

At a special call meeting of the Board of Supervisors, Alleghany County, Virginia held on Friday, April 3, 2020 at 3:00 p.m. in the Alleghany County Governmental Complex, Covington, Virginia, thereof:

PRESENT: G. Matt Garten, Chairman
Shannon P. Cox
James M. Griffith
Cletus W. Nicely
Richard Lee Shull
M. Joan Vannorsdall

and Ryan D. Muterspaugh, Director of Public Safety
Suzanne T. Adcock, Director of Finance (electronic)
Jim Guynn, County Attorney (electronic)
Melissa A. Munsey, Deputy Clerk to the Board

ABSENT: Stephen A. Bennett, Vice-Chair
Jonathan A. Lanford, County Administrator

CALL TO ORDER:

The Chairman called the special call meeting to order. He stated that:

- The following Board members and are physically present:

Matt Garten
Shannon Cox
Cletus Nicely
Richard Shull

- The following Board members are electronically present

James Griffith
Joan Vannorsdall

He asked that each Board member participating wait until their name is called before commenting on each agenda topic.

APPROVE A RESOLUTION CONFIRMING THE DECLARATION MADE ON MARCH 17, 2020 OF A LOCAL EMERGENCY IN RELATION TO THE COVID-19 PUBLIC HEALTH THREAT:

Mr. Muterspaugh stated that a declaration of a local emergency in relation to the COVID-19 public health threat was made on March 17, 2020. He commented that the State Code requires that the Board confirm an emergency declaration by resolution.

On motion of Mr. Nicely, seconded by Mr. Shull, that the following resolution be adopted:

WHEREAS, the Coordinator of Emergency Services, at the direction of the Director of Emergency Services (Chairman of the Board of Supervisors), declared a local emergency in Alleghany County on Tuesday, March 17, 2020 at 12:00 p.m. due to the COVID-19 pandemic; and

WHEREAS, the Alleghany County Emergency Operations Plan states that consent of the entire Board of a local emergency is needed within fourteen days of the declaration; and

WHEREAS, the Board of Supervisors of the County of Alleghany, Virginia, does hereby find as follows:

1. That, due to the occurrence of COVID-19 pandemic and related conditions, the County of Alleghany is facing potential problems that could require the request of resources from the State and/or Federal Government.
2. That, the proclamation of the existence of an emergency is necessary to permit the full powers of government to deal effectively with the situation at hand and may allow for monetary assistance for damage sustained by and costs related to the event.

NOW, THEREFORE, BE IT HEREBY PROCLAIMED by the Board of Supervisors of the County of Alleghany, Virginia, that they confirm the actions taken by the Director of Emergency Services in declaring that a local emergency exists throughout the County of Alleghany; and

BE IT FINALLY PROCLAIMED AND ORDERED that during the existence of this emergency the powers, functions, and duties of the Director of Emergency Services and the Emergency Services organization and functions of the County of Alleghany shall be those prescribed by the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of the County of Alleghany in order to mitigate the effects of said emergency.

Unanimously adopted by the following roll call vote:

Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard L. Shull	Yes
M. Joan Vannorsdall	Yes
Stephen A. Bennett	Absent
G. Matt Garten	Yes

APPROVE AN EMERGENCY ORDINANCE ENTITLED "AN ORDINANCE TO EFFECTUATE TEMPORARY CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH THE PANDEMIC EMERGENCY":

Mr. Muterspaugh stated that this emergency ordinance is in response to the COVID-19 pandemic, the need for continuity of government, and the limitations on public assembly. He commented that the ordinance would cover the Board of Supervisors, School Board, and other boards/commissions/authorities the Board appoints members to serve on. The ordinance allows meetings by electronic means, notice to be given to the public on access to the meeting, and guidelines on receipt of public comment. He mentioned that the ordinance would be in effect for a period of 60 days unless amended, rescinded, or readopted by the Board.

On motion of Mr. Nicely, seconded by Mrs. Cox, that the following emergency ordinance proposed at a Special Call Meeting held on Friday, April 3, 2020 at 3:00 p.m. be adopted as follows:

AN ORDINANCE TO EFFECTUATE TEMPORARY CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH THE PANDEMIC EMERGENCY

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order 51 declaring a state of emergency for the Commonwealth of Virginia arising from the novel coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order 51 acknowledged the existence of a public health emergency which constitutes a disaster as defined by Section 44-146.16 of the Code of Virginia (1950, as amended) arising from the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, Executive Order 51 ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive "any state requirement or regulation" as appropriate; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19; and

WHEREAS, on March 17, 2020, the Chairman of the Board of Supervisors for Alleghany County, Virginia, acting as the Director of Emergency Services pursuant to Section 2-33 of the Alleghany County Code, issued a Declaration of Emergency pursuant to Sections 44-146.21 and 15.2-1413 of the Code of Virginia (1950, as amended); and

WHEREAS, Board of Supervisors hereby affirms the existence of a disaster and hereby confirms and ratifies the Declaration of Emergency; and

WHEREAS, the Board of Supervisors finds that COVID-19 constitutes a real and substantial threat to public health and

safety and constitutes a “disaster” as defined by Section 44-146.16 of the Code of Virginia (1950, as amended) being a “communicable disease of public health threat”; and

WHEREAS, Section 15.2-1413 of the Code of Virginia (1950, as amended) provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster for a period not to exceed six (6) months; and

WHEREAS, Section 44-146.21(C) of the Code of Virginia (1950, as amended) further provides that a local director of emergency management or any member of a governing body in his absence may upon the declaration of a local emergency “proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to performance of public work”; and

WHEREAS, Section 2.2-3708.2(A)(3) allows, under certain procedural requirements including public notice and access, that members of the Board of Supervisors may convene solely by electronic means “to address the emergency”; and

WHEREAS, the open meeting requirements of the Virginia Freedom of Information Act are limited only by a properly claimed exemption provided under that Act or “any other statute”; and

WHEREAS, federal and state guidance from the executive branch has recommended suspension of public gatherings of more than ten (10) attendees; and

WHEREAS, the Attorney General of Virginia issued an opinion, dated March 20, 2020, stating that localities have the authority during disasters to adopt ordinances to ensure the continuity of government; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID-19 pandemic promotes public health, safety and welfare and is consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Board of Supervisors of Alleghany County, Virginia:

1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including the Board of Supervisors, the School Board, the Planning Commission, Board of Zoning Appeals, Board of Equalization and all other local and regional boards, commissions, committees and authorities created by the Board of Supervisors or to which the Board of Supervisors appoints all or a portion of its members (collectively “Public Entities” and individually a “Public Entity”), or for such Public Entities to conduct meetings in accordance with normal practices and procedures.
2. That in accordance with Section 15.2-1413 of the Code of Virginia (1950, as amended), and notwithstanding any contrary provision of law, general or special, the following emergency procedures are adopted to ensure the continuity of government during this emergency and disaster:
 - a. Any meeting or activities which require the physical presence of members of the Public Entities may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physically present in one location; and
 - b. Prior to holding any such electronic meeting, the Public Entity shall provide public notice of at least 3 days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
 - c. Any such electronic meeting of Public Entities shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this Ordinance; identify Public Entity members physically and/or electronically present; identify the person responsible to receive public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and
 - d. Any such electronic meeting of the Public Entities shall be open to electronic participation by the public and closed to in-person participation by the public; and
 - e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance and shall also be solicited through telephonic or other electronic means during the course of the electronic meeting. All such public comments will be provided to members of the Public Entity at or before the electronic meeting and made part of the record for such meeting; and
 - f. The minutes of all electronic meetings shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. The Public Entities may approve minutes of an electronic meeting at a subsequent electronic meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.

IT IS FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Entity, its officers (including Constitutional Officers) and employees of its organization shall be suspended during this emergency and disaster, however, the Public Entities, officers and employees thereof are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

IT IS FURTHER ORDAINED that non-emergency public hearings and action items of Public Entities may be postponed to a date certain provided that public notice is given so that the public is aware of how and when to present their views.

IT IS FURTHER ORDAINED that each incorporated town within the boundaries of Alleghany County, Virginia, are encouraged, authorized and/or directed to declare its own state of local emergency and disaster or incorporate by reference the County's local state of emergency and disaster and to adopt an ordinance for the continuity of government.

IT IS FURTHER ORDAINED that the provisions of this Emergency Ordinance shall remain in full force and effect for a period of sixty (60) days, unless amended, rescinded or readopted by the Board of Supervisors in conformity with the notice provisions set forth in Section 15.2-1427 of the Code of Virginia (1950, as amended), but in no event shall such ordinance be effective for more than six (6) months. Upon rescission by the Board of Supervisors or automatic expiration as described herein, this emergency ordinance shall terminate and normal practices and procedures of government shall resume.

Nothing in this Emergency Ordinance shall prohibit Public Entities from holding in-person public meetings provided that public health and safety measures, as well as social distancing, are taken into consideration.

An emergency is deemed to exist, and this ordinance shall be effective upon its adoption.

Adopted this 3rd day of April, 2020.

Adopted by the following roll call vote:

Mr. Bennett	Absent
Mrs. Cox	Yes
Mr. Garten	Yes
Mr. Griffith	Yes
Mr. Nicely	Yes
Mr. Shull	Yes
Ms. Vannorsdall	Yes

G. Matt Garten, Chairman

Attest:

Melissa A. Munsey, Deputy Clerk

Approved as to Form:

Jim H. Guynn, Jr., County Attorney

ADJOURNMENT:

On motion of Mr. Nicely, seconded by Mr. Shull, that the meeting be adjourned at 3:05 p.m. Motion carried.

G. Matt Garten
Chairman