



## Dinwiddie County Attorney's Office

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### **MEMORANDUM**

TO: Board of Supervisors

FROM: Tyler Southall, County Attorney

DATE: April 14, 2020

SUBJECT: Ordinance to Effectuate Temporary Changes in Certain Deadlines and to Modify Public Meeting and Public Hearing Practices and Procedures to Address Continuity of Operations Associated with Pandemic Disaster

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#### **Background**

On March 12, 2020, the Governor of Virginia declared a state of emergency due to the pandemic caused by the novel coronavirus, known as SARS-CoV-2 or COVID-19. On March 13, the President of the United States declared a national emergency, effective as of March 1, 2020. On March 16, 2020, the director of emergency management for Dinwiddie County declared a local emergency, which was ratified by the Board of Supervisors on March 17. Since that time, the Health Department has publicly confirmed the existence of multiple cases of COVID-19 in Dinwiddie County.

On March 20, 2020, the Attorney General of Virginia released an opinion. In that opinion the Attorney General noted that the Virginia Code Section 15.2-1413 provided a mechanism for ensuring continuity of government. Virginia Code Section 15.2-1413 states: "Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster. Such ordinance shall be limited in its effect to a period not exceeding six months after any such attack or disaster and shall provide for a method for the resumption of normal governmental authority by the end of the six-month period." The Attorney General stated that he believed that the COVID-19 pandemic constituted a "disaster" and that a locality could approve an ordinance "carefully limited in scope" that "allow[ed] the locality 'to assure continuity in its government' during the current emergency."

The Dinwiddie County Attorney's Office has prepared an ordinance that is closely based on the model ordinance prepared by the Local Government Attorneys of Virginia. The ordinance:

- Would be temporary, lasting until the earliest of (1) six months, (2) the Governor declares that the COVID-19 emergency has ended, or (3) the Board repeals, amends, or modifies the ordinance. If an extension of the ordinance were required at the end of six months, a new ordinance would have to be approved;
- Would allow the Board of Supervisors, as well as other boards and commissions to include the IDA, the Water Authority, the School Board, the Planning Commission, the Airport Authority, and others to meet for essential government purposes related to the continuity of government without a quorum present;
- Would create procedures to govern any such electronic meetings;
- Would allow for electronic public hearings;
- Would allow for deadlines requiring actions of Dinwiddie County or its constitutional officers to be suspended (although it would encourage the keeping of deadlines), which would keep the County from running afoul of deadlines in an environment where COVID-19 has disrupted operations;
- Would allow for non-emergency public hearings and action items to be postponed (although the ordinance wouldn't necessarily require postponement);
- Would still allow for boards and commissions to meet in person if it can be done safely and with social distancing guidelines followed;
- Would encourage the Town of McKenney to declare a local emergency and ensure continuity in its government; and
- Would declare COVID-19 to be a disaster, without which it would be difficult to have an ordinance under Virginia Code Section 15.2-1413.

### **Recommendation**

In light of the situation the County finds itself in, the County Attorney's Office recommends approval of the ordinance. A resolution has been prepared to assist.

### **Resolution**

After a public hearing is held, the Board may vote on the below resolution to approve or disapprove the ordinance.

BE IT THEREFORE RESOLVED, that the Board of Supervisors does hereby adopt and ordain the Ordinance to Effectuate Temporary Changes in Certain Deadlines and to Modify Public Meeting and Public Hearing Practices and Procedures to Address Continuity of Operations Associated with Pandemic Disaster in the form presented.