Alachua County, FL
Special Meeting

Meeting Agenda - Final

Monday, September 20, 2021

2:00 PM

BoCC Special Meeting RE: Renewal of Emergency Order

The public may attend and participate in this meeting virtually and in-person. Public comment will be taken both virtually and in-person. Masks are required regardless of vaccination status.

The Commission will take public comment in person or by calling 1-800-741-8011.

Attending virtually: The public may view the meeting on Cox Channel 12, Facebook, and the County's Video on Demand website.

Public comment: The public may submit comments and written or photographic documents to the Board through email (bocc@alachuacounty.us) before the meeting or by participating when prompted to by the Chair of the Board. Virtual participation is available through the public comment message line. Callers will be put in a queue, and prompted when it is their turn to speak. TO AVOID FEEDBACK, CALLERS TO THE PUBLIC COMMENT MESSAGE LINE MUST TURN DOWN THEIR MEETING SOUND WHEN ADDRESSING THE COMMISSION. Callers should state their names and limit comments to three minutes. When prompted for in-person public comment, in-person participants should follow the direction of the Chair to participate.

All persons are advised that, if they decide to contest any decision made at any of these meetings, they will need a record of the proceedings and, for such purpose they may need to ensure that verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. (Section 286.0105 Florida Statutes)

If you have a disability and need an accommodation in order to participate in this meeting, please contact the Alachua County Equal Opportunity Office at (352) 374-5275 at least 2 business days prior to the meeting. TTY users please call 711 (Florida Relay Service).

Approval of Agenda

Items for Discussion

1. 21-0899 COVID-19 Delta Variant Discussion

Fiscal Consideration: N/A

Recommended Action: Consider extension of local state of emergency
Consider extension of emergency order

EmergencyAction2021-254thExtensiontoOrderADA9-16-21.pdf
EmergencyAction2021-29ADA2021-09-16.pdf

Adjourn

Agenda Item Summary

Agenda Date: 9/20/2021 Agenda Item No.: 1.

Agenda Item Name:
COVID-19 Delta Variant Discussion

Presenter:
Board of County Commissioners

Description:
Alachua County is in a local state of emergency due to the Delta Variant of COVID-19. The Board of County Commissioners must meet weekly if it wishes to consider the adoption or extension of any order restricting the businesses or individuals.

Recommended Action:
Consider extension of local state of emergency
Consider extension of emergency order

Prior Board Motions:
On September 14, 2021:

Commissioner Alford moved to extend state of emergency and emergency order for another seven days with no changes.

The Motion carried 5-0

Fiscal Consideration:
N/A

Strategic Guide:
N/A

Background:
N/A

ALACHUA COUNTY
FOURTH EXTENSION OF THE SHORT TERM EMERGENCY
ORDER 2021-25

WHEREAS, on February 24th 2021 President Biden extended, for another year, the national state of emergency due to COVID-19 contained in Proclamation 9994 by President Trump; and

WHEREAS, both President Biden and Governor Ron DeSantis have recommended that all individuals who are able to be vaccinated get vaccinated, and both have stated that the SARS-CoV-2 ("COVID-19") vaccine saves lives; and

WHEREAS, the CDC has designated Alachua County being in the high community transmission category, meaning 100 or more cases for every 100,000 people and/or lab test positivity rate for COVID-19 that is 10% or higher; and

WHEREAS, because of the increased incidence of infection being caused by the Delta variant of COVID-19, the CDC now recommends that face masks be worn indoors by individuals who are vaccinated as well as those who are not vaccinated since the vaccinated have been shown to be able to transmit the virus and the Delta variant has proven to be more virulent than other widespread variants; and

WHEREAS, according to the CDC, the Delta variant of the COVID-19 virus is almost as contagious as the chickenpox virus and can result in unvaccinated individuals getting much sicker than prior variants much more rapidly and can result in break through infections in vaccinated individuals, although generally with far milder symptoms; and

WHEREAS, the Board of County Commissioners has received expert testimony stating that the infection rate for the Delta variant (R_0) is 8, meaning that one individual can infect up to 8 others with the virus as opposed to the Alpha variant which had a value of 3, meaning that 1 person could infect 3 persons; and

WHEREAS, a vaccine is available for all individuals above the age of 12, and the vaccination rate in Alachua County has reached 67% with 160,754 vaccinated and the number of those getting vaccinated continued to decrease on a weekly basis to 1,082 for the week of September 10th; and

WHEREAS, during the week of September 10th, the new rate of positivity for COVID-19 rose to 11.8%, and still remains among the highest it has been during the pandemic to date.; and

WHEREAS, due to the regional nature of our health care facilities, our hospitals continue to have significantly higher numbers of individuals requiring ambulance transport, hospitalization and placement in the ICU's although there continues to be a decrease from the hospitalization numbers reported by the State last week which may be due, in part, to the availability of monoclonal antibody treatment available so that individuals can obtain treatment without going to the hospital; and

WHEREAS, the admissions to the hospitals in Alachua County for COVID-19 continue to be significantly higher for the unvaccinated than for the vaccinated; and

WHEREAS, with the continuing increase in hospitalizations and community spread, there is likely to be an impact on county operations and the ability to provide public services in a timely manner; and

WHEREAS, the data from hospitals demonstrates that the overwhelming majority of individuals hospitalized with COVID-19 are not vaccinated, and there is an increase in the number of pediatric hospitalizations, patients on ventilators and ICU cases due to COVID-19. The overall vaccination level is 67% of individuals eligible, but the Delta variant has shown that the vaccination rate for reaching community immunity could be much higher. Because of the increase in positivity and infection, the Alachua County Health Department has increased its hours of operation at the main location for vaccination and testing. The Health Department's recommendation is to get

vaccinated follow CDC guidelines, wear a mask, socially distance, avoid crowds and wash your hands often. The Board recognizes that the most important thing that the public can do to stop community spread is to get vaccinated; and

WHEREAS, local hospitals are limiting elective and outpatient surgeries in direct response to the increased demands on the hospitals to care for COVID-19 infected patients. Elective surgery includes surgeries which may be quite important but are not considered at the moment to be life threatening. Examples include cardiac, joint replacement and cancer surgeries; and

WHEREAS, the Board received expert testimony that, until those who are unvaccinated and are capable of getting vaccinated obtain the full vaccination, indoor masking is absolutely essential as an additional mitigation strategy to reduce the community spread of this disease, which will in turn reduce the burden upon the health system.

WHEREAS, the current Delta variant is impacting younger individuals now more than the earlier variations. Most of people hospitalized for the condition locally are below 50; and

WHEREAS, fully vaccinated people with the Delta variant may infect others; and

WHEREAS, the Board has received testimony from an expert who, over the past year and a half, has been monitoring the spread of COVID-19 and its mutations from an epidemiological standpoint. His opinion was that the current surge is not a seasonal surge. This is a new phenomenon. This virus mutates. The wider its spread, the quicker its mutation. The current Delta Variant is more aggressive, more infectious and perhaps more pathogenic than the Alpha variant, and there has been a surge in hospitalizations and the hospitalization of young people. In his opinion, community immunity for COVID-19 may not be possible and may not be able to be achieved. While there is some immunity from being infected, it is temporary, and there have been outbreaks from those who have

been infected before. Individuals who have been vaccinated have also been noted as being infected, although often with lesser symptoms than the unvaccinated. Vaccination and the other mitigation measures together will limit the spread of the condition. Over time the presence of different mutations of COVID-19 present in Alachua County has changed. In June, the Delta variant began to be noted at 65 individual cases and, in July, that number went up to 42% of all cases. It is expected that this percentage will increase. In addition, with the Delta variant, there is an increasing trend in individuals who have been vaccinated contracting the condition. While he stated it was possible for the virus to become resistant or mutate to the point where a new vaccine is necessary, it is not at that point now and increasing the number of people vaccinated may delay or prevent that from happening. He also stated that a number of outbreaks occur where people gather, such as in workplaces; and

WHEREAS, even with recovery from COVID-19, the recovery may involve permanent impairments including, but not limited to pulmonary damage including pulmonary fibrosis which can lead to reduced lung capacity and potentially lung transplants; and

WHEREAS, based upon the testimony provided to the Board by those scientists and medical professionals who have come before it, and recently testified in public meetings, along with the recommendations of the CDC, OSHA and various studies the Board has considered, the Board believes the use of face masks as recommended by the CDC reduces significantly the spread of the COVID-19 by the individual wearing a face mask and additionally lowers the inhalation of the virus by those individuals wearing masks when in an area around other individuals wearing masks; and

WHEREAS, the Occupational Safety and Health Administration has issued "Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace" which as of August 13th, 2021,

adopted recommendations similar to the CDC and recommended the wearing of face masks in the work place by individuals; and

WHEREAS, while it is important that all individuals who are capable of getting vaccinated do so, the vaccinations take time to take full effect and wearing a face mask is immediately effective and an effective mitigation strategy; and

WHEREAS, although the evidence supports a conclusion that we may be on the downside of this peak, the amount of community spread and impact on the health system remains much higher than in May, June and July and the continued use of face masks will reduce the amount of viral spread as the numbers of infections caused by the Delta variant continue to decrease and the use of masks will reduce the number of infections in the community reducing the stress which is currently on our local healthcare facilities and governmental services; and

WHEREAS, there have been incidents reported to the County of some employers refusing to allow their employees to wear face masks; and

WHEREAS, there is a need to ensure that the message of the need to wear a face mask is communicated to all individuals entering into businesses and other public occupancies and the posting of a sign setting forth the requirements of this Order will accomplish this need; and

WHEREAS, information regarding infection and vaccination rates from the Florida Department of Health is now released weekly rather than daily as it was earlier this year; and

WHEREAS, based upon information released this week it is now known that since the last report of June 6th 2021 of 285 deaths, there are now known to be 344 deaths caused by the Covid Pandemic an increase of 59 deaths; and

WHEREAS, the Florida Legislature in Chapter 2021-8, Laws of Florida, amended Section 252.38(4) to limit the actions of political subdivision in enacting emergency orders which limit the rights or liberties of individuals or businesses within the political subdivision. These amendments became effective on July 1st, 2021 and were not made retroactive by the Legislature and have no effect on actions taken before the amendments took effect which were based upon a different wording of the statute; and

WHEREAS, in Executive Order 21-101, issued on May 3rd 2021 which would not have taken effect until July 1st 2021, under the authority of the State of Emergency declared in Executive Order 2020-52, Governor DeSantis sought to invalidate COVID-19 emergency orders, as defined in SB 2006, enacted prior to July, 1 2021; and

WHEREAS, in Executive Order 21-102 issued on May 3rd 2021 under the authority of and on reliance on the State of Emergency declared in Executive Order 20-52, Governor DeSantis, for the remaining duration of the state of emergency initiated by Executive Order 20-52, acted to preempt any county or municipality from enacting or renewing an emergency order or ordinance that imposed restrictions or mandates upon businesses or individuals due to the COVID-19 emergency; and

WHEREAS, the last extension of the Alachua County state of local emergency containing restrictions on individuals and businesses was in Emergency Order 2021-19 issued on May 3rd, 2021 prior to the issuance of Executive Order 21-102 and expired on May 10th Emergency Order 21-20 which continued the state of emergency in Alachua County did not contain any restrictions on individuals or businesses and expired on May 17th without being renewed, therefore at the time of its enactment, Alachua County was in compliance with Executive Order 21-102;

WHEREAS, on April 27th, 2021, Governor DeSantis issued Executive Order 21-94, extending the state of emergency declared under Executive Order 20-52 for 60 days and this was not renewed and

therefore expired prior to July 1, 2021 so that all emergency orders issued under the authority of EO 20-52, as extended expired and had no force after June 27th 2021; and

WHEREAS, in that Executive Order 21-101 expired when Executive Order 2020-52 as extended by Executive Order 21-94 expired and, therefore, never went into effect; and

WHEREAS, the legislation requires that any such emergency order must be narrowly tailored to serve a compelling public health or safety purpose. Further any such emergency order must be limited in duration, applicability and scope in order to reduce any infringement on individual rights or liberties to the greatest extent possible. Any such order automatically expires 7 days after issuance but may be extended by a majority vote of the Board in 7 day increments for no more than 42 days (6 weeks). This Order having been renewed four times may be renewed once more after this renewal; and

WHEREAS, Alachua County is a Charter County and has the constitutional authority to enact laws which are not in conflict with general or special laws; and

WHEREAS, the Alachua County Board of County Commissioners as the Official Authority has declared a local state of emergency based upon the current situation arising from the impact of the Delta variant of the COVID-19 virus

THEREFORE, BE IT ORDERED, by the Alachua County Board of County Commissioners that:

1. The above recitals are true.
2. The Board of County Commissioners finds the following:

   A. That the most effective way to limit the spread of the COVID-19 virus is through the concerted action of all residents in Alachua County.

   B. That the evidence is overwhelming that it is imperative that those individuals who are not vaccinated and are able to get vaccinated obtain the vaccine for the purposes of reducing the

strain on local hospitals which Alachua County is currently experiencing and to slow the spread of the virus so that fewer individuals are impacted by the virus and those who are unable to receive the inoculations are provided with some level of protection by a higher level of vaccination in the local population.

C. That the evidence also supports the use of face masks indoors in locations where the public does business or gathers, excluding private residences by all individuals regardless of their vaccination status along with social distancing, avoiding crowds and the frequent washing of one's hands. These are the recommendations of the CDC and of OSHA.

D. That there is a compelling governmental interest in reducing community spread of COVID-19 in Alachua County so to limit the impact of the absence of workers in their employments and to reduce the admissions to the hospitals and stress on the medical transport system to the extent that those admissions are from Alachua County.

E. That there is a compelling public health and safety need for Alachua County to require face masks to be worn in public indoor spaces including businesses, indoor spaces used or owned by organizations, and locations other than private residences. It is recognized that there will be locations where because of adequate distancing – *e.g.*, sitting alone in one's office – may exist where not wearing a face mask would not contribute to community spread and therefore this is an exception to the general rule of wearing a face mask. In addition, it is recognized that face masks cannot be worn while eating or drinking, therefore this is an exception to the general rule of wearing a face mask.

F. That there is a compelling need that the public be reminded or made aware of the need to wear a face mask upon entry into enclosed spaces and this can be accomplished by requiring signage regarding the requirements of this Order at every public occupancy covered by this Order.

G. That based upon the expiration on June 27th of the Emergency Orders issued by the Governor extending the state of emergency originally set forth in Executive Order 20-52 which ended the effect of the emergency orders issued pursuant to that Order/State of Emergency and the authority it provided to the Governor, along with the fact that the Legislature did not make Chapter 2021-8 of the Laws of Florida retroactive, the Board of County Commissioners has authority under Section 252.38 (4) (2021) to issue an order which meets the requirements and limitations set forth therein.

H. That for the reasons set forth in this Emergency Order (including its preamble), the Board of County Commissioners finds that this Emergency Order is narrowly tailored to serve a compelling public health and/or safety purpose. This Emergency Order applies the least intrusive method available to achieve the compelling goal.

3. THE BOARD ORDERS THAT:

A. A face mask shall be worn in all indoor places when there are more than two people present, with exceptions as provided by this Emergency Order. This requirement excludes private residences or spaces occupied by a single-family unit.

B. Such face masks shall be of a nature approved by the CDC and shall cover the mouth and nose and loop securely around the head or ears.

C. That based upon the standards set forth by OSHA ("Occupational Safety and Health Administration"), an employer shall not prevent its employees from wearing face masks in

accordance with the recommendations of OSHA and this Order. However, the business owner or their representative may prescribe the nature of the mask to be worn as long as it meets the requirements of OSHA and is not required to allow the use of any personal protection equipment which carries an obscene message or one that is not appropriate.

D. Face masks shall not be required for children under six, (although it is encouraged that children ages 2-5 wear masks), persons who have trouble breathing due to a chronic pre-existing condition or individuals with a documented or demonstrable medical problem. It is the intent of this provision that those individuals who cannot tolerate a face mask for a medical, sensory or any other condition, which makes it difficult for them to utilize a face mask and function in public, are not required to wear one. It is recognized that this requirement is broader than what might be considered a covered condition under the Americans with Disabilities Act. Individuals who believes that they meet this exception are not required to show documentation of their condition but should be able to describe their limitation in general terms. Wearing face masks shall not be required while eating or drinking.

E. Public places covered by this Order where the public gathers inside, including businesses, non-profit entities and similar organizations, shall post and display a sign setting forth the requirements of this Order regarding face masks at all locations where the public enters a building in manner and location that is clearly visible. A copy of a sign meeting these requirements is available from the County.

F. This Emergency Order applies to incorporated and unincorporated areas within Alachua County, but has no application outside of Alachua County. Municipalities have the authority to

enforce this Emergency Order within their jurisdiction. Municipalities are authorized to impose regulations, which are more stringent than those set forth herein.

G. This Emergency Order does not apply to the internal operations or policies of local governments within the County, the Alachua County Public Schools, local Charter Schools established by law, the State University System, State College System, the State of Florida, or federal agencies who are encouraged to adopt their own rules and procedures regarding the matters set forth herein.

H. A violation of this Emergency Order does not authorize the search of any individual, business or organization, or the arrest of any individual. A violation of this Order is a noncriminal infraction. Prior to issuing any citation, the individual or person in charge will be asked to comply with this Order or be able to explain how any exemption or exception under this Order applies to them. Failure to comply with the requirements of this Order presents a serious threat to the public health, safety, and welfare, pursuant to Chapt. 162, Fla. Stat., and a citation may be issued immediately for such violation. The County shall enforce the first violation of section 3 of this Emergency Order through a fine of $125.00 to the violator. The second violation of section 3 of this Emergency Order shall be subject to a fine of $250.00 to the violator. All subsequent violations of section 3 of this Order shall constitute a Class V violation under Art. II, Chapt. 24 of the Alachua County Code of Ordinances, requiring a mandatory court appearance and subject to a fine not to exceed $500.00. The municipalities may enforce this Order as provided by Florida law and municipal code.

4. This Emergency Order shall last for 7 days and will expire no later than September 23rd, 2021. Pursuant to Section 252.38(4)(c), the Board of County Commissioners may extend this Order by

majority vote for 7 days one more time if the circumstances warrant. The conditions supporting a termination of this order shall include a significant reduction in community spread of the Delta variant and the return to the ability of hospitals to return to providing regular elective surgeries and care.

5. This Emergency Order shall be effective upon filing with the Clerk of Courts. If it is not filed with the Clerk within 3 days of issuance it shall be considered void.
6. This Emergency Order shall take effect on the 16th Day of September, 2021 beginning at 5:00 p.m. EDT.

Dated this 16th day of September, 2021 at 10:55 a.m.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: _____
Ken Cornell, Chair

APPROVED AS TO FORM:

_____
County Attorney's Office

EMERGENCY ACTION 2021-29
EXTENSION OF STATE OF GENERAL EMERGENCY
IN ALACHUA COUNTY DUE TO DELTA VARIANT OF COVID-19

WHEREAS, on February 24th 2021 President Biden extended, for another year, the national state of emergency due to Covid-19 contained in Proclamation 9994 by President Trump; and

WHEREAS, both President Biden and Governor Ron DeSantis have recommended that all individuals who are able to be vaccinated get vaccinated, and both have stated that the COVID vaccine saves lives; and

WHEREAS, the CDC has indicated that Alachua County is in the high community transmission category, meaning 100 or more cases for every 100,000 people and/or lab test positivity rate for COVID that is 10% or higher; and

WHEREAS, because of the increased incidence of infection being caused by the Delta variant of COVID-19 the CDC now recommends that face masks be worn indoors by individuals who are vaccinated as well as those who are not vaccinated since the Delta variant has proven to be more virulent than other widespread variants; and

WHEREAS, according to the CDC, the Delta variant of the COVID-19 virus is almost as contagious as the chickenpox virus and can result in unvaccinated individuals getting much sicker than prior variants and can result in break through infections in vaccinated individuals, although with far milder symptoms; and

WHEREAS, the Board of County Commissioners allowed its prior state of emergency to expire in May based upon the increased level of availability of effective and safe vaccines in Alachua County and the continuing increase in vaccination by the residents of Alachua County; and,

WHEREAS, a vaccine is available for all individuals above the age of 12 and while the vaccination rate in Alachua County is currently 67% the vaccination rate has slowed from where it was in May; and

WHEREAS, since July 9, 2021 there has been an increase in local cases and although it appears that we may be on the downside of the recent peak in cases, the number of new cases are still nearly 10 times what it was on July 9th. According to the figures available from the Florida Department of Health, for the week ending September 10th, Alachua County had 1,277 new positive cases with a positivity rate of 11.8%; and

WHEREAS, because of the regional nature of our health facilities, our hospitals have, during this spike in new cases, had a significant increase in the number of individuals requiring hospitalization and placement in the ICU's; and

WHEREAS, with the continuing increase in hospitalizations and community spread over what it was prior to the current spike in new cases, there is likely to be an impact on county operations and the ability to provide public services in a timely manner; and

WHEREAS, with the increase in hospitalizations due to the increase in virulence of the Delta variant when compared with previous variants and the increase in breakthrough infections of the vaccinated, the County strongly recommends that the members of the public who have not been vaccinated get vaccinated, and all members of the public, including those who are vaccinated, should follow the guidelines of the CDC regarding washing hands frequently, social distancing and wearing masks indoors; and

WHEREAS, at their meetings on August 10th, 17th, 24th, 31st 2021, September 7th and 14th, the Board of County Commissioners received briefings from the Department of Health and have received briefings and information from experts from the University of Florida regarding the increase in positive cases and the impact on the Delta Variant on the local healthcare system; and

WHEREAS, the declaration of a local state of emergency under Section 252.38, Fla. Stat. does not meet the definition of an emergency order as defined in Sec. 252.38(4)(a), Fla. Stat. (2021) as this Action does not limit the rights or liberties of individuals or businesses in the County; and

WHEREAS, the Alachua County Code allows certain streamlined operations during the pendency of a local declared state of emergency which allows the County Administration and the Board of County Commissioners flexibility in the utilization of Federal, State and local Funds; and

WHEREAS, pursuant to Chapter 27 of the Alachua County Code the Chair, acting as the Official Authority has declared a state of emergency in Emergency Actions 2021-26. These Actions have been renewed by the Board of County Commissioners at each of their following meetings; and

WHEREAS, on September 14th the Board of County Commissioners met in a regular meeting and after considering a briefing from the Department of Health acted to extend the declaration of emergency for an additional 7 days starting September 16th 2021; and

WHEREAS, Sec. 27.07(4) provides that a declaration of emergency shall be declared by the Board of County Commissioners if they are available.

NOW THEREFORE, pursuant to Alachua County Code Section §27.07, the Board of County Commissioners sitting as the Official Authority hereby resolves, finds, and declares:

1. The above recitals are true.
2. There shall be in effect a local state of emergency as of September 16th 2021 beginning at 1:00 pm. and shall continue uninterrupted for 7 days.
3. Should circumstances warrant this Action may be extended for another seven days no later than September 23rd, 2021 at 1:00 p.m.

4. In accordance with §252.46(2), Fla. Stat., this Order shall take effect immediately upon filing with the Clerk of Courts for Alachua County.

Dated this 16th day of September, 2021 at 10:45 a.m.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: _____
Ken Cornell, Chair

APPROVED AS TO FORM:

_____
County Attorney's Office