

A special meeting of the Board of Supervisors of Albemarle County, Virginia, was held on Friday, March 27, at 8:30 a.m., in Lane Auditorium, Second Floor, County Office Building, McIntire Road, Charlottesville, Virginia. This meeting was called by the Chair, Mr. Ned Gallaway, to allow a quorum of Board members to convene an open meeting to consider, discuss, and take action on the following: an Ordinance for Emergency Continuity of Government; and to consider authorizing the chair to send a letter urging the Governor to impose stay at home provisions; and the Incident Management Team's (IMT) recommendation to defer three planning related public hearings previously advertised and scheduled for April 1, 2020; and to consider removing 'From the Public: Matters Not Listed for Public Hearing on the Agenda' from the Board of Supervisors' agendas during the COVID-19 emergency and disaster.

PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J. S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer, and Ms. Donna P. Price.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson, Deputy County Executive, Doug Walker, County Attorney, Greg Kamptner, Clerk, Claudette K. Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. Mr. Gallaway called the March 27, 2020 special meeting of the Albemarle County Board of Supervisors to order at 8:30 a.m.

Agenda Item No. 2. **Action Item** – Emergency Ordinance to Ensure Continuity of Government.

Mr. Greg Kamptner (County Attorney) said this was an ordinance that will ensure that governmental functions continue throughout the COVID-19 pandemic.

Mr. Kamptner presented the enabling authority for this statute, noting that 1413 was cited in the County's request for an opinion from the Attorney General as to localities' authority under that statute. He said for the emergency ordinance 1427(F), it gives counties the authority to adopt emergency ordinances and is valid for only 60 days. He said the plan is to return to the Board on April 15 to adopt a non-emergency ordinance. He said they will provide notice of the ordinance. He said this will also give them a couple weeks to get information from County departments that may need to be incorporated into the longer-term ordinance.

Mr. Kamptner said the ordinance is carved into 13 sections, and that Sections 4-9 are the heart of that. He said these are the elements of the ordinance that are tailored to provide the framework for County government to continue during the pandemic.

Mr. Kamptner said 1413 does not define continuity in its government, so in the Attorney General's opinion on March 20, there was some consternation around the State that the Attorney General included this footnote that continuity of government, borrowing from emergency management laws, pertains to coordinated efforts to ensure the essential functions during an emergency. He said that is why this ordinance has a section that is devoted to identifying all of the essential functions that the County provides.

Mr. Kamptner said it was his opinion that it was up to the Board of Supervisors, in its legislative capacity, to determine what functions the County provides that are essential. He said this has been incorporated into Section 4, noting that the information was broad. He said these were the operations that the County has funded for years, and that year after year, the Board has determined that these are the types of services and operations that are essential to the community.

Mr. Kamptner said the succession plan is a very short framework that lays out some steps that can be taken in case individuals (both at the elected body level and at the staff level) become unable to participate in government.

Mr. Kamptner said for elected officials, there is a code section in the Elections Code that provides a fairly simple, straightforward framework. He said it fills vacancies up until a time when a special election can be held, and it allows the Board to appoint people to serve when a vacancy occurs on the Board. He said it has been somewhat modified for this particular circumstance. He said one of the requirements under current State law is that an appointment is supposed to come from the Magisterial District where the vacancy occurs. He said he modified this so that in the event that the Board is unable to find a qualified voter from the district, after reasonable effort, it can appoint someone from any other district.

Mr. Kamptner said with regards to voting by appointees, in the Virginia Code, there are many different voting requirements, and there are some statutes that state that a particular matter can be approved and requires the affirmative vote of the majority of the elected members. He said if they came to a point where they had three appointed members (temporary or permanent appointments), that could prohibit the Board from acting. He said the ordinance language was clarified so that "appointed" has the same voting ability as an elected member.

Mr. Kamptner said that if, for whatever reason, a General Election cannot be held and the term of a Supervisor expires, this ordinance provides that the Supervisor whose term has expired can hold over

until a successor is appointed. He said this applies until a General Election can be held.

Mr. Kamptner said the ordinance also allows for temporary appointments and sets up a scenario where the Board has the ability to appoint someone in a temporary capacity when the vacancies fall below the level needed to have a quorum. He said it allows the Board to take action when it has to take action, in those circumstances.

Mr. Kamptner said that for appointed officers, the ordinance says that if he, Ms. Borgersen (Board Clerk), Mr. Richardson (County Executive) and their deputies are all incapacitated, the Board can step in and appoint someone to act in those various capacities. He said once department heads and their deputies or equivalents are incapacitated, the County Executive can step in and appoint someone to act in those capacities.

Mr. Kamptner said the heart of the ordinance is the public meetings provision. He said this is modeled after a draft ordinance that was prepared by a local government attorneys association task force over the past weekend. He said its origins came from an early draft from the City of Chesapeake, and a couple of those assigned to the task force from Loudoun County and York County put it together. He said the ordinance modified it somewhat, but it generally follows the framework in the model ordinance that has been shared with all the localities in Virginia.

Mr. Kamptner said this will allow the Board to meet virtually without having to have a quorum physically assembled. He said it provides for additional information to be provided on agendas and in notices, and also provides that the Chair includes some information at the beginning of the meeting. He said with regards to notices and agendas, they state the date, time, and place, and if they are meeting virtually, they have to substitute that place for something else, and there are provisions in the ordinance that will deal with that.

Mr. Kamptner said the meetings will need to be open for public participation, which may evolve over time, as technology gets put into place. He said the ordinance allows the Board to postpone matters for whatever reasons, such as technology glitches. He said there have been a number of virtual meetings over the past couple of weeks, and what invariably happens when a certain number of people are participating in the meeting is that they may lose sound for a few seconds, the video may be lost, or a combination of those things. He said all of these things need to be worked out, and if there was a problem, the Board would have the ability to extend the matter.

Mr. Kamptner said they maintained the quorum rules that generally apply regarding a majority of the Board. He said this ordinance borrows from a provision that is in the Conflicts of Interest Act, which modifies the quorum requirement when members of a governing body are disqualified because of a conflict, and those disqualifications drop the number of members of the body below that required for a quorum. He said they had borrowed from that and established restrictive criteria of when that quorum requirement can be reduced.

Mr. Kamptner said with regards to the voting requirements, there are a number of statutes and provisions in the County Code. He said there are some matters that require a super majority, and a majority of elected members. He said these have all been smoothed out, and if those requirements would otherwise prevent Board action, the rules lay out how a majority would be allowed to take action.

Mr. Kamptner said with regards to closed meetings, they added one purpose for going into a closed meeting. He said they are building on one of the exemptions that already exists in the Freedom of Information Act. He said there is a provision in the code, when pulling out Public Health and Safety as it relates to the COVID-19 disaster, it refers to terrorism and cyber security related issues. He said to the extent that this disaster is not covered by that section, this ordinance provides one additional basis for the Board to consider the matter in closed meetings.

Mr. Kamptner said minutes will continue to be taken the same way. He said the minutes will reflect that the meeting was conducted electronically. He said for transparency purposes, they are suggesting that those public bodies that are required to have minutes (e.g. Board of Supervisors, Planning Commission, and ARB) record their meetings as well. He said there is a catchall so that if the rules are not modified, then the Freedom of Information Act and the rules for this Board, under Title 15.2, continue to apply.

Mr. Kamptner said in terms of deadlines, staff may be coming back to the Board with some deadline extensions as some departments start focusing on this. He said although it wasn't stated on his slide, the preamble to this section states that they will do their best to meet the deadlines that are established by State law or County ordinance, but they are building in some flexibility. He said all the deadlines listed in the presentation were relaxed. He said there was a specific extension from the Finance Department to extend the personal property tax return date and payment date. He said there would be some other Finance deadline extensions coming in.

Mr. Kamptner said both Finance and OMB have looked at the deadlines, and that the delays will not materially impact the County's cash flow (revenue stream).

Mr. Kamptner said they also have a hold-harmless provision in the event they fail to meet a deadline. He said for instance, in the State Stormwater law (which is incorporated into Chapter 17 of the County Code), there are provisions that if Mr. Pohl's office (the program authority) doesn't timely act, the particular stormwater management plan is deemed approved. He said this provision takes care of that,

and there is a placeholder that there may be others coming.

Mr. Kamptner said the duration for the ordinance is 60 days. He said once the Board adopts the permanent ordinance, by State law, it can continue for up to 6 months after the disaster. He said they will tie this into when the various levels of declarations of emergency are lifted and will hope to resume normal operations and authority as soon as possible.

Ms. Palmer asked if this ordinance had to be redone every two months, but if they could keep it going for 6 months total.

Mr. Kamptner replied no. He said the ordinance that the Board was currently considering could be valid for up to 60 days, but that the plan was to come back on April 15. He said that ordinance would have an indefinite duration and has an end point that has to be not longer than 6 months after the end of the disaster.

Mr. Kamptner said in Section 9, it is required by State law that they provide for a method for resuming normal governmental operations. He said they set the criteria when things will return to normal operations.

Mr. Kamptner said in Section 10, it states that this ordinance is not intended to supersede the authority that the County Executive has as the Director of Emergency Management. He said the Board, this ordinance, and the County Executive's operations are intended to complement one another.

Mr. Kamptner said he didn't have time to go through the office and dig out through the closed files whether there may be some prior continuity of government ordinances. He said the enabling authority was originally adopted in 1964, and it is possible, but he put in the language to make sure that there is no potential conflict for this particular ordinance. He said there is a severability provision, and a provision that states that the intention is for the ordinance to be liberally construed in the case where a particular department may not be completely hamstrung, and that the words in the ordinance need to be interpreted broadly.

Ms. Price commented that the complexities and intricacies of the Commonwealth Constitution, the legislative actions, and policies, procedures, and ordinances are so immense. She said for Mr. Kamptner and his staff to have been able to develop such a comprehensive and understandable ordinance was truly commendable. She said she had a number of questions she had raised to Mr. Kamptner over the past week on things such as succession, and he has addressed all of those concerns. She thanked Mr. Kamptner and his staff for the work they have done in this most unusual and unexpected time, and in such short order.

Ms. Palmer said she was sure the Board agreed with Ms. Price, adding that this was a good summary. She asked if there could be a link on the COVID-19 webpage with this particular summary, as it was daunting to read the entire ordinance.

Mr. Kamptner agreed. He said it was a quick reference for someone to get a feel for what the ordinance contains and provides for.

Ms. Palmer said she has gotten some questions about the fact that the ordinance could go on for 6 months after the end of the disaster, and how they would define the end of the disaster. She asked if this could be highlighted.

Mr. Kamptner said the ordinance lays out the different things that will happen and starts with the County Executive coming to the Board and reporting that all of the emergency actions that can be taken have been taken. He said this would include the Governor lifting the State of Emergency, and a statement from the State Health Commissioner to the effect that it is safe for people to gather again. He said recognizing that the Governor's Order #53 does exempt government operation (e.g. a gathering of 10), there is a broad exemption for government, but that it was also not best practices for the County to be holding large public meetings in a single location.

Ms. Mallek said she wanted to make sure that members of the Board understand how lucky they are to have Mr. Kamptner, as other people in the State rely on him for his guidance.

Mr. Kamptner said there were many staff members who were putting in long hours. He said he usually attends the IMT meetings virtually, and that they are basically trying to redesign government in 2-3 weeks while they are dealing with a disaster at the same time. He said he had the benefit of watching skilled leadership at the executive level taking place.

Ms. Price **moved** that the Board adopt Emergency Ordinance No. 20-E(2). Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote.

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None.

AN EMERGENCY ORDINANCE TO ENSURE THE CONTINUITY OF GOVERNMENT DURING THE COVID-19 DISASTER

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus (“COVID-19”) outbreak a pandemic; and

WHEREAS, on March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency because of the COVID-19 pandemic pursuant to his authority under Virginia Code § 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020; and

WHEREAS, also on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic; and

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a “disaster” as defined by Virginia Code § 44-146.16 because of 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 in response to the spread of COVID-19; and

WHEREAS, on March 17, 2020, Governor Ralph S. Northam and the Virginia State Health Commissioner issued an Order of the Governor and State Health Commissioner Declaration of Public Health Emergency (amended on March 20, 2020) limiting the number of patrons in restaurants, fitness centers, and theaters to no more than 10 per establishment; and

WHEREAS, on March 18, 2020, the Board of Supervisors consented to the County Executive, acting as the Director of Emergency Management, issuing an amended declaration of local emergency to refer to the COVID-19 pandemic as not only an emergency, but also as a “disaster,” as the Governor had included in Executive Order Fifty-One, and the County Executive issued the amended declaration on March 20, 2020; and

WHEREAS, on March 20, 2020, the Attorney General for the Commonwealth of Virginia issued an opinion in which he concluded that the COVID-19 pandemic, which the Governor declared is a “disaster” as defined in Virginia Code § 44-146.16, is also a “disaster” as that term is used in Virginia Code § 15.2-1413; 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 in its government” in the event of a disaster for a period not to exceed six months; and

WHEREAS, on March 23, 2020, Governor Ralph S. Northam issued Executive Order Fifty-Three, which closed all public and private K-12 schools throughout the Commonwealth of Virginia for the remainder of the 2019-2020 school year, imposed further restrictions on public and private gatherings on several classes of dining establishments, closed many classes of “recreational and entertainment businesses” in their entirety, imposed limitations on the number of patrons allowed in other businesses, and encouraged businesses to use teleworking when feasible and, if not feasible, to adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance to the extent possible; and

WHEREAS, Executive Order Fifty-Three states that, despite the measure taken to date, “COVID-19 presents an ongoing threat to our communities,” that there are occurrences of the virus in every region of the Commonwealth, and that the data suggests that in several regions there may be community spread of the virus; and

WHEREAS, Executive Order Fifty-Three states that further measures are needed because “[u]nnecessary person-to-person contact increases the risk of transmission and community spread” and that “we must limit such interactions to those necessary to access food and essential materials”; and

WHEREAS, the Board of Supervisors finds that the COVID-19 pandemic constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by Virginia Code § 44-146.16 and within the meaning of Virginia Code § 15.2-1413; and

WHEREAS, the General Assembly recognizes the extreme public danger created by contagious diseases such as the COVID-19 virus by enabling counties, through the exercise of their police powers expressly granted in Virginia Code § 15.2-1200, to “adopt necessary regulations to prevent the spread of contagious diseases among persons” and to adopt “quarantine regulations” affecting persons; and

WHEREAS, this emergency ordinance is in response to the disaster caused by the COVID-19

pandemic, promotes and protects the public health, safety, and welfare of the residents of the County, the City of Charlottesville, and the Commonwealth of Virginia, and is consistent with the laws 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 the County of Albemarle, Virginia, that:

Sec. 1. Purpose.

The purpose of this ordinance is to ensure the continuity of the government of the County of Albemarle, Virginia, during the novel coronavirus ("COVID-19") disaster, which is currently a pandemic, by identifying the many essential governmental functions that must continue and establishing regulations to ensure these functions continue by providing for: (1) the succession of elected officials and appointed officers; (2) meeting procedures that allow the County's public bodies, whose members are elected or appointed, to meet and conduct business in a manner that is safe for the members of the public bodies, staff, and the public, and allow the public to participate in these meetings to the fullest extent practicable given the current circumstances; (3) provide alternative deadlines for certain matters that are different than those provided by State law or the County Code; (4) establish the method for resuming normal governmental operations; and (5) other matters related to the foregoing.

The requirements, procedures, deadlines, and other provisions of this ordinance vary from those that apply to County government under normal governmental operations. However, for the reasons explained in the recitals, these alternative regulations are deemed to be essential in order to ensure the continuity of government during the COVID-19 disaster without further risking the health and lives of the public and County officers, appointees, and employees resulting from exposure to the COVID-19 virus and its further spread. The regulations that apply during normal governmental operations will be followed to the extent they can be in a manner that is consistent with State and Federal orders and declarations and without risking the health and lives of the public and County officers and employees.

Sec. 2. Authority

This ordinance ensures the continuity of government during the COVID-19 disaster and is authorized by Virginia Code § 15.2-1413, which enables the Board of Supervisors to provide by ordinance "a method to assure continuity in its government." This ordinance is adopted as an emergency ordinance pursuant to Virginia Code § 15.2-1427(F).

Sec. 3. Scope

This ordinance applies to not only to the government of the County of Albemarle, Virginia, but also to the Albemarle County Public Schools, the County's authorities identified in this ordinance, public bodies established pursuant to a joint exercise of powers agreement or other agreements, and other public bodies and offices described in Section 4.

Sec. 4. Essential governmental functions

Under the county executive form of government, the "powers of the county as a body politic and corporate" are vested in the Board of Supervisors. Virginia Code § 15.2-502. Any actions of the Board in which it exercises its powers are essential governmental functions. By providing vital support for the Board, the activities of the Clerk of the Board and her office are also essential governmental functions.

The Board of Supervisors also finds that the essential governmental functions that must be performed in order to ensure the continuity of government during the COVID-19 disaster are those activities or functions of the County established by Virginia Code § 15.2-518 (departments of finance, social services, law enforcement, education, records, and health), those that the Board has previously deemed to be "necessary to the proper conduct of the business" of the County pursuant to Virginia Code § 15.2-518, the authorities that provide essential public services, the County public bodies that oversee the proper administration and enforcement of State laws and the County Code, and the other public bodies and offices that facilitate the proper administration and implementation of State laws and the County Code to the extent necessary and practicable during the COVID-19 disaster.

A. Essential governmental functions provided by County offices and departments. The following offices and departments provide essential governmental functions as described below:

1. County Executive's Office. The County Executive is the administrative head of the County, whose duties include executing and enforcing all Board resolutions and orders, that all laws of the Commonwealth required to be enforced through the Board, or some other County officer subject to the control of the Board, are faithfully executed, and performing other duties as may be required by the Board and as may be otherwise required by law. *Virginia Code § 15.2-516.* The functions of the Office of Equity and Inclusion and the Communications and Public Engagement Office, which exist within the County Executive's Office, are included in this designation. The Office of Management and Budget and the Project Management Office are also within the County Executive's Office, but their functions are identified separately below.

2. County Attorney's Office. The County Attorney is the legal advisor to County government whose duties are to advise the Board and "all boards, departments, agencies, officials and employees" of the County on civil matters, draft or prepare ordinances, and defend or bring actions in which the County or any of its boards, departments, agencies, officials, or employees are a party; and in any other manner advising or representing the County, its boards, departments, agencies, officials and employees. *Virginia Code § 15.2-1542(A).*
3. Department of Finance. The Finance Director's duties include administering the financial affairs of the County, including the budget; assessing property for taxation; collecting taxes, license fees, and other revenues; being the custodian of all public funds belonging to or handled by the County; supervising the expenditures of the County and its subdivisions; disbursing County funds; keeping and supervising all accounts; and performing other duties as the Board of Supervisors requires. *Virginia Code § 15.2-519.*
4. Economic Development Office. Under normal governmental operations, this office is responsible for promoting the economic development of the County and the region, consistent with the County's Economic Development Strategic Plan, and providing staffing assistance to the Economic Development Authority. During the COVID-19 disaster, providing economic assistance to County businesses is an essential function of this office, and its services will also include any additional State or Federal assistance or services programs, either on its own or in its work with the Economic Development Authority.
5. Department of Community Development. Under normal governmental operations, this office oversees a wide range of functions related to the physical development of the County. During the COVID-19 disaster, administering and enforcing the Albemarle County Zoning, Subdivision, and Water Protection Ordinances, and administering and enforcing the Virginia Uniform Statewide Building Code and other related codes are essential functions.
6. Department of Facilities and Environmental Services. This department maintains and operates the County's buildings, manages the lands owned by the County, manages County capital projects and administers related construction contracts, and oversees environmental-related County responsibilities including, but not limited to, ensuring the County's compliance with the County's Clean Water Act permit, and its obligations as a municipal separate storm sewer system (MS4) program.
7. Department of Fire Rescue. This department provides fire protection and emergency medical services and, through the Fire Marshal, administers and enforces the Virginia Fire Prevention Code.
8. Department of Human Resources. This department provides human resources support for the County and Albemarle County Public Schools. The department provides services in seven key human resources functional areas: (1) recruitment/staffing support; (2) classification and compensation; (3) benefits and leave administration; (4) training and development; (5) employee relations; (6) workplace safety; and (7) teacher licensure and certification.
9. Department of Parks and Recreation. This department maintains and operates the County's parks and provides numerous recreational programs, which during normal governmental operations, are essential to the public health and welfare. During the COVID-19 disaster, ensuring that the County's parks are protected and maintained are essential functions.
10. Department of Social Services. This department provides a range of: (1) child welfare services including child protective services, family support, family preservation services, a foster care program, and adoption services; (2) economic assistance for those in need, including administering the supplemental nutritional assistance program (SNAP), the temporary assistance to needy families (TANF) program, energy assistance, and auxiliary grants; (3) self-sufficiency services, including services related to employment training, career services, and child care services; (4) health care services, including administering the Medicaid program; (5) adult and elder care services, including adult protective services; (6) housing assistance; and (7) language assistance. During the COVID-19 disaster, these services will also include any additional State or Federal assistance or services program.
11. Office of Management and Budget. This office, which is part of the County Executive's Office, has the following responsibilities: (1) developing and implementing the County's operating and capital budgets; establishing budget policies, and monitoring departmental and agency budgetary and program performance; (2) preparing the five-year Financial Plan, five-year Capital Improvement Plan, and the long range Capital Needs Assessment; (3) developing and managing the performance management system; and (4) managing the local government grants application and awards process.
12. Police Department. This department provides law enforcement and community safety services.
13. Project Management Office. This office, which is part of the County Executive's Office, provides planning, organizational, and management responsibilities for the County's project portfolio, including organizational projects, strategic plan objectives, and technology solutions. During the COVID-19 disaster, one of this office's essential functions is having a critical role in planning, organizing, and managing a range of projects related to the County's response to the COVID-19 disaster.

14. Department of Information Technology. This department provides, manages, and supports the use of critical technology that allows the County to operate and communicate internally and with the public.
- B. Albemarle County Public Schools. Under the County Executive form of government, the County is required to have a “department of education.” *Virginia Code § 15.2-518*. The “department of education” is composed of the Albemarle County School Board, the Superintendent of the “school division,” and the “officers and employees thereof.” *Virginia Code § 15.2-531*. Article VIII, Section 1 of the Constitution of Virginia states: “The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained.”
- C. Authorities. The following authorities and their boards provide essential governmental functions:
 1. Albemarle Conservation Easement Authority. The Albemarle Conservation Easement Authority (“ACEA”) was created as a parks and recreational facilities authority by resolution adopted by the Board of Supervisors on November 20, 1989 pursuant to the Public Recreational Facilities Authority Act (*Virginia Code § 15.2-5600 et seq.*). The ACEA was called the Public Recreational Facilities Authority until its name was changed by resolution adopted by the Board of Supervisors on July 11, 2018. The ACEA’s articles of incorporation state that its purpose is to accept, hold, and administer open-space land and interests therein under the Open-Space Land Act (*Virginia Code § 10.1-1700 et seq.*). *Amended Articles of Incorporation adopted July 11, 2018*. The types of interests held include open-space easements that are donated by landowners, easements acquired by the County under its Acquisition of Conservation Easements (“ACE”) program, and easements created pursuant to Rural Preservation Developments allowed under the County’s zoning regulations. Monitoring and enforcing these easements are essential functions.
 2. Albemarle County Broadband Authority. The Albemarle Broadband Authority (“ABBA”) was created as a wireless service authority “to provide qualifying communications services as authorized by Article 5.1 (*Virginia Code § 56-484.7:1 et seq.*) of Chapter 15 of Title 56 of the Virginia Code.” Facilitating the ongoing deployment of broadband infrastructure and services in the underserved areas of the County is an essential function.
 3. Albemarle-Charlottesville Regional Jail Authority. The Albemarle-Charlottesville Regional Jail Authority (“Jail Authority”) was created as an authority under the Jail Authorities Law (*Virginia Code § 53.1-95.2 et seq.*) by agreement among the County, the County of Nelson, and the City of Charlottesville on November 15, 1995. The Jail Authority replaced the Regional Jail Board as the operator of the Albemarle-Charlottesville Joint Security Complex.
 4. Albemarle County Service Authority. The Albemarle County Service Authority (“ACSA”) was created as an authority under the Virginia Water and Waste Authorities Act (*Virginia Code § 15.2-5100 et seq.*). The ACSA’s articles of incorporation state that its purpose is to undertake projects for distributing and selling potable water to retail customers, collecting wastewater from retail customers, and delivering the wastewater to the Rivanna Water and Sewer Authority. *Amendment to the ACSA Articles of Incorporation, dated December 16, 1985; County Code § 2-701*.
 5. Economic Development Authority of Albemarle County, Virginia. The Economic Development Authority (“EDA”), officially identified as the “Economic Development Authority of Albemarle County, Virginia,” was created as an industrial development authority (now, an economic development authority) by ordinance adopted by the Board of Supervisors on May 12, 1976 pursuant to the Industrial Development and Revenue Bond Act (*Virginia Code § 15.2-4900 et seq.*). *County Code § 2-600*. The EDA has all of the powers of such an authority under the Act. The EDA operates in cooperation with the County pursuant to a Memorandum of Understanding and the Albemarle County Economic Development Strategic Plan, also known as Project ENABLE (Enabling a Better Life Economically). During the COVID-19 disaster, providing economic assistance to County businesses within the scope of its enabling authority is an essential function of the EDA, and its services will also include any additional State or Federal assistance or services program either on its own or in its work with the Economic Development Office.
 6. Rivanna Solid Waste Authority. The Rivanna Solid Waste Authority (“RSWA”) was created on November 5, 1990 by the Solid Waste Organizational Agreement entered into between the County and the City of Charlottesville, together with a concurrent resolution of the Charlottesville City Council and the Albemarle County Board of Supervisors and the RSWA’s articles of incorporation, all pursuant to what is now the Virginia Water and Waste Authorities Act (*Virginia Code § 15.2-5100 et seq.*). The RSWA’s articles of incorporation state that its purposes are to “develop a regional refuse collection and disposal system, as such terms are defined in Virginia Code Section 15.2-5101 of the Virginia Water and Waste Authorities Act, including development of systems and facilities for recycling, waste reduction and disposal alternatives with the ultimate goal of acquiring, financing, constructing, and/or operating and maintaining regional solid waste disposal areas, systems and facilities, all pursuant to the

Virginia Water and Waste Authorities Act.” *Concurrent Resolution of the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of the County of Albemarle, Virginia to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority, dated November 6, 2009 (“Concurrent Resolution”).*

7. Rivanna Water and Sewer Authority. The Rivanna Water and Sewer Authority (“RWSA”) was created on June 7, 1972 by the City of Charlottesville and the County pursuant to what is now the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The RWSA currently describes its purpose as providing “clean, safe, high-quality drinking water to the City of Charlottesville and Albemarle County Service Authority’s over 100,000 customers. [The RWSA] then treat[s] the wastewater so that it can be safely returned back to the aquatic environment.” *RWSA website.* The RWSA operates five reservoirs at Ragged Mountain, Sugar Hollow, South Fork Rivanna, Totier Creek, Beaver Creek, along with five water treatment plants, and wastewater treatment plants. *RWSA website.*
- D. Public bodies existing under joint exercise of powers agreements. The following public bodies exist under joint exercise of powers agreements, and they and their boards exercise essential governmental functions:
 1. Charlottesville-Albemarle Convention and Visitors’ Bureau. The Charlottesville-Albemarle Convention and Visitors’ Bureau (“CACVB”) has existed in various forms for more than 20 years. Its current iteration was established by the County and the City on June 28, 2018, and it became effective July 1, 2018. Individually, both the County and the City are enabled by Virginia Code § 15.2-940 to “expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality.” The purpose of the CACVB is to jointly promote the resources and advantages of the County and the City, including marketing of tourism and initiatives that attract travelers to the City and County, increase lodging at properties located within the City and County, and generate tourism revenues within the City and County. *Second Amended Agreement to Operate a Joint Convention and Visitors’ Bureau, dated October 2, 2019.* The County and the City contribute funds to support the CACVB’s facilities and operations from their respective transient occupancy tax revenues. During the COVID-19 disaster, the CACVB provides an essential function to support the County’s hospitality business sector.
 2. Emergency Communications Center. The Emergency Communications Center (“ECC”) was established by the County, the City of Charlottesville, and the University of Virginia on January 20, 1984. The ECC was established to provide a centralized dispatching facility for the respective parties’ law enforcement and emergency service providers operating in the County and the City, and to provide a 911 emergency system. *Agreement By and Among the County of Albemarle, Virginia, the City of Charlottesville, Virginia, and the Rector and Visitors of the University of Virginia, dated January 20, 1984.* The ECC also provides coordination and assistance in emergency management for the Emergency Operations Plan adopted by its participating agencies.
- E. Other public bodies and offices. Other public bodies and offices of the County also exercise essential functions. They include, but are not limited to, the the Planning Commission, the Architectural Review Board, the Board of Equalization, the Board of Appeals, the Board of Zoning Appeals, the Electoral Board, any advisory bodies established by the Board of Supervisors, and the office of the General Registrar.

Sec. 5. Succession

This section establishes the procedures to fill vacancies in elected and appointed offices arising during the COVID-19 disaster in order to ensure the continuity of County government. This section also applies to Albemarle County Public Schools and may be applied by the authorities and the other public bodies identified in Section 4 to the extent practicable. The Albemarle County School Board, in its discretion, may establish by resolution its own procedures to fill vacancies in elected offices arising during the COVID-19 disaster.

- A. Elected officials. When a vacancy occurs either on the Board of Supervisors or the Albemarle County School Board, the vacancy shall be filled according to the procedure generally established by Virginia Code § 24.2-228, as modified below:
 1. Appointment by remaining members. When a vacancy occurs, the remaining members of the Board, within 45 days of the office becoming vacant, may appoint a qualified voter of the magisterial district in which the vacancy occurred to fill the vacancy. If a majority of the remaining members of the Board cannot agree, or do not act, the judges of the Albemarle County Circuit Court may make the appointment.
 2. If a qualified voter from the magisterial district cannot be found. If the Board is unable to find and appoint a qualified voter from the magisterial district in which the vacancy exists after a reasonable effort, it may appoint a qualified voter from any other magisterial district.
 3. Duration of appointment. The person so appointed shall hold office only until the qualified voters fill the vacancy by special election pursuant to Virginia Code § 24.2-682 and the person so elected has qualified.

4. Effect of being appointed. Any person appointed to fill a vacancy holds office the same way as an elected person, is authorized to exercise all powers of the elected office, and this includes having that person's vote be considered the vote of an elected member.
 5. Majority of seats are vacant. If four or more seats on the Board are vacant, the vacancies must be filled by judicial appointments as provided in Virginia Code § 24.2-227.
 6. Holding over. If, during the COVID-19 disaster, a general election cannot be held, any member whose term expires may continue to hold over in office until a successor is appointed.
 7. Temporary vacancies. If a member is unable to participate in any meeting of the Board for more than 30 days and the number of members available to meet and act falls below that required for a quorum as provided in Section 6, and action by the Board is determined to be essential to continue the functions of the County or the Albemarle County Public Schools, as applicable, the remaining members may, in their discretion, appoint a qualified voter to temporarily fill the office as provided in this subsection until the permanent member is able to participate.
- B. Appointed officers. This subsection applies to the County government and not to Albemarle County Public Schools, which is recommended to establish its own succession plan for appointed officers.
1. If the County Executive and the Deputy County Executive are incapacitated. If the County Executive and the Deputy County Executive are both incapacitated such that they cannot perform the duties of the County Executive, the Board of Supervisors may appoint any person it deems qualified to act as Acting County Executive.
 2. If the County Attorney and the Deputy County Attorney are incapacitated. If the County Attorney and the Deputy County Attorney are incapacitated such that they cannot perform the duties of the County Attorney, the Board of Supervisors may appoint any person it deems qualified to act as Acting County Attorney.
 3. If the Clerk and the Senior Deputy Clerk are incapacitated. If the County Clerk and the Senior Deputy County Clerk are incapacitated such that they cannot perform the duties of the County Clerk, the Board of Supervisors may appoint any person it deems qualified to act as Acting County Clerk of the Board of Supervisors.
 4. If any department head and deputy department head or equivalent position are incapacitated. If any department head and any deputy department head, or any equivalent position are incapacitated, the County Executive may appoint any person he deems qualified to act as the acting department head.

Sec. 6. Public Meetings

This section establishes the procedures for public meetings of the Board of Supervisors, the Planning Commission, the Architectural Review Board, the Board of Equalization, the Board of Appeals, the Board of Zoning Appeals, the Electoral Board, and any advisory bodies established by the Board of Supervisors during the COVID-19 disaster in order to ensure the continuity of government. This section may also be applied by the Albemarle County Public Schools, the authorities, and the other public bodies identified in Section 4 to the extent practicable for their public bodies. References to the "Board" and the "Supervisors" in this section should be modified when applied by public bodies other than the Board of Supervisors.

- A. The need to change how meetings are conducted during COVID-19. The Board fully endorses the statements in Virginia Code 2.2-3700, which is the introductory section of the Virginia Freedom of Information Act, that the "affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government," and that unless an exception to open meetings is invoked "every meeting shall be open to the public." The regulations in this section for conducting public meetings are necessary because the COVID-19 disaster makes it unsafe for public bodies, as well as their staff and the public, to physically assemble in one location or to conduct meetings in accordance with normal practices and procedures. Although the regulations in this section establish rules for conducting public meetings that are different from normal practices and procedures, the regulations are intended and designed to continue the policies expressed in Virginia Code § 2.2-3700.
- B. Meeting format. Any meeting or activity that requires the Board to physically assemble may be held through real time electronic means (including audio, telephonic, video, or any other practical electronic medium) without a quorum physically assembled in one location. Nonetheless, this ordinance does not prohibit the Board from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration, and that doing so does not violate any order or declaration from Governor Ralph S. Northam or the State Health Commissioner.

- C. Agenda. The agenda for an electronic meeting should state the following: (1) the meeting is being held pursuant to this ordinance; (2) identify the persons responsible for receiving public comment; and (3) identify the opportunities for the public to access and participate in the electronic meeting. The failure to state these items on the agenda does not invalidate or make illegal the electronic meeting.
- D. Notice. Before holding a regular electronic meeting, the Board of Supervisors must provide public notice at least three days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment. The notice must state the following: (1) the meeting is being held pursuant to this ordinance; (2) identify the persons responsible for receiving public comment; (3) identify the opportunities for the public to access and participate in the electronic meeting. Any notice provided before the effective date of this ordinance, for a public meeting or public hearing after its effective date, that complied with the law when it was given but which is inconsistent with this ordinance, including with respect to the location of the meeting or public hearing, is deemed to satisfy any notice requirements and no action taken at that meeting or regarding any public hearing is invalid for that reason.
- E. Statement by the Chair. At the beginning of the meeting, the Chair must state: (1) the meeting is being held pursuant to and in compliance with this ordinance; (2) identify the Supervisors physically and electronically present; (2) identify the persons responsible for receiving public comment; and (3) identify the opportunities for the public to access and participate in the electronic meeting. The failure to state these items does not invalidate or make illegal the electronic meeting.
- F. Public participation. Any electronic meeting must be open to electronic participation by the public and closed to in-person participation by the public. In addition, for any matters requiring a public hearing, public comment may be solicited by electronic means in advance and must also be solicited through telephonic or other electronic means during the electronic meeting. The public comments received before the electronic meeting will be provided to the Supervisors at or before the electronic meeting and made part of the record for the meeting.
- G. Postponing certain matters. Any non-emergency public hearing and action item on the Board's agenda may be postponed to a later date provided that public notice is given so that members of the public are aware of how and when to present their views.
- H. Quorum. If three Supervisors are unable to participate in a public meeting because each of those three Supervisors is sick from the COVID-19 virus, and at least one temporary vacancy has not been filled pursuant to Section 5, a quorum of the Board of Supervisors to conduct business is reduced from four to three. If four or more Supervisors are unable to participate in a public meeting for the reasons stated above, the only action that the participating Supervisors may take is to adjourn the meeting until the temporary vacancies can be filled.
- I. Voting. State laws, as may be implemented in the County Code, may impose different voting requirements. Although most actions require the majority vote of those Supervisors present and voting, there are some actions that require a supermajority vote, the majority vote of the elected members, or impose some other requirement. These different voting requirements continue to apply unless: (1) one or more Supervisors is sick from the COVID-19 virus; (2) the sick Supervisors are unable to participate in the public meeting; (3) the temporary vacancy has not been filled pursuant to Section 5 and the voting requirement imposed by State law or the County Code cannot be complied with; and (4) a vote is required by the Board at that meeting in order to ensure the continuity of government. If all four of those prerequisites are satisfied, the Board may approve the matter on the affirmative vote of those Supervisors present and voting. Following are examples of different voting requirements for certain matters, and how they are addressed if the four prerequisites are satisfied:
 - 1. When the affirmative vote of the elected members is required. Article VII, Section 7 of the Constitution of Virginia and its statutory companion in Virginia Code § 15.2-1428 require, among other things, the affirmative vote of a majority of all members elected to the governing body on certain matters. As provided in Section 5(A)(4), and based on language in Virginia Code § 24.2-228, any appointed Supervisor's vote is considered to be the vote of an elected Supervisor.
 - 2. When a supermajority vote is required. Virginia Code § 15.2-2405 requires a two-thirds vote of the elected Supervisors to impose taxes in a service district. The Board is unique because it is a six-member Board and, for it, a majority vote is also a supermajority when a two-thirds vote is required. There are no service districts in the County. If another matter requires a supermajority under Virginia law, the Board may approve a matter by a majority of the Supervisors participating and voting.
 - 3. When the vote by those present and voting is required. The requirement that a matter be approved by a majority vote of those present and voting is common, one example being found in Virginia Code § 15.2-1427(A). For the purposes of this voting requirement, any Supervisor who is participating in the matter is "present."
- J. Closed meetings. In addition to the purposes for the Board to have a closed meeting in Virginia Code § 2.2-3711(A), the Board may have a closed meeting to discuss plans to protect the public health and safety as it relates to the COVID-19 disaster and briefings by staff members, legal

counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters, to the extent that this purpose is not otherwise covered by Virginia Code § 2.2-3711(A)(19) or any other purpose for a closed meeting in Virginia Code § 2.2-3711(A).

- K. Minutes. The minutes of all electronic meetings must comply with the requirements of Virginia Code § 2.2-3707(H), identify how the meeting was conducted, the Supervisors participating, and specify what actions were taken at the meeting.
- L. Recordings. An audio recording of any electronic meeting must be made and retained as provided by law. This requirement does not apply to any public body, such as an advisory committee, that is not required to have minutes of its public meetings.
- M. Other requirements not modified. Any requirements for conducting a public meeting in Virginia Code §§ 2.2-3700 *et seq.* and 15.2-1400 *et seq.* that are not modified by this section apply to conducting a public meeting.

Sec. 7. Deadlines

This section applies to the County government. State law and the County Code impose many deadlines by which the County, Board of Supervisors, and other public bodies must act. The following deadlines are extended, with the proviso that the Board of Supervisors and the County will endeavor to extent practicable to meet the deadlines established by State law and the County Code. This section may be applied by the Albemarle County Public Schools, the authorities, and the other public bodies identified in Section 4 to the extent practicable.

- A. The tax rates. It is the intention of the Board to meet all of the deadlines established by State law to fix the tax rates. However, the May 15 deadline established by Virginia Code § 58.1-3321(E) for fixing the real estate tax rate, and the June 30 deadline to fix other tax rates established by Virginia Code § 58.1-3001, are extended indefinitely as may be necessary.
- B. The budget. It is the intention of the Board to meet all of the deadlines established by State law to approve the annual budget. However, the May 15 deadline established by Virginia Code § 22.1-93 requiring the Board to “prepare and approve an annual budget for educational purposes by May 15 or within 30 days of the receipt by the county . . . of the estimates of state funds, whichever shall later occur,” and the July 1 deadline to approve the budget established by Virginia Code § 15.2-2503 (“the date on which the fiscal year begins”), are extended indefinitely as may be necessary.
- C. Finance. The May 1 deadline for filing a tax return on certain tangible personal property employed in a trade or business imposed pursuant to County Code § 15-804 is extended to June 1 and the June 5 deadline for paying those taxes is extended to June 30.
- D. Land use applications. Any deadline established by State law or the County Code for action by the County, the Board of Supervisors, or any County public body within the scope of Chapter 14, Subdivision of Land, Chapter 17, Water Protection, or Chapter 18, Zoning, is extended indefinitely as may be necessary. Any provision in State law or the County Code to deem the failure of any action to be timely taken to be deemed approval is of no force or effect.
- E. Requests for records under the Virginia Freedom of Information Act. Any deadline by which a response to a request for records under the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*) is due, and the time for which any such records may be inspected or produced, are extended indefinitely as may be necessary.
- F. Hold harmless. The failure to meet any deadline imposed by State law, including the Prompt Payment Act, or the County Code does not constitute a default, violation, approval, recommendation or otherwise.
- G. Other deadlines may be extended. Any other deadlines not extended by this section may be extended by a separate ordinance.

Sec 8. Duration

This emergency ordinance is effective immediately and expires at 11:59 p.m. on May 26, 2020, or upon the adoption of a continuity of government ordinance for which notice is provided as required by Virginia Code § 15.2-1427(F), paragraph 1, whichever occurs first.

Sec. 9. Method for Resuming Normal Governmental Operations

Normal governmental operations will be resumed after the County Executive, acting as the Director of Emergency Management, reports to the Board of Supervisors that all emergency actions that can be taken by the County have been taken, the Governor ends the state of emergency, and the State Health Commissioner advises that it is safe for people to once again gather in public so that normal governmental operations, including normal public meetings (or words to that effect), may be re-established.

Sec. 10. Effect of this Ordinance on the Powers of the Director of Emergency Management

This ordinance does not affect the powers of the County Executive, acting as the Director of Emergency, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster. The intention of the Board of Supervisors is that this ordinance and any powers exercised by the Director complement one another.

Sec. 11. Superseding Prior Continuity of Government Ordinances

This ordinance supersedes any previous continuity of government ordinance adopted by the Board of Supervisors.

Sec. 12. Severability

It is the intention of the Board of Supervisors that any part of this ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance.

Sec. 13. Liberal Construction

Because its purpose is to ensure the continuity of government, this ordinance should be liberally construed to accomplish this purpose and to facilitate the performance of essential governmental functions, which include providing essential governmental services.

State law reference – Va. Code §§ 15.2-1413, 15.2-1427(F).

Agenda Item No. 3. **Action Item** – Consider Removing ‘From the Public: Matters Not Listed for Public Hearing on the Agenda’ from the Board of Supervisors’ Agendas during the COVID-19 Emergency and Disaster.

Mr. Kamptner explained that the Board has the ability to suspend particular rules, and the references to “From the Public: Matters Not Listed for Public Hearing on the Agenda” are under Rules 5 and 6. He said the Board can suspend that rule by a majority-plus-one vote, if it so chooses.

Ms. Mallek asked if this meant that they would not then have the email or phone-in correspondence.

Mr. Kamptner replied that in lieu of this being an agenda item, the public would be free to communicate via email and other means to the Board.

Ms. Mallek asked if they wouldn’t have an agenda time when they recognize what they had heard on a particular matter. She asked if, for example, each Board member received a couple emails where people asked for the emails to be read during “Matters from the Public,” this is where it could happen on the agenda if they still had the item there.

Mr. Kamptner said the Board would still have their discussion about various things at the end of meeting. He said this was the time when members of the public come forward, either in person or through a virtual meeting.

Ms. Mallek asked if “Matters from the Board” would be the best time to bring up those correspondence. She asked if for public hearings the public will be able to write comments up until 30 minutes before the meeting, noting that this was all evolving.

Mr. Kamptner replied yes.

Ms. Mallek asked what Mr. Kamptner was talking about did not affect the other issue.

Mr. Kamptner replied yes.

Ms. LaPisto-Kirtley **moved** that the Board suspend parts of Rules 5 and 6 to remove “From the Public: Matters not Listed for Public Hearing” on the agenda. Ms. Price **seconded** the motion. Roll was called and the motion carried by the following recorded vote.

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None.

Mr. Gallaway encouraged the public to send the Board their emails or make a phone call. He said this change would not affect any public hearings, as those start to come forward, but pertained only to general ideas. He said nor would it affect the budgetary items, as those would all have their own separate times.

Agenda Item No. 4. **Action Item** – Consider Authorizing the Chair to a Send Letter Urging the Governor to Impose Stay At Home Provisions.

Ms. Mallek said she asked for a discussion to pass along requests she has received from dozens of constituents asking the Board to do more. She said she didn't have anything drafted. She said there is a lot of wonderful content in Mr. Walker's email from the day prior that updates what the County has been doing. She asked if a narrative could be crafted.

Ms. Palmer said perhaps it would be helpful to have a comment from someone to explain what the difference would be with a stay-at-home provision versus what they currently have.

Ms. Mallek said she was hearing from physicians that they are feeling completely undermined in their ability to do their job and keep ahead of things because of people gathering in groups of 10 or more. She said it leaves so much available for individual interpretation and creates impossibility for enforcement in a reality sense.

Ms. Mallek said whether it is a sports field or a coffee shop, calling it "stay at home" is what would generate comfort on the part of citizens, and would affirm what Dr. Fauci and the Surgeon General have said about the fact that communities where flare-ups are happening are ones where they are not instituting a stay-at-home. She said Virginia was no different than any other place and will catch the virus if they don't clamp down as fast and as firmly as they can. She said this was why she has encouraged many people in State government to act more strongly than they have.

Ms. Palmer said she already wrote a letter individually to the Governor and agreed with Ms. Mallek on her points. She said she would be curious to find out what Mr. Richardson thinks about this in terms of the whole picture of what he and the police are dealing with.

Ms. Price said she supports it, recognizing that there must be some exceptions, such as essential businesses (e.g. food, pharmacy, gasoline). She said in terms of "business as usual," however, they have got to put that out of their mindset and go much more into shelter in place, stay at home, and avoid contact as much as possible. She said she would like to hear from Mr. Richardson, but fully supported the Chair offering a letter on behalf of the Board and County.

Mr. Gallaway asked if Mr. Richardson was prepared to address this. He said he would want to know specifically what this means relative to what they are doing now, versus if an order like this came down. He said he did not know this item was going to be on the agenda. He asked if this was something that Mr. Richardson could prepare for and if they could put it on the agenda for April 1, when they meet virtually. He said it wouldn't prohibit anyone from writing individual letters.

Mr. Jeff Richardson (County Executive) replied that they were not prepared for this, as a staff. He said this had emerged the day prior, and with everything they had been working on in terms of emergency operations, they can be prepared with this lead time to come back to the Board to talk about, from an operational standpoint, what this means in terms of the additional responsibilities that it would place on staff to include a review of all of the areas where they currently touch the public.

Mr. Richardson said staff could certainly be ready by April 1 (the next Wednesday) to give the Board a full briefing from the staff level in terms of their workload and pinch points. He said they can also look at what other communities have done and how it has affected them in terms of their local government operations.

Ms. Mallek said she believed they were going far beyond what her intent was. She clarified that the Governor says he has already done this, and that the pushback from his press person the day prior was that they basically already have a stay-at-home order. She said it is the gatherings of 10 people matter that is giving people the individual ability to say that they can, for instance, have a sports practice when they should not.

Ms. Mallek said the Governor's Order No. 53 lays out, ad nauseum, all the various exemptions and that she had no interest in changing any of those. She said it allows local government to continue on in whatever way it chooses. She said in terms of her suggestion for the letter, the Governor's direction would be aimed at everyone in their roles as members of the general populous rather than changing any State direction.

Mr. Gallaway said he wants to understand, operationally, what would happen if the Governor issued such an order that is different from what was currently in place. He said if there were things they were not thinking about, he would want to know that before he started urging this type of thing. He said people should understand they need to stay at home, and if they were breaking this now, then they needed a different level of enforcement, but the question was to how this would tax the Police Department and emergency responders. He asked if this would shut down the parks, as he would expect it would.

Ms. Mallek said she would hope it does, as soon as possible.

Mr. Gallaway said he would not want to make a decision on something he was not prepped for and he would like to know the answers.

Ms. McKeel said she was concerned that staff has a lot on their plate. She said what Mr. Richardson was describing sounds to her like adding a whole new level of work for them. She asked if there was a way they could keep this simple to satisfy what she heard a couple of Board members being concerned about.

Ms. McKeel said it seemed that this idea was developed because there was chatter in the community about groups that are getting together and not obeying the order. She said she hated to make a kneejerk reaction when there were a couple areas they ought to be able to crack down on and enforce without taxing staff, who are working hard and responding to a lot of emails and questions from the Supervisors, in addition to what they are trying to get done. She said she was concerned that they keep it as simple as possible.

Ms. Palmer said she thought this was a great idea, and that she would like to explain what the difference is. She said she wrote her letter before the matter about groups of 10 people came out, and she was perplexed before the order came out. She said she has started to see a slowdown of that, and though she hated to say anything about young people, it seemed to be a matter with young people gathering. She said she believed they were now starting to see that it is clear that young people are also dying. She said the places she goes are now shut, and that Sugar Hollow was a place she wanted to see shut because there were carloads of young kids coming in to go for walks. She said this was tempting.

Ms. Palmer said she would like to know what the difference would be, perhaps not to the extent that Mr. Richardson outlined because she would not want to put staff through too much, and she also didn't know what this meant to the Police Department and to Fire Rescue.

Ms. Mallek said the intent was to ask the Governor to do more, and not to ask staff to do anything.

Mr. Gallaway said whether they send the letter or not, he would like to know if the Governor comes out with such an order, whether the County has asked him to or not, and what that means to their organization. He said this is a question he wants answered, and it came up during the ask for this letter. He said the Governor could do this in the next hour, if he wanted to, and the question was what it will mean for Albemarle County if that happens, as he does not understand what would happen. He added that he didn't expect Mr. Richardson to have the answer to that right now.

Ms. Mallek said it is exempted right now.

Ms. McKeel said Mr. Gallaway's question could be answered. She said Mr. Richardson was listing off many other things, and she wanted to keep it simple for staff.

Mr. Gallaway asked if it was fine to bring this matter back to April 1.

Ms. Price replied yes.

Agenda Item No. 5. Consent Agenda.

Mr. Gallaway said the Consent Agenda included three deferments from the April 1 meeting: ZMA201900015 Child Development Center, SP201900006 Boyd Tavern, and ZMA201900014 Commercial Development TMP 61-134A.

Mr. Gallaway said these will be brought back to the Board in early May to give them a chance to get ready for the virtual component of the public hearing. He said the Board will meet on April 1 and April 15, and this will give the Board a chance to do the virtual elements of it without items that will necessarily bring out high public participation. He said he would not want them to try to have a virtual component without having a meeting to run that first, so this will give them a couple chances to run the technology and hopefully have some people participate in those that are not huge crowds so that by the time they bring the larger items back, it will be up and running, and they will all know how it should work.

Ms. Palmer **moved** the Board approve the Consent Agenda. Ms. Price **seconded** the motion. Roll was called and the motion carried by the following recorded vote.

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None.

Item No. 5.1. ZMA201900015 Child Development Center. ***Defer from the Board's April 1, 2020 meeting agenda***

Item No. 5.2. SP201900006 Boyd Tavern. ***Defer from the Board's April 1, 2020 meeting agenda***

Item No. 5.3. Commercial Development TMP #61-134A. ***Defer from the Board's April 1, 2020 meeting agenda***

Agenda Item No. 6. From the Board: Matters Not Listed on the Agenda.

Ms. Price said it was apparent that everyone in the County was aware that it is only through social distancing, being careful, and avoiding contact as much as possible that they have any hope of keeping the virus from spreading. She said she has been following the numbers in Virginia, Charlottesville, and Albemarle County and that they had a chance to nip this in the bud. She said they

know it has spread further in the community than the numbers currently indicate. She said the only way they have of keeping this from being worse is if everyone does their part and takes time to stay out of public places and limit contact. She said otherwise, the numbers will skyrocket, just like they have everywhere else.

Ms. Mallek said people perhaps do not think they are at risk, but if the hospitals cannot cope with the cases, such as if someone has a heart attack, slips and falls, or has any other non-COVID-19-related medical need, there will not be room in the hospital for them. She said she was sorry to be brutal about this, but this was where people have to stop being selfish about their daily activities and understand that everyone is in this and has to take it seriously. She said when she reads online that parents are whining because their kids are home, she wants people to get a grip and do a better job than that. She said she was sorry to be over the top, but that the community needs to take this much more seriously as individuals doing their individual part.

Ms. Price added that in the news that morning, she saw that major hospital systems across the country are already issuing policies that will affect how they are going to treat people, which is basically that if someone is aged, has diabetes, or has respiratory issues, they will not be offered a ventilator. She said if someone is on a ventilator and isn't recovering fast enough, they are going to take that person off of it and give it to someone who has a better chance of living. She said those individuals who are not going to be treated are simply going to be medicated to make the end of their lives as less painful as possible. She said this is what people are facing if they do not do their part to prevent the spread.

Ms. McKeel said it was battlefield triage.

Ms. Price agreed.

Mr. Gallaway said as a parent of three children whose school lives have been put out, and regardless of what was going to happen (one of which being a senior), they should recognize the incredible loss to these kids. He said their whole social lives have been upended and for some, they will not experience what everyone would probably say were major milestones in their lives (e.g. leaving high school, senior year activities). He said he was seeing the teachers starting to come online, and that his son's teacher did a virtual tour of Washington, D.C. He said they were having Zoom meetings and it was nice to see that a structure is falling into place.

Mr. Gallaway said that with the immense amount of stress and pressure this puts on everyone beyond dealing with physical ailments, if there is anything the Board can do to help in that regard, whether it was providing support to people or finding those types of activities, he would imagine that the IMT was probably looking into that. He said they have not had this level of stress on people that are perhaps not used to dealing with anxiety in this way.

Ms. McKeel said what this does stress to everyone, especially the Supervisors, is the importance of connectivity for everyone. She said for the kids who live in the rural area or urban ring and do not have strong internet and connectivity, this is a huge problem.

Ms. Mallek said her internet went down three times the day before for her grandchildren, so she understood.

Mr. Gallaway said they get very concerned when they see those who are not obeying some of the things that were mentioned, but they could also express publicly that they are incredibly grateful for those who are. He said he had parents locking down their kids over 10 days ago already, not even leaving the house. He said there are many people who are doing what they are supposed to be doing, and it was appreciated.

Ms. Palmer said unfortunately, they end up fighting a lot with their kids, too. She said she was sure people were spending a lot more time on the phone talking about what they are experiencing. She said she has heard from parents of older kids that they are trying to make them do what they need to, and it can be tough.

Ms. Price said she had to ground her elderly parents. She said though this was humorous, it was real. She said it took them a long time to understand that they cannot go out.

Agenda Item No. 7. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson promised that before the end of the day, staff would follow up with the Board with emails that clarify the things that he would quickly cover.

Mr. Richardson said he would talk briefly about building closure. He said the Incident Management Team recommended the closure of the County Office Buildings to the general public, until further notice. He said this was an effort to reduce transmission and to protect the vulnerable populations. He said the closure would take effect at 5:00 p.m. that afternoon.

Mr. Richardson said there are limited exceptions to this, and they would balance this with essential services. He said COB McIntire will have lobby hours for Community Development Monday, Wednesday, and Friday 8:30 a.m. to 4:00 p.m.

Mr. Richardson said through intercom, the Police Services Division will operate and coordinate visitors needing to reach Social Services, Police, and Voter Registration. He said a central phone number will be posted on all the visitor entrances to enable people to get assistance Monday through Friday, 8:00 a.m. to 5:00 p.m. He acknowledged that many customers come to make tax and fee payments, in cash or check, at the windows. He said they are waiving the fees for online payments for customers that use the eCheck option. He said this will take effect as soon as they can get the vendor operational, and they believe this will be next week.

Mr. Richardson said they will continue to have staff in the buildings, and they will have systems set up where when people come in, they can connect them and make sure that their needs are taken care of.

Mr. Richardson said he would talk about the other meetings in April. He said because the buildings will be closed for the foreseeable future, staff is recommending that all meetings of public bodies be canceled for April while they refine their ability to host successful and accessible virtual meetings. He said they are looking at April to work through the kinks and to develop a new SOP for virtual meetings.

Mr. Richardson said they have looked at all the public bodies and are trying to develop a framework they will look at through the lens of three types of meetings: legislative bodies (e.g. the Board, Planning Commission, and ARB), authorities that are staffed by the County (e.g. ABA and EDA), and advisory-type bodies (e.g. CACs and Historic Preservation).

Mr. Richardson said currently, they are looking at legislative bodies to be fully supported for April. He said they have a vendor they are working with to help with that support.

Mr. Richardson said authorities would be supported to meet virtually using their in-house team through training. He said advisory boards are recommended to take April off, and to continue to finalize their approach for the virtual meetings.

Mr. Richardson said he would be sending out much more information on this, and was giving the Board an idea of what they were trying to work through in terms of triaging, complexity, and prioritizing for the month of April, seeing this as a transition month for virtual types of meetings.

Ms. Palmer said on the current plan for the Board, it said they would adjourn to Lane Auditorium. She asked for explanation as to what they would be doing for April 1, or if they would be finding this out in the next couple days.

Mr. Richardson replied that he would give a quick framework. He said for April 1, the Board will participate wherever home is, and members of the public will do the same. He said they would have the Board on screen, and that other participants will be in listen-only mode until they are in the public comment portion of the meeting. He said they will invite people to sign up in advance or ask to be recognized during the live meeting. He said the clerk team will manage those speakers, and they will do so there in the auditorium.

Mr. Richardson said the meeting will stream live, as it typically does, through Granicus, and that people wishing to watch but not be able to participate can do so. He said this will also enable the citizens to participate by calling a 1-800 number. He said the basic framework is in place, and they are continuing to work through the details.

Ms. McKeel said the "Lane Auditorium" mention they were looking at really means that the streaming will take place from the auditorium.

Mr. Richardson replied yes.

Ms. McKeel said the Board would be at their home locations. She said this was somewhat confusing, but she understood why it had to be listed that way.

Mr. Richardson said they are testing the system that afternoon with an employee townhall meeting, and they will actually be working through their first opportunity with this. He said they were trying to minimize the risk so if something were to break apart, they are in a low-risk environment as opposed to a high-risk environment.

Ms. LaPisto-Kirtley asked if it would be beneficial to have the option that, should things not be able to work out, that the Board actually assembles in the auditorium on April 1. She said she was willing to do that if, in fact, they are needed.

Mr. Richardson replied no. He said at this point, based on the work with the vendor and what they have seen so far with the modeling, they were confident that they could meet virtually on April 1.

Mr. Richardson said with regards to the Board's email address, bos@albemarle.org, citizens reach out and communicate on a regular basis with the Board. He proposed that for all citizen inquiries about COVID-19, staff be allowed to route those through a tracking framework that they have developed.

Mr. Richardson said they have recently launched www.albemarle.org/covid19, which is the County's information hub. He said any time that citizens in the future would send COVID-19-related emails to the BOS email, staff would review those, and if a connection to the information hub would

answer the question or help the citizen, they will push it in that direction. He said if it is not answered on the hub page, they would have a subject matter expert on the Communications team develop a direct response.

Mr. Richardson said this was in an effort to make sure that citizens on COVID-19-related emails to the Board are either connected to the hub or receive a direct response, if appropriate, on information or needs regarding COVID-19. He said he would want the Board to know that ahead of time and be comfortable with that, and that he needed affirmation from the Board to do this.

Ms. Palmer asked if they were only talking about the BOS email address, and not the Supervisors individually.

Mr. Richardson replied yes.

Ms. Palmer asked if the email itself directs to one specific Supervisor, the Supervisor would still see that email.

Mr. Richardson replied yes.

Ms. Palmer said the Supervisor would also have an opportunity to engage with that individual if it is directed specifically to one of the Supervisors.

Mr. Richardson replied yes. He said he was just talking about a framework to connect to the hub and to answer the question with subject matter experts to make sure that citizens that send COVID-19 questions get consistent, accurate responses. He said it does not eliminate the Board to talk to their constituents, but they were trying to manage information so that as much as possible, people are hearing consistent messaging back, as this matter evolves so fast. He said often times, they will change things more than one time a day.

Ms. Palmer said this was a great idea and she didn't have a problem with it but wanted to make sure that they were not diverted prior to the Board having an opportunity to read the email.

Ms. Mallek said this was especially helpful because there are many questions which she receives and has no skill to answer, such as about federal programs, SBA loans, etc. She said they have great resources in the County through the staff and Workforce Center and that this had a chance to supply terrific details.

Ms. LaPisto-Kirtley said she knew people were looking into voting by mail. She asked if this was something where they would have to wait on the State, or if it was something the County could do eventually.

Ms. Mallek said a local voter already has the ability to do this via absentee vote-by-mail COVID-19 Exemption #2. She said people will be able to do that and apparently, next week on Tuesday, the ballot will be set, and the framework will be available timewise as far as when an application needs to be made. She said this was set even for June, which was something they hadn't been expecting. She said they knew the no-excuse absentee was coming for November, but that this made it possible for June as well.

Ms. Price said she has already applied for that, and everyone should.

Ms. Mallek said it could already be downloaded.

Ms. Mallek said since Chief Dan Eggleston was there, she wanted to ask him how the protective training for the first responders was going. She said this was something she was very concerned about, as she hears about first responders being exposed all over the country.

Chief Eggleston asked if Ms. Mallek's question was particularly about training for Personal Protective Equipment (PPE).

Ms. Mallek replied yes, and added she wanted to know how they are engaging. She said she saw Chief Kostas Alibertis on television recently to alert the community not to be afraid when they see someone show up at their door fully masked, as it was to keep their germs to themselves.

Chief Eggleston said they are very concerned about their supply of PPE. He said they put in a request through the State of Virginia Department of Emergency Management for additional supplies, but he has heard that there is a 6 to 8-week lead time before they get anything. He said they are evaluating all stock across the County and are considering alternatives if they were to run out, and developing contingency plans, should that happen.

Chief Eggleston said they have worked closely with UVA Hospital to streamline the process when they engage with the ED and the patient so that they do not, in turn, waste PPE. He said this was something that he and Chief Alibertis had a conversation about and that they are able to correct that.

Chief Eggleston said currently, they were okay on supplies for the next few weeks. He said they were monitoring their burn rate of the amount of PPE they use on a daily basis and are trying to project what time they would run out. He said this is what they were working on as a contingency plan, if that

were to happen.

Ms. Mallek asked if they had had any response from local construction companies, or anyone providing some of their supplies to Fire Rescue.

Chief Eggleston replied yes. He said recently, they had some response from CFA, who had a stock leftover. He said one thing they are also trying to do is support the long-term care facilities, who are also dangerously low on supplies. He said they are working with the Health Department on that, as it is a different channel, but they may also be in a case where they are running out as well. He said they were very concerned about that, and recently in the news, he heard that four patients have died in a Henrico facility. He said they are working very closely with long-term care facilities to make sure they have adequate supplies and processes in place.

Ms. Palmer said she heard the tail-end of a report where in New York, they were actually asking people not to call 911. She asked under what circumstances would the County get to that point.

Chief Eggleston replied that they are still encouraging people to dial 911 if they have a medical emergency. He said they are working closely with Martha Jefferson Hospital, UVA Hospital, and the regional medical directors to develop and finalize protocols that they could perhaps, with some type of screening, recommend that they stay at home and not take them to a hospital, if they are okay and have someone there to care for them and if their symptoms are very low. He said they are currently looking into this to try to keep people that are low acuity out of the hospital, if at all possible. He said they are finalizing that over the next couple days.

Ms. Palmer said Chief Eggleston had recently told that they have to bring the people to the hospital as they are required by law to.

Chief Eggleston said this was true that if they transport them, they have to bring them to the ED. He said however, they are looking at alternatives where perhaps, they may not transport the person if they have low-acuity symptoms. He said this is an effort to try not to strain the healthcare system.

Ms. Mallek asked Mr. Richardson if there was a timetable for some discussion about how they are dealing with County leased properties.

Mr. Richardson replied yes. He said under the Emergency Ordinance, they are looking at County-owned properties that they currently have lease-tenant relationships with and are expecting to bring this back for the Board's consideration on April 1.

Mr. Richardson thanked the Board for their poise, confidence in staff, kindness, and compassion towards the community. He said he has never been prouder of any staff he has ever worked with in his career and the alignment they have with the Board. He said the Board's experience, kindness, and care for the community shows in every interaction with staff.

Mr. Richardson said there are things they will miss, as they do not have a playbook, as the State mentioned that they didn't. He said if there are things the Board sees that he needs to consider that he is missing, the Board should reach out and let him know.

Ms. McKeel said she wanted staff to take the time to care of themselves.

Agenda Item No. 8. Adjourn.

At 9:28 a.m., the Board adjourned their meeting to April 1, 2020 at 5:00 p.m. Mr. Gallaway stated that meeting would be an electronic meeting, held pursuant to the Emergency Ordinance to Ensure Continuity of Government No. 20-E(2) the Board adopted that day.

Chair

Approved by Board
Date 04/21/2021
Initials CKB