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# City of Detroit

## CITY COUNCIL

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TO: COUNCIL MEMBERS

FROM: David Whitaker, Director   
Legislative Policy Division Staff

DATE: January 10, 2022

RE: **RESOLUTION CONTINUING PROCEDURES FOR CITY OF DETROIT  
PUBLIC BODIES TO MEET REMOTELY THROUGH JULY 31, 2022**

Council President Mary Sheffield requested that the Legislative Policy Division (LPD) draft a RESOLUTION CONTINUING PROCEDURES FOR CITY OF DETROIT PUBLIC BODIES TO MEET REMOTELY THROUGH JULY 31, 2022.

Attached, please find our draft of the aforementioned resolution.

Attachment

**BY COUNCIL PRESIDENT MARY SHEFFIELD**

**RESOLUTION CONTINUING PROCEDURES FOR CITY OF DETROIT PUBLIC BODIES TO MEET REMOTELY THROUGH JULY 31, 2022**

**WHEREAS,** As a result of the ongoing and continuing COVID-19 pandemic, the City of Detroit’s public bodies, including City Council, were able to meet remotely through electronic means, from March 2020 through December 31, 2021; and

**WHEREAS,** By the wisdom of the Governor and the State legislature, the Open Meetings Act (OMA) was amended twice, which allowed public bodies to hold meetings electronically, under any circumstances, retroactive to March 18, 2020, through March 30, 2021 (MCL §15.263a(1)(a)), and further after March 31, 2021 through December 31, 2021, with a subsequent amendment to the act (MCL §15.263(2)) stating public bodies can meet remotely through electronic means pursuant to a “local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by . . . a local official, governing body, or chief administrative officer”; and

**WHEREAS,** On March 30, 2021, the Chief Public Health Officer of the Detroit Health Department (DHD) issued an Emergency Order for Control of Epidemic (Emergency Order) determining that “action is necessary to reduce transmission of COVID-19 and to protect the public’s health in Detroit”, noting that cases in Detroit have been on a significant upward trend and that “certain in-person open meetings pose a substantial risk to members of the public and governmental bodies in the City of Detroit”; and

**WHEREAS,** On May 20, 2021, the Chief Public Health Officer of the DHD made the following findings in a newly issued Emergency Order for Control of Epidemic: “COVID-19 remains an imminent threat to the public of the City of Detroit; [p]er the Centers for Disease Control and Prevention (CDC), Michigan remains second in the nation in the number of SARS-CoV-2 B.1.1.7 variant cases at this time; [t]he emergence and spread of the SARS-CoV-2 variants in Detroit and surrounding communities, and current vaccination rates; certain in-person meetings pose a substantial risk to members of the public and governmental bodies in the City of Detroit.”; and

**WHEREAS,** The Chief Public Health Officer found further that, “[a] number of public bodies in Detroit, subject to the OMA, MCL §15.261 et seq., will find it difficult, if not impossible, to conduct their business in live meetings that are open to the public, without violating safety guidelines issues by the CDC, the Michigan Department of Health and Human Services and the Detroit Health Department. For example, several public bodies do not have facilities that will allow for adequate physical

distancing or open attendance in an in-person setting. In those instances requiring public bodies to make their decisions in a meeting open to the public and in person (without the option of telephonic and video conferencing) would risk the personal health and safety of the member of the public or members of the public body.”; and

**WHEREAS,** The May 20, 2021, DHD Emergency Order declared “a local state of emergency”, effective from May 20, 2021 until June 30, 2021, or until an earlier time when the order is rescinded by a subsequent order. The Order states that public bodies subject to the OMA may hold in-person meetings only if, on the dates of the scheduled in-person meeting the public body is compliant with the then-current state guidance issued by the MDHHS, requiring that meeting size be limited to 25 members or fewer, and facility capacity allows for social distancing; and

**WHEREAS,** On June 23, 2021, the Chief Public Health Officer issued a new order entitled, Declaration of Continued Emergency Due to COVID-19 to Allow Public Meetings of Governmental Bodies to be Held Remotely per MCL §15.263 Extended From June 30, 2021 to July 31, 2021, declaring “a local public health emergency” and finding that COVID-19 “remains an imminent threat to the public throughout Detroit” because vaccination rates remain “below the level required to achieve herd immunity to limit the spread of the virus”, and that spread results in the emergence of more dangerous variants, such as B.1.617.2 (a/k/a, the “Delta variant”); and

**WHEREAS,** On August 25, 2021, the City’s Chief Public Health Officer issued “City of Detroit Public Health Department Emergency Epidemic Order in Response To The COVID-19 Pandemic Per MCL §333.2453, Declaration of Continued Emergency Due to COVID-19, To Allow Public Meetings of Governmental Bodies To Be Held Remotely Per MCL §15.263, Effective from September 1, 2021 to December 31, 2021” (Order). The Order states, the Chief Public Health Officer “hereby extends the Local Public Health Emergency Epidemic Order (originally issued March 20, 2021) for the Coronavirus Disease 2019 (COVID-19) pursuant to §333.2453 of the Public Health Code of the State of Michigan, as it has been determined that doing so is necessary to continue to protect the public health from further transmission of COVID-19 within the City of Detroit.” The Order further recognizes the need to provide maximum access by the public to public meetings through remote, hybrid, and in-person meetings when a body determines that in-person meetings may be safely held within current state capacity guidelines; and

**WHEREAS,** Subsequently to these actions, the omicron variant, a highly transmissible form of the SARS-CoV-2 virus, has emerged and created millions of new cases of COVID in the U.S. and locally. It has also been reported that the Omicron variant has spread at a much more alarming rate than the original SARS-CoV-2 virus, thereby increasing the risks of mass infections; and

**WHEREAS,** After December 31, 2021, the OMA only allows for members of the military to participate electronically in meetings if the circumstances requiring accommodation of members absent due to military duty as described in MCL §15.263(2). This means that only those members that are on military duty can participate by electronic means under this provision. *Any member who is not on military duty must be physically present at the meeting in order to participate* (MCL §15.263a(1)(c)); and

**WHEREAS,** The City of Detroit has 15 public bodies that are subject to the OMA. Unfortunately, there are currently only two venues available to accommodate these bodies in a manner that would allow for social distancing. The OMA only allows for hybrid electronic meetings which requires that members of the public body attend the meetings and it permits 2-way communication so that members of the public can hear and participate in the meetings. (MCL §15.263(2)(a)(i), MCL §15.263a(2)); and

**WHEREAS,** A majority of the City of Detroit's 15 public bodies are comprised of volunteers, many of which have indicated a hesitancy and some an outright refusal to continue serving in this capacity if they are forced to meet publicly during the current pandemic, in order to unnecessarily risk their health. If this were to happen, losing these valuable public servants could result in preventing critical functions of the City to continue and longstanding negative repercussions. Thereby, having the State extend the allowance for electronic attendance of public bodies via the OMA during the current health crisis, would allow for the City to retain these valuable public servants, **NOW, THEREFORE, BE IT**

**RESOLVED,** That the Detroit City Council respectfully requests that the Governor and the State Legislature modify the OMA, to allow for all public bodies in the City of Detroit whose meetings cannot accommodate necessary social distancing of attendees, may continue to meet remotely pursuant to the OMA, through July 31, 2022, by modifying the procedures as set forth in Public Act 228 of 2020, and by amending the pertinent part of the OMA, and, **BE IT FURTHER**

**RESOLVED,** That the Detroit City Clerk is directed to send this resolution to Governor Gretchen Whitmer and the Detroit delegation in Lansing, Detroit's Lansing Lobbyist and to Mayor Mike Duggan, and to publicly and electronically post and distribute copies of the resolution widely.