

EMERGENCY ORDER NO. 2020- 6

AN EMERGENCY ORDER APPOINTING SPECIAL MAGISTRATE AND PROMULGATING EMERGENCY RULES FOR SPECIAL MAGISTRATE HEARINGS CONDUCTED THROUGH COMMUNICATIONS MEDIA TECHNOLOGY.

WHEREAS, on March 17, 2020, ST. JOHNS COUNTY EMERGENCY PROCLAMATION NO. 2020-1 declared a state of local emergency due to the threat of the Coronavirus Disease 2019 (COVID-19) to spread among humans, which may pose a threat to public health and safety and cause a threat to the entire State of Florida, including St. Johns County; and

WHEREAS, on March 24, 2020, March 31, 2020, April 7, 2020, April 14, 2020, April 21, 2020, April 28, 2020, and May 5, 2020, pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Board of County Commissioners extended the state of local emergency for seven (7) additional days and further retained, ratified, and continued in time for the duration of the emergency proclamation all emergency powers authorized by the emergency proclamations; and

WHEREAS, COVID-19 has caused extensive concerns to the private citizens and public sectors in St. Johns County; and

WHEREAS, St. Johns County is exerting efforts to address emergency conditions and assist affected citizens and properties; and

WHEREAS, while the COVID-19 crisis has led to the temporary stay or delay of certain County code enforcement activities, the County nevertheless continues to investigate and pursue a number of code enforcement matters requiring urgent attention, including those that present a serious threat to the public health, safety, and welfare; and

WHEREAS, pursuant to Chapter 162, Florida Statutes, the County adopted St. Johns County Ordinance No. 2007-21 to establish a code enforcement Special Magistrate with the authority to hold hearings and assess administrative fines and other non-criminal penalties in order to provide a means to address code enforcement matters in an equitable, expeditious, effective, and inexpensive manner; and

WHEREAS, a part of the County's response to COVID-19 has been to safely and expeditiously conduct the business of the County through public meetings and hearings while protecting the health, safety, and welfare of public officials, members of the public, the public sector, and private citizens by following Centers for Disease Control and Prevention guidance regarding social distancing and avoiding gatherings of more than ten (10) people; and

WHEREAS, on March 24, 2020, consistent with the Governor's Executive Order No. 20-69, ST. JOHNS COUNTY EMERGENCY PROCLAMATION NO. 2020-3 adopted Chapter 28-109, Florida Administrative Code, Conducting Proceedings by Communications Media Technology, for minimum procedures to be followed when the Board of County Commissioners or any one of its appointed boards and committees desires to conduct a proceeding by means of CMT or to provide public access to a proceeding by use of CMT; and

WHEREAS, though Special Magistrate hearings are not expressly referenced in ST. JOHNS COUNTY EMERGENCY PROCLAMATION NO. 2020-3, the procedures provided in Chapter 28-109, Florida Administrative Code, adopted by the Proclamation are reasonable rules already in use by State agencies and are reasonable for adoption for Special Magistrate hearings; and

WHEREAS, the procedures adopted in this Emergency Order are necessary to safely conduct the business of the County and provide notice, due process, and a sufficient opportunity to be heard in compliance with Chapter 286, Florida Statutes, the Florida Constitution, and the United States Constitution; and

WHEREAS, while the present appointment and compensation agreement for the Special Magistrate with McCabe Vaughn approved in Resolution 2011-13 has expired, Michael J. McCabe, Esq. continues to meet the requirements for Special Magistrate set forth in St. Johns County Ordinance No. 2007-21 and is due for temporary appointment during the pendency of the COVID-19 crisis in order to address the urgent code enforcement matters in the interest of the health, safety, and welfare of the public.

NOW THEREFORE, in accordance with the emergency power vested in the County pursuant to Chapter 252, Florida Statutes; Section 120.54(4), Florida Statutes; Section 120.54(5)(b)2, Florida Statutes; Executive Order No. 20-69; and Executive Order No. 20-112, and the authority vested in the County Administrator pursuant to Section 6 of St. Johns County Ordinance No. 2019-40, it is hereby declared that:

1. Michael J. McCabe, Esq. is hereby appointed Special Magistrate for the duration of this Emergency Order. The County Attorney is authorized to negotiate and execute a compensation agreement with Michael J. McCabe, Esq., in substantially the same form and format as approved by Resolution No. 2011-13.
2. St. Johns County hereby adopts Chapter 28-109, Florida Administrative Code, Conducting Proceedings by Communications Media Technology, attached hereto as Exhibit A and incorporated herein, for minimum procedures to be followed when the Special Magistrate desires to conduct a proceeding by means of communications media technology (CMT) or to provide public access to a proceeding by the use of CMT.
3. The Special Magistrate may set deadlines for each hearing for submission of documentary evidence that may be considered by the Special Magistrate and may refuse to accept and refuse to consider any documentary evidence submitted after the deadline.
4. The Special Magistrate may supplement the minimum procedures provided in this Proclamation, with additional procedures that promote and preserve decorum and civility and that enables the fair and expeditious conduct of the business of the County, but shall provide procedural due process as required by law.
5. This Emergency Order shall be effective upon filing with the Clerk in accordance with Section 252.46, Florida Statutes, and shall expire at the expiration of ST. JOHNS COUNTY EMERGENCY PROCLAMATION NO. 2020-3, including any extension thereof.

DONE and ORDERED this _____ day of May, 2020.

BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA

By: Hunter Conrad
Hunter S. Conrad
County Administrator

ATTEST: Brandon Patty, Clerk

By: Sam Halterman
Deputy Clerk

