

April 16, 2020

**The Chair has called an Emergency Meeting of the Roanoke Valley Transportation Planning Organization Policy Board pursuant to Code of Virginia Section 2.2-3708.2(A)(3), for:**

**DATE: Thursday, April 23, 2020**

**TIME: 1:00 PM**

**LOCATION: The Emergency Meeting will be by electronic communications without a quorum of the Board physically assembled at one location.**

*The purpose of this meeting is to address the state of emergency declared by Governor Northam on March 12, 2020 pursuant to Executive Order Number Fifty-One regarding the COVID-19 pandemic disaster and supplemented by Executive Order Number Fifty-Three issued on March 23, 2020. This Emergency Meeting will allow the RVTPO Board to consider actions in response to the COVID-19 pandemic disaster.*

## **AGENDA**

1. Call to Order, Opening Remarks, Roll Call ..... *Chair Scheid/Secretary Strickland*
2. Action Establishing a Written Policy Authorizing Participation in Roanoke Valley Transportation Planning Organization Meetings via Electronic Communication Means ..... *Bryan Hill*
  - Staff Report, pp. 3-4
  - Resolution: Establishment of a Written Policy Authorizing Participation in Roanoke Valley Transportation Planning Organization Meetings through Electronic Communication Means, pp. 5-6
3. Action to Authorize the Adoption of Procedures for Electronic Public Meetings and Public Hearings to Ensure the Continuity of Government During the COVID-19 Pandemic ..... *Bryan Hill*
  - Staff Report, pp. 7-8
  - Resolution: Authorizing the Adoption of Procedures for Electronic Public Meetings and Public Hearings to Ensure the Continuity of Government During the COVID-19 Pandemic Disaster, pp. 9-10
  - City of Roanoke Emergency Ordinance (adopted 3/27/20), pp. 11-15
4. Adjournment

*In accordance with State Code, the Roanoke Valley-Alleghany Regional Commission (RVARC) Office Manager, Jackie Pace, will provide public notice of this Emergency Meeting by posting it on the Commission's website (<http://rvarc.org/meetings/agendas-and-minutes/>) and distribution via electronic mail to media. The RVARC Outreach and Communications Specialist, Tim Pohlad-Thomas will post notice of this meeting public access to the meeting on the RVARC's [Facebook page](#).*

*The public will be able to access this meeting through Cisco Webex, either by dialing in by phone or joining online. Access information is as follows:*

***Link to meeting online (web audio):***

***<https://meetingsamer7.webex.com/meetingsamer7/j.php?MTID=m125980ebda8d81cd787c437b2932285c>***

***Phone Number (phone audio): 1-408-418-9388***

***Access Code: 624 336 965***

***Meeting password: rvarc (78272 from phones)***

## **STAFF REPORT**

### **April 23, 2020 RVTPO Emergency Meeting**

#### **SUBJ: Action Establishing a Written Policy Authorizing Participation in Roanoke Valley Transportation Planning Organization Meetings via Electronic Communication Means**

On March 12, 2020 Governor Northam, through issuance of Executive Order Fifty-One declared a state of emergency throughout the Commonwealth of Virginia with respect to the COVID-19 pandemic disaster. As a result, and pursuant to Code of Virginia §44-146.17(1), the Virginia Emergency Operations Plan was activated. This allows for the "...needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations."

Section §2.2-3708.2(A)(3) allows for any public body to meet without a quorum physically located in one location, only when it is determined that is unsafe for a quorum to meet in one location, and that the purpose of the meeting is to address the emergency.

This Emergency Meeting fulfills the Code requirements, however, to maintain continuity of government and to hold meetings where routine business is discussed staff recommends establishing a written policy to conduct electronic meetings.

The RVTPO Policy Board is a regional public body of the Commonwealth of Virginia. As such, its members are enabled by the Virginia Freedom of Information Act (Code of Virginia § 2.2-3708.2) to participate in meetings electronically and remotely under certain situations. Staff recommends the following policy for adoption:

*The following policy is established for remote electronic participation in all meetings of the RVTPO Policy Board ("Policy Board"):*

- A. *On or before the day of a meeting, the member shall notify the Chair that the member is unable to attend the meeting due to:*
  1. *A temporary or permanent disability or other medical condition that prevents the member's physical attendance; or*
  2. *An emergency or personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision is limited each calendar year to two meetings.*
- B. *As set forth in Virginia Code § 2.2-3708.2 (B)(1), on or before the day of a meeting, the member shall notify the Chair that member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.*
- C. *Except as provided in Section 2.2-3708.2 (A)(3), a quorum of the Policy Board must be physically assembled at the primary or central meeting location. The Policy Board members present must approve the participation; however, the decision shall be based solely on the criteria in this resolution, without regard to the identity of the member or matters that will be considered or voted on during the meeting. The Secretary shall record in the Policy Board's minutes the specific nature of the emergency, personal matter or disability and the remote location from which the absent member participated. If the absent member's remote participation is disapproved because such participation would violate this policy, such disapproval shall be recorded in the Policy Board's minutes.*
- D. *Participation by the absent member shall be limited in each calendar year to two (2) meetings of the Policy Board based on a specified personal reason as set forth in Virginia Code § 2.2-3708.2 (A)(1)(b). Members shall not otherwise be limited except as set forth expressly in State Code.*

- E. The Policy Board shall make arrangements for the voice of the absent member to be heard by all persons in attendance at the meeting location.*
- F. With respect to meetings by electronic communications without a quorum present when the Governor has declared a state of emergency, the Policy Board shall comply with the provisions of Section 2.2-3708.2(A)(3).*

This policy conforms to State Code, and save the additional requirements for regional public bodies, mirrors those policies already adopted by member localities of the Policy Board.

A resolution establishing an electronic meetings policy follows this staff report.

**RVTPO Policy Board Action:** Consideration of a written policy authorizing participation in Roanoke Valley Transportation Planning Organization meetings via electronic communication means.



The 23<sup>rd</sup> day of April 2020

## **RESOLUTION**

### **Establishment of a Written Policy Authorizing Participation in Roanoke Valley Transportation Planning Organization Meetings through Electronic Communication Means**

**WHEREAS**, Virginia Code § 2.2-3708.2 allows members of regional public bodies to participate in a meeting through electronic communication means from a remote location in certain situations; and

**WHEREAS**, Virginia Code § 2.2-3708.2 (A)(l)(b) limits the number of meetings at which a member of the regional public body may participate by electronic communication means to two (2) in each calendar year; and

**WHEREAS**, on March 12, 2020, Governor Ralph S. Northam declared a state of emergency throughout the Commonwealth of Virginia with respect to the COVID-19 pandemic disaster; and

**NOW, THEREFORE, BE IT RESOLVED** by the Roanoke Valley Transportation Planning Organization Policy Board ("Policy Board") as follows:

1. The following policy is established for remote electronic participation in all meetings of the Policy Board and any Committee thereof:
  - A. On or before the day of a meeting, the member shall notify the Chair that the member is unable to attend the meeting due to:
    1. A temporary or permanent disability or other medical condition that prevents the member's physical attendance; or
    2. An emergency or personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision is limited each calendar year to two meetings.
  - B. As set forth in Virginia Code § 2.2-3708.2 (B)(1), on or before the day of a meeting, the member shall notify the Chair that member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.
  - C. Except as provided in Section 2.2-3708.2 (A)(3), a quorum of the Policy Board must be physically assembled at the primary or central meeting location. The Policy Board members present must approve the participation; however, the decision shall be based solely on the criteria in this resolution, without regard to the identity of the member or matters that will be considered or voted on during the meeting. The Secretary shall record in the Policy Board's minutes the specific nature of the emergency, personal matter or disability and the remote location from which the absent member participated. If the absent member's remote participation is disapproved because such participation would violate this policy, such disapproval shall be recorded in the Policy Board's minutes.
  - D. Participation by the absent member shall be limited in each calendar year to two (2) meetings of the Policy Board based on a specified personal reason as set forth in Virginia Code § 2.2-3708.2 (A)(l)(b). Members shall not otherwise be limited except as set forth expressly in State Code.

- E. The Policy Board shall make arrangements for the voice of the absent member to be heard by all persons in attendance at the meeting location.
- F. With respect to meetings by electronic communications without a quorum present when the Governor has declared a state of emergency, the Policy Board shall comply with the provisions of Section 2.2-3708.2(A)(3).

2. This resolution shall take effect upon adoption.

Janet Scheid  
Chair

## **STAFF REPORT**

### **April 23, 2020 RVTPO Emergency Meeting**

#### **SUBJ: Action to Authorize the Adoption of Procedures for Electronic Public Meetings and Public Hearings to Ensure the Continuity of Government During the COVID-19 Pandemic**

On March 12, 2020 Governor Northam, through issuance of Executive Order Fifty-One declared a state of emergency throughout the Commonwealth of Virginia with respect to the COVID-19 pandemic disaster. As a result, and pursuant to Code of Virginia §44-146.17(1), the Virginia Emergency Operations Plan was activated. This allows for the "...needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations."

Section §2.2-3708.2(A)(3) allows for any public body to meet without a quorum physically located in one location, only when it is determined that it is unsafe for a quorum to meet in one location, and that the purpose of the meeting is to address the emergency.

This Emergency Meeting fulfills the Code requirements however, to maintain continuity of government and to hold meetings where routine business is discussed, staff recommends adopting procedures for electronic public meetings and hearings. The RVTPO written policy on meetings through electronic means, which is presumed to be adopted immediately before this item, limits electronic participation of members whose physical residence is 60 miles or more from the primary meeting location. This results in very few members being able to participate.

In the past few weeks, many member localities of the Policy Board have adopted ordinances which make temporary changes in certain deadlines and modify public meeting and public hearing practices and procedures to address continuity of operations associated with the COVID-19 pandemic disaster. In each instance, the locality's emergency ordinance recognizes that it is unsafe to assemble a quorum in one location for public bodies and allows regional public bodies to conduct meetings in accordance with normal practices and procedures. These ordinances are effective for 60 days unless amended, rescinded, or readopted. They cannot last longer than six months following the end of the disaster.

To date, a majority of localities have adopted emergency ordinances reflecting language enabling regional bodies to hold meetings without a quorum in the same location, and to conduct regular business. In all such ordinances, the following language is contained (varying by name of governing body):

*...all local and regional boards, commissions, committees and authorities created by the City Council or to which the City Council appoints all or a portion of its members (collectively "Public Entities" and individually "Public Entity"), or for such Public Entities to conduct meetings in accordance with normal practices and procedures.*

It is anticipated soon that all localities, either through ordinance or directive from a local director of emergency management, will allow such meetings.

Since the primary physical location of the meetings of the Policy Board is at 313 Luck Avenue, SW, in the City of Roanoke, staff recommends adopting continuity procedures as set forth in the City of Roanoke's Emergency Ordinance of March 27, 2020.

A summary of the requirements in this ordinance are as follows:

1. Declares the normal assembly of all public and regional bodies, in one location, unsafe.
2. 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.
3. Prior to any electronic meeting, public notice of at least three working days must be made identifying how the public can participate or provide comments.
4. Agenda shall state that meeting is being held in compliance with City's Emergency Ordinance.
5. Identify: all members electronically present; opportunities public has for access/participation in meeting; and people responsible for receiving public comments.
6. Meetings are open to electronic participation but closed to in-person public participation.
7. Public hearing comments can be received by electronic means prior to the meeting and solicited through telephone or other electronic means during the electronic meeting. All comments received before or during the meeting become part of the meeting record.
8. In addition to regular minute taking, they must indicate how the meeting was conducted, who participated, and actions taken. Minutes can be approved at a subsequent electronic meeting, and all electronic meeting minutes must be approved at a meeting when the emergency has ended.
9. Any deadlines requiring action by a Public Entity (unless otherwise dictated by law) shall be suspended during this emergency and disaster, but the Public Entity and all staff are encouraged to take such action as is practical and appropriate to meet those deadlines.

A resolution establishing these procedures, and a copy of the City of Roanoke's Emergency Ordinance follows this staff report.

**RVTPO Policy Board Action:** Consideration of resolution authorizing the use of procedures to ensure continuity of government during the COVID-19 pandemic disaster.



The 23<sup>rd</sup> day of April 2020

## **RESOLUTION**

### **Authorizing the Adoption of Procedures for Electronic Public Meetings and Public Hearings to Ensure the Continuity of Government During the COVID-19 Pandemic Disaster**

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

**WHEREAS**, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster as defined by Virginia Code § 44-146.16 arising from the public health threat presented by a communicable disease anticipated to spread; and

**WHEREAS**, Executive Order Fifty-One 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 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 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and

**WHEREAS**, on March 16, 2020, the Council of the City of Roanoke, Virginia confirmed the declaration of local emergency made by Robert S. Cowell, Jr., City Manager and local director of emergency management on March 16, 2020, specifically finding that the COVID-19 Pandemic constitutes a “disaster” as defined in Virginia Code § 44-146.16, being a “communicable disease of public health threat”; and

**WHEREAS**, Virginia Code § 15.2-1413 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 months; and

**WHEREAS**, on March 27, 2020, the Council of the City of Roanoke, Virginia (“Council”), pursuant to Virginia Code § 15.2-1413, adopted an Emergency 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 Pandemic Disaster (“Emergency Ordinance”); and

**WHEREAS**, through its Emergency Ordinance, the Council specifically found that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by Virginia Code § 44-146.16 being a “communicable disease of public health threat” and

**WHEREAS**, through its Emergency Ordinance, the Council further found that the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including the Council, the School Board, the Planning Commission and all local and regional boards, commissions, committees and authorities created by the Council or to which the Council appoints all or a portion of its members (collectively “Public Entities” and individually “Public Entity”), or for such Public Entities to conduct meetings in accordance with normal practices and procedures; and

**WHEREAS**, through its Emergency Ordinance, the Council adopted certain procedures to ensure the continuity of government during the COVID-19 Pandemic disaster (“Continuity Procedures”), suspended any deadlines applicable to Public Entities and their staff during the COVID-19 disaster, and authorized Public Entities, at their discretion, to postpone nonemergency public hearings and action items during the disaster; and

**WHEREAS**, the Roanoke Valley Transportation Planning Organization being a public body of which a portion of its members are appointed by Council, is a Public Entity included within the scope of the Emergency Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** that the Roanoke Valley Transportation Planning Organization hereby incorporates by reference and adopts the Continuity Procedures prescribed in the Emergency Ordinance, a copy of which is attached hereto; and

**BE IT FURTHER RESOLVED** that the Roanoke Valley Transportation Planning Organization hereby authorizes and directs its officers and staff to take all steps reasonably necessary or appropriate to implement such Continuity Procedures and to develop any specific procedures as applicable and appropriate for the Roanoke Valley Transportation Planning Organization, provided that such specific procedures are consistent with the terms and conditions of the Emergency Ordinance; and

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately upon adoption and shall remain in effect during the pendency of the Emergency Ordinance including for any applicable period upon the re-adoption of the Emergency Ordinance by Council.

Janet Scheid  
Chair

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN EMERGENCY ORDINANCE effectuating temporary changes in certain deadlines; modifying public meeting and public hearing practices and procedures to address continuity of operations associated with pandemic disaster; authorizing the city manager to set the dates and time of public hearings for the FY 2021 budget and other matters; establishing an effective date; and dispensing with the second reading of this emergency ordinance by title.

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

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster as defined by Virginia Code § 44-146.16 arising from the public health threat presented by a communicable disease anticipated to spread;

WHEREAS, Executive Order Fifty-One 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;

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;

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

WHEREAS, on March 16, 2020, the Roanoke City Council adopted Resolution No. 41699-031620 and confirmed the declaration of local emergency made by Robert S. Cowell, Jr., the City Manager and the local director of emergency management on March 16, 2020;

WHEREAS, on March 16, 2020, City Council adopted Resolution No. 41698-031620 to establish a policy for conducting meetings by electronic communications, including meetings by electronic communications without a quorum of City Council physically present in one location

pursuant to Virginia Code § 2.2-3708.2 (A)(3);

WHEREAS, on March 17, 2020, the City Manager directed that all municipal buildings be closed to the general public through March 31, 2020;

WHEREAS, City Council finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a "disaster" as defined by Virginia Code § 44-146.16 being a "communicable disease of public health threat;"

WHEREAS, Virginia Code § 15.2-1413 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 months from the cessation of the disaster;

WHEREAS, Virginia Code § 44-146.21 (C) 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;"

WHEREAS, Virginia Code § 2.2-3708.2(A)(3) allows, under certain procedural requirements including public notice and access, that members of City Council may convene solely by electronic means "to address the emergency;"

WHEREAS, the open public meeting requirements of the Virginia Freedom of Information Act ("FOIA") are limited only by a properly claimed exemption provided under that Act or "any other statute;"

WHEREAS, the Governor and Health Commissioner of the Commonwealth of Virginia and the President of the United States have recommended suspension of public gatherings of more than ten (10) attendees;

WHEREAS, the Attorney General of Virginia issued an opinion dated March 20, 2020, which stated localities have the authority during disasters to adopt ordinances to ensure the

continuity of government;

WHEREAS, pursuant to Section 10 of the Charter of the City of Roanoke and Virginia City Code § 2-15, Rule 2 and Rule 3, the Mayor, City Manager, or any Member of City Council may call a special meeting of City Council with at least 12 hours' notice and, on March 25, 2020, Robert S. Cowell, Jr., City Manager, called a special meeting of City Council for March 27, 2020, at 2:00 p.m., to be held in the Council Chamber, Room 450, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia, with participation by Members of City Council by electronic communications as permitted and authorized by Virginia Code § 2.2-3708.2(A)(3); 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 ORDAINED by the City Council of the City of Roanoke, Virginia as follows:

1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including the City Council, the Roanoke City School Board, the Planning Commission, the Board of Zoning Appeals, the Board of Equalization, and all local and regional boards, commissions, committees and authorities created by the City Council or to which the City Council appoints all or a portion of its members (collectively "Public Entities" and individually "Public Entity"), or for such Public Entities to conduct meetings in accordance with normal practices and procedures.

2. That in accordance with Virginia Code § 15.2-1413, 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;

b. Prior to holding any such electronic meeting, the Public Entity, and except for special meetings of City Council as permitted under the City Charter or the organizational documents of a Public Entity, shall provide public notice of at least three (3) working days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment;

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 Emergency Ordinance; identify Public Entity members physically and/or electronically present; identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting;

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;

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.

3. That notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Entity (including Constitutional Officers) shall be suspended

during this emergency and disaster, however, the Public Entities and all staff 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.

4. 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 are aware of how and when to present their views.

5. That the separate public hearings to receive comments regarding (i) the recommended budget for the City for Fiscal Year 2020-2021, (ii) the increase in the real property tax rate pursuant to Virginia Code § 58.1-3321, and (iii) the proposed Fiscal Year 2020-2021 HUD Funds Budget and the Fiscal Year 2020-2021 Annual Update to the 5 Year Consolidated Plan, authorized by City Council for April 30, 2020, are hereby extended to dates and times in May 2020 to be determined and set by the City Manager.

6. That the provisions of this Emergency Ordinance shall remain in full force and effect for a period of 60 days, unless amended, rescinded or readopted by the City Council in conformity with the provisions set forth in Virginia Code § 15.2-1427, as applicable, but in no event shall such ordinance be effective for more than six months from the cessation of the disaster.

7. 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.

8. Pursuant to City Charter § 12, the second reading of this Emergency Ordinance by title is hereby dispensed with.

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