



RESOLUTION

Resolution No. 20-22

PATRON: Robert W. Lazaro, Jr.
Executive Director
DATE: April 23, 2020

EMERGENCY RESOLUTION TO MODIFY PUBLIC MEETING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH PANDEMIC DISASTER

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

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

and WHEREAS, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive "any state requirement or regulation" as appropriate;

and WHEREAS, on March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19;

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

and WHEREAS, the Northern Virginia Regional Commission 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 regional body may, by resolution, provide a method to assure continuity of government in the event of a disaster for a period not to exceed six months;

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, this emergency resolution 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.

THEREFORE, BE IT RESOLVED 1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including NVRC, 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 operations during this emergency and disaster: a. Any meeting or activities which require the physical presence of members of NVRC 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, NVRC shall provide public notice of at least 3 days in advance of the electronic meeting identifying how the public may participate when scheduled; and c. Any such electronic meeting of NVRC shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this resolution; identify NVRC 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 NVRC shall be open to electronic participation by the public and closed to in-person participation by the public; and e. 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. NVRC 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 RESOLVED, that the provisions of this Emergency Resolution shall remain in full force and effect for a period of 120 days, unless amended, rescinded or readopted by the BOARD in conformity with the notice provisions set forth in Virginia Code §15.2-1427 but in no event shall such resolution be effective for more than 6 months. Nothing in this Emergency resolution shall prohibit NVRC 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 resolution shall be effective upon its adoption.



CERTIFICATION

The undersigned certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Northern Virginia Regional Commission on April 23, 2020.



ROBERT W. LAZARO, JR., CERTIFYING OFFICER