



Legislation Text

File #: 20-0832, **Version:** 1

City of Alexandria, Virginia

MEMORANDUM

DATE: APRIL 24, 2020

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /s/

DOCKET TITLE:

Discussion of Proposed Plan for Docket Items for Virtual Meetings of City Council and Boards and Commissions during the COVID-19 Emergency.

ISSUE: What should the subject matter of virtual meetings for City Council for the next month? What guidance in regard to virtual meetings should be given to City Boards and Commissions?

RECOMMENDATION: That City Council:

- (1) Adopt the plan for limiting City Council's docket in May as outlined in this report,
- (2) Provide guidance to City Boards and Commissions as outlined in this report, and
- (3) Reassess the plan for June and July meetings near the end of May.

BACKGROUND: Up to this week, the Commonwealth of Virginia had provided guidance that public bodies may meet electronically without a quorum in the room ("Virtual Meeting") in order to address the following:

1. Matters involving addressing the emergency (in this case COVID-19).
2. Decisions that if not made immediately, will have irreparable harm to the public interest.

3. If an ordinance is considered by the local governing body, it would need to be for those matters that are required for the continuity of government (necessary to continue the essential functions of the government).

Due to the emergency, and using the above definitions, the City has made an effort to cancel all meetings that are not necessary. For the few meetings that have been deemed necessary, the meetings have been Virtual Meetings and the agenda items have been limited to just those discussing the COVID-19 emergency or those that if not decided would cause irreparable harm.

For the City Council, this has meant meetings focused on the COVID-19 emergency, budget and tax decisions, and decisions on City projects that were required to be made to prevent a delay in the project causing a cost burden on the City.

During the last two months City has taken a more conservative view of what could be discussed in a Virtual Meeting. City Council has not discussed any land use matters and the Planning Commission has not met. In some other jurisdictions, there has been normal or near normal discussion and decision making in regard to land use matters by the local government governing body while meeting in a virtual session.

The City has encouraged the utilization of virtual information and feedback sessions on a number of major proposed development projects and small area plan work: (Virginia Tech/North Potomac Yard, Oakville Triangle, Arlandria / Del Ray Small Area Planning). These virtual sessions, which are not meetings of a public body, but staff or developer led, have been well attended, sometimes with more attendance and participation than the City typically experiences with in-person meetings.

This week, the General Assembly adopted an amendment to the Governor's budget bill that provides additional clarity on topics that can be discussed during a Virtual Meeting of a public body. This guidance indicates that public bodies may conduct Virtual Meetings to ***"discuss or transact the business statutorily required or necessary to continue operations of the public body...and the discharge of its lawful purposes, duties, and responsibilities;"***

We believe that this new statutory authority allows for additional items to be discussed at Virtual Meetings as it allows for any items that are statutorily required or those items that are necessary to discharge the duties of a public body. This authority extends beyond those items necessary to continue the essential functions of government.

However, as the Attorney General pointed out in his March 20, 2020 opinion, open government and transparency remains critically important. Therefore, we recommend a slow approach to restarting full dockets in public meetings during the month of May so that we can hopefully reach a time when it will be safer to again meet in-person while still allowing for the business of the City to continue. At this time, the COVID-19 cases have not likely peaked in our region but may peak by the end of May.

It should be noted that whether or not a meeting is Virtual Meeting or in-person, if a particular docket item is normally subject to public hearing with the receipt of public input, then that public input would still occur either in-person or virtually (as Council did with its April 18 Public Hearing meeting). Staff have reviewed upcoming docket items and except for what is listed below, there is no known docket items not related to COVID-19 or the continuity of government which need to be presented to Council in May. However, there are

a number of docket items which will need to be presented to Council in June or July. With that in mind, we recommend the following approach for the remainder of Council's Legislative session which ends on July 7.

May:

City Council:

- Dockets will continue to focus on urgent decisions and discussions about or related to the COVID-19 emergency.
- Dockets may contain continuity of government items where for Council not to act would cause irreparable harm. At this time, it appears that all non COVID-19 docket items can be deferred until June.

Planning Commission:

- The Planning Commission will not meet, and its meeting will remain canceled for May.

Board of Architectural Review (BAR)

- Because of a Federal Communications Commission "shot clock" requirement in regard to telecommunications company small cell proposals (which if not acted upon by the City would receive automatic approval and potentially cause public harm), a BAR Virtual Meeting has been scheduled for May 6 to consider this item.

Other Boards and Commissions:

- Boards and Commissions that are not dealing with COVID-19 items will continue to be strongly encouraged to cancel their May meetings.
- The following Advisory Boards and Commissions will each conduct a Virtual Meeting in May to discuss land use items that are scheduled for June Planning Commission and City Council consideration:
 - Potomac Yard Design Advisory Committee (PYDAC) (Virginia Tech/Potomac Yard land use plans)
 - Affordable Housing Advisory Committee (AHAAC) (North Potomac Yard Developer Contribution Formulae)
 - Environmental Policy Commission (EPC) (North Potomac Yard Environmental Sustainability Plan)

June and July:

We are hopeful that it will be safer enough to have at least partial in-person meetings which comply with the usual and customary meeting requirements of FOIA starting in June. However, we recommend planning on these docket items being heard even if it is determined that a Virtual Meeting is necessary for safety reasons, as these items can be justified under the new General Assembly approved clarification.

City Council:

- Resume land use items regarding specific applications
- Resume appointments
- Resume leases
- Resume grant approvals (currently delegated to the City Manager)
- Continue to delay decisions and discussions until September that are long range in nature or whose hearing is not time sensitive.

Planning Commission

- Resume land use applications being requested by property owners
- Continue to delay decisions and discussion items until September that are long range in nature or whose hearing is not time sensitive. This would include text amendments, small area plans, or large scale rezonings.

Other City Boards and Commissions:

- Continue to encourage Boards and Commissions, except for COVID-19 related reasons or the reason listed below, to cancel meetings and defer items until it is safer to meet in person.
- Resume items that are time sensitive or necessary for another board to continue its work (i.e., advisory groups to Planning Commission actions).

FISCAL IMPACT: None.

ATTACHMENTS: None.

STAFF:

Joanna C. Anderson, City Attorney