance with this Policy.

A. Emergency Situations. In the event an in-person quorum is unable to meet at the day, time, and place fixed by the rules and procedures of the Town Board or applicable Committee because an in-person meeting is not practical or prudent due to an emergency or local disaster affecting the Town, meetings may be conducted via Electronic Participation. Meetings may be held by Electronic Participation if all of the following conditions are met:

1. A local emergency or disaster has been declared under C.R.S. § 24-33.5-709; and
2. The Town Manager or the Town Board determines that an in-person meeting is not practical or prudent, due to circumstances related to the local emergency or disaster affecting the Town; and

3. All participating members of the Town Board or Committee, and at least one Town staff member, can hear one another or otherwise communicate with one another and can hear or read all discussion and testimony in a manner designed to provide maximum participation; and
4. Members of the public can hear the Town Board or Committee proceedings and are afforded a reasonable opportunity to participate in public comment; and
5. All votes are conducted by roll call; and
6. Minutes of the meeting are taken and promptly recorded, and such records are open to public inspection; and
7. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, that some members of the Town Board or Committee may participate electronically, and the right of the public to monitor the meeting from another location or through Electronic Participation.

III. Arranging for Electronic Participation.

- A. The Town Manager or a member of Town staff shall contact the Town Board or Committee members at least twenty-four (24) hours in advance of a regular or special meeting to provide notice of a meeting conducted under this Policy.
- B. The Town shall initiate the Electronic Participation not more than ten (10) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the Town Clerk or his or her designee shall make at least three attempts to re-initiate the connection.

IV. Effect of Electronic Participation.

- A. **Quasi-Judicial Matters.** In the event that a pending application is scheduled for a public hearing that is quasi-judicial in nature and conducted under this Policy, the Town shall advise the applicant of such circumstances and present the applicant with options for proceeding with the application. Upon notice from the Town, the applicant shall authorize the Town, in writing, to proceed with one of the following options.
 1. Conduct the public hearing under this Policy with accommodations made for Electronic Participation by the public; or
 2. Suspend any and all review and decisions deadlines until such time that the local emergency or disaster declaration is lifted or rescinded

and the Town Board or Committee may schedule a meeting at which an in-person quorum will be present.

To the extent reasonably possible, the Town Board or Committee (as applicable) shall provide adequate opportunity for the public to participate in the meeting conducted via Electronic Participation that is commensurate with a similar opportunity that is routinely provided during in-person meetings – e.g., an opportunity to comment on the application during the public comment portion of the hearing. Nothing in this Policy shall prevent members of the public from submitting written comments in advance of the meeting. If written comments are received on an item being considered at a meeting conducted via Electronic Participation, said written comments shall be read into the record by the Mayor, the Committee chair, or his or her designee.

- B. Continuation of Meetings Including Quasi-Judicial Matters.** In the absence of a quorum, a lesser number of the Town Board or Committee or one (1) member of the Town Board or Committee, as applicable, may adjourn a meeting or continue a meeting or public hearing to a later date and time. Any decision to continue a public hearing will be specified in the minutes of the meeting and shall specify the date and time to which the public hearing will be continued.
- C. Executive Sessions.** In the event that the Town Board or a Committee holds an executive session pursuant to C.R.S §24-6-402(4) and conducted under this Policy, members shall be authorized to participate electronically. Any executive session conducted under this Policy shall be recorded electronically as required by statute. All members of the Town Board or Committee participating in an executive session taking place via Electronic Participation, as applicable, shall take all steps necessary to ensure that the privacy and confidentiality of the executive session are maintained at the highest level. No individual member of the Town Board or Committee may permit any other person to hear, see, or otherwise have access to executive sessions or related materials.