



Legislation Text

File #: 20-0740, Version: 1

City of Alexandria, Virginia

MEMORANDUM

DATE: March 23, 2020

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK JINKS, CITY MANAGER
JOANNA ANDERSON, CITY ATTORNEY

DOCKET TITLE:

Introduction, First and Second Reading, Public Hearing and Final Passage of an emergency ordinance implementing emergency procedures to ensure continuity of city government and, in particular, to modify public meeting procedures and other public practices and procedures to address continuity of operations associated with the COVID-19 pandemic disaster.[ROLL-CALL VOTE]

ISSUE: Consideration of an emergency ordinance to implement procedures and processes for public meetings and other public procedures during the COVID 19 pandemic disaster.

RECOMMENDATION: That City Council introduce the ordinance, pass the ordinance on first reading, hold a public hearing on the ordinance and adopt the ordinance on March 24, 2020.

DISCUSSION: The continuity of government emergency ordinance provides an additional mechanism for the City Council and other public bodies to meet electronically without a quorum in the room given that the circumstances of COVID 19 pandemic may make it unsafe to meet in person. As always, public bodies must adhere to the requirements of the Virginia Freedom of Information Act (VFOIA) and allow public access to meetings to the greatest extent possible. Therefore, the dockets for the electronic meetings without a quorum in the room will be limited to just those items necessary to be discussed and decided immediately and all other matters should be deferred until after the emergency is over and normal meeting procedures can resume. Additionally, for those meetings that are necessary, the public needs to be provided with access to the meeting to the greatest extent possible by electronic means and notice for the meeting must continue to meet requirements in VFOIA.

BACKGROUND: On March 20, 2020, the Attorney General issued an opinion that gave local governments additional guidance regarding processes and procedures that may be altered during an emergency such as the

COVID 19 pandemic disaster. As he described, VFOIA has an emergency provision that allows public bodies to hold electronic meetings without a quorum in the room to address the emergency causing the need for the emergency procedure. He went on to add that addressing the emergency could include decisions that come before a public body that must be made immediately and where failure to do so could result in “irrevocable public harm.” *See* Attorney General Opinion #20-011. Additionally, the Attorney General points out that Section 15.2-1413 of the Virginia Code allows local governments to adopt an ordinance regarding the continuity of government to allow the government to continue certain operations during a “disaster”. *See id.* His opinion is that since the Governor’s declaration of emergency concludes that the COVID-19 pandemic is a disaster, that Section 15.2-1413 is invoked. *See id.*

However, the Attorney General is very clear that although there are emergency provisions that the local government may utilize during this emergency, there are limitations on the subject matter that should be discussed using these emergency processes. Localities need to continue to be conscious of the importance of the VFIA open meeting rules and their purpose of allowing as much open government as possible. Therefore, the docket items considered at electronic meetings without a quorum present should be limited to those about the COVID 19 pandemic disaster and any necessary response thereto and those items of the public body’s regular business that are necessary to prevent irreparable harm to the public and to continue the government function. This would include budget, appropriation, and tax discussions and actions; and actions related to ensuring the ongoing continuity of government during the COVID 19 crisis

FISCAL IMPACT: N/A

ATTACHMENTS:

- Attachment 1: Coversheet for Continuity of Government Emergency Ordinance
- Attachment 2: Continuity of Government Emergency Ordinance
- Attachment 3: March 20, 2020 Opinion of the Attorney General