

An emergency meeting of the Cumberland County Board of Supervisors was called for 3:00 p.m. on the 7th day of January 2021 at the Board meeting Room, 1 Courthouse Circle, Cumberland, Virginia:

Present: Brian Stanley, District 1,
Ron Tavernier, District 2,
Gene Brooks, District 4,
Robert Saunders, Jr., District 5,
Don Unmussig, County Administrator,
Brian Butler, County Attorney,
Stephany S. Johnson, Deputy Clerk

Absent: Eurika Tyree, District 3

The purpose of the meeting was to discuss the Continuity of Government during the COVID-19 pandemic disaster; a communicable disease of public health threat. This meeting was held via electronic communication and in accordance with Virginia Code § 2.2-3708.2. A.3. The meeting was held via electronic communication and in accordance with Virginia Code §2.2-3708.2. A.3. Supervisors Stanley, Tavernier, Saunders and Brooks were physically in attendance, and Supervisor Tyree was absent. Meeting notice was posted to the county website on the morning of January 6, 2021, which included information regarding the opportunities for the public to access this electronic meeting.

The Chairman called the meeting to order, and Deputy Clerk, Stephany Johnson, called the roll.

On a motion by Supervisor Brooks, seconded by Supervisor Tavernier, and carried by the following vote, the Board approved the agenda as presented:

Vote: Mr. Stanley – aye Mr. Tavernier – aye
Mrs. Tyree – absent Mr. Brooks – aye
Mr. Saunders – aye

County Attorney, Brian Butler, informed those attending the meeting that during a disaster, such as we are all experiencing now, the Code of Virginia requires and allows governing bodies, localities and public entities to conduct their meetings in manners which are consistent with providing continuity of government in a safe and healthy manner, and for the public safety, health and welfare of the governing body and all attendees, which is consistent with open government. The Coronavirus makes it impractical, unsafe and even life-threatening, for a quorum of the governing body to physically assemble in one location. The virus also makes it impractical, unsafe and life-threatening, for the public as well as locality staff to gather in the same location to participate in this meeting.

A disaster exists, pursuant to section 15.2-1413 of the Code of Virginia, which requires the locality to ensure continuity of its government for a period not exceeding six (6) months after the end of this disaster. Declarations of emergency have been made at all levels of government, including this locality, pursuant to Virginia Code section 44-146.21. The Board of Supervisors of Cumberland County enacting its ordinance on April 8, 2020, a declaration of emergency on March 16, 2020, which was effective as of that date. The prior Emergency Ordinance expired on October 28, 2020 and requires approval of this ordinance due to the increasing cases of Coronavirus in our community.

On a motion by Supervisor Tavernier, seconded by Supervisor Saunders, and carried by the following vote, the Board approved CA 21-01 Emergency Ordinance ensuring Continuity of Government:

**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.**

January 7, 2021

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 Board of Supervisors of Cumberland County, Virginia (“BOARD”) declared a local emergency effective March 16, 2020 at 4:30 PM, EDT; and

WHEREAS, the BOARD adopted this emergency ordinance on April 8, 2020, and ratified this ordinance on April 28, 2020 which expired on October 28, 2020; and

WHEREAS, the BOARD 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;” 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 beyond the end of the declaration of emergency; and

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;” and

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

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;” and

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 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 ORDAINED by the Board of Supervisors of Cumberland 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 local and regional boards, commissions, committees and authorities created by the Board or to which the Board 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; 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 persons responsible for receiving 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 meeting 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 are aware of how and when to present their views.

IT IS FURTHER ORDAINED, that each incorporated town within the boundaries of Cumberland 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 town government.

IT IS FURTHER ORDAINED, 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 Board of Supervisors in conformity with the notice provisions set

forth in Virginia Code §15.2-1427 but in no event shall such ordinance be effective for more than six (6) months beyond the end of the declaration of emergency. Upon rescission by the BOARD 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 by the CUMBERLAND COUNTY BOARD OF SUPERVISORS THIS 7TH DAY OF JANUARY 2021.

Vote:	Mr. Stanley – aye	Mr. Tavernier – aye
	Mrs. Tyree – absent	Mr. Brooks – aye
	Mr. Saunders – aye	

On a motion by Supervisor Tavernier, seconded by Supervisor Saunders, and carried by the following vote, the Board adjourned the meeting until the next meeting of the Board to be held by electronic communication on January 12, 2021 at 7:00 p.m. in the Board meeting room of the Administration Building:

Vote:	Mr. Stanley – aye	Mr. Tavernier – aye
	Mrs. Tyree – aye	Mr. Brooks – aye
	Mr. Saunders – aye	

Brian Stanley, Chairman

Don Unmussig, County Administrator