

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Emergency Meeting  
April 21, 2020

6:00 p.m.

Meeting Convened. An Emergency Meeting of the York County Board of Supervisors was called to order at 6:00 p.m., Tuesday, April 21, 2020, in the Board Room, York Hall, by Chairman W. Chad Green.

**REMARKS BY THE CHAIRMAN**

Mr. Green read the following statement concerning the purpose and the participants of the meeting:

This is a meeting of the York County Board of Supervisors, being held by electronic means without a quorum being physically assembled in one place, pursuant to Code of Virginia section 2-2-3708.2(A)(3) for the purpose of adopting several emergency ordinances which directly address responses to the ongoing pandemic. This meeting is being held remotely recognizing the various executive orders issued by the Governor of Virginia relating to the pandemic and limiting large gatherings of people.

This meeting is expected to be rather short, and no arrangements have been made for public comment. However, each ordinance is being considered under Code of Virginia section 15.2-1427(F) which allows emergency ordinances to be adopted without prior notice provided that they cannot be effective for more than 60 days unless reenacted under the usual rules for notice and public opportunity to be heard.

This meeting will be immediately followed by our regularly scheduled public meeting, for several public hearing matters. Public comment will be allowed for those hearings, via recorded call with more explanation to be provided during that meeting, and information has already been provided on the County's website.

I am William C. "Chad" Green, Board Chair, and I am sitting in the Board Room of York Hall. Other Board members participating remotely are Walter C. Zarembo, Sheila S. Noll, Jeffrey D. Wassmer, and Thomas G. Shepperd, Jr. Other County staff present or participating are Neil A. Morgan, County Administrator; James E. Barnett, Jr., County Attorney; Heather L. Schott, Legislative Assistant, and a small number of senior County staff.

**NEW BUSINESS**

Mr. Neil Morgan, County Administrator, provided a brief presentation on Proposed Emergency Ordinances No. 20-11, No. 20-12, No. 20-13, and No. 20-14. He explained Proposed Ordinance No. 20-11 had been prepared by the County Attorney in collaboration with other County Attorneys around the state pursuant to State law. The Ordinance would establish remote electronic procedures for the Board of Supervisors and other Boards/Commissions under the purview of York County for the period of 60 days. Proposed Ordinance No. 20-12 would amend Section 21-18 of the York County Code relative to the meetings of the Board of Equalization by changing the time period they could meet. A small number of appeals still existed, but the deadline occurred in the middle of the pandemic. The ordinance would allow an extension of the meetings to a reasonable period of time, with proper notice. Proposed Ordinance No. 20-13 would allow for financial adjustments and certain forms of tax relief for the citizens and businesses during the declared emergency. It would reduce the standard 10 percent late penalty for certain types of taxes to 2 percent, and the accrued interest would be adjusted to 2 percent until September 30. The proposed tax relief would be applied to such items as business and professional license tax, real estate tax, personal property tax, and the machinery and tools tax. These types of taxes were something that all citizens and businesses were subject to and were not trust taxes. It would incentivize payment and did not include the large penalty of interest that typically applies. Proposed Ordinance No. 20-14 would ratify the decision and necessary actions to close and prohibit public access to parks and public areas during the declared emer-

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agency and disasters related to the COVID 19 Virus. The County Attorney had advised Mr. Morgan that while the actions were taken lawfully under the Declaration of Emergency, it was recommended for the record. The initial closure was for 60 days; however, Mr. Morgan stated the restrictions could change if conditions improved and it becomes safe to do so.

Mr. Zaremba spoke regarding Proposed Ordinance No. 20-14, and specifically the ball fields that exist at Queens Lake Middle School. He questioned the justification of making the fields inaccessible to York County citizens. He asked whether the School Division had coordinated with the County with regards to the closure.

Mr. Morgan explained he was aware of the Superintendent's decision to close the fields, tennis courts, and playgrounds. The Proposed Ordinance did not include the actions taken by the School Division. The Superintendent had made the decision and taken action after the Sheriff's Office had received numerous reports of large gatherings of people at several different school sites. Mr. Morgan explained that the Superintendent shared the same concerns cited by Mr. Zaremba and understood the importance of individuals being able to recreate during this time. He was willing to reach out to the Superintendent to see whether he was able to review those decisions on a case-by-case situation.

#### CONTINUITY OF GOVERNMENT ORDINANCE

Mr. Wassmer then moved the adoption of proposed Ordinance No. 20-11 that reads:

AN EMERGENCY ORDINANCE TO EFFECTUATE TEMPORARY  
CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC  
MEETING AND PUBLIC HEARING PRACTICES AND PROCE-  
DURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIAT-  
ED 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, on March 17, 2020, the Board confirmed the declaration of local emergency made by the local director of emergency management on March 13, as modified on March 17, 2020; and

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

WHEREAS, Virginia Code § 15.2-1413 provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster for a period not to exceed six months; and

WHEREAS, Virginia Code § 44-146.21(C) further provides that a local director of emergency management or any member of a governing body in his absence may upon the declaration of a local emergency "proceed without regard to time-consuming procedures and formali-

ties prescribed by law (except mandatory constitutional requirements) pertaining to performance of public work;" and

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

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

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

WHEREAS, The Attorney General of Virginia issued an opinion dated March 20, 2020 stating that localities have the authority during disasters to adopt ordinances to ensure the continuity of government; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID-19 pandemic promotes public health, safety and welfare and is consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED as follows:

1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including without limitation the Board, the School Board, the Planning Commission, the Board of Zoning and Subdivision Appeals, the Board of Equalization, the Economic Development Authority, and all local and regional boards, commissions, committees and authorities created by the Board or to which the Board appoints all or a portion of its members (collectively "Public Entities" and individually "Public Entity"), or for such Public Entities to conduct meetings in accordance with normal practices and procedures.
2. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary provision of law, general or special, the following emergency procedures are adopted to ensure the continuity of government during this emergency and disaster:
  - a. Any meeting or activities which require the physical presence of members of the Public Entities may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physically present in one location; and
  - b. Prior to holding any such electronic meeting, the Public Entity shall provide public notice of at least 3 days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
  - c. Any such electronic meeting of Public Entities shall: state on its agenda and at the beginning of such meeting to be noted in its minutes that it is being held pursuant to and in compliance with this Ordinance; identify Public Entity members physically and/or electronically present; identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and
  - d. Any such electronic meeting of the Public Entities shall be open to electronic participation by the public, and closed to in-person participation by the public; and
  - e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance of final Board action on the subject of the hearing and shall also be solicited through one or both of the following methods:

- 1. telephonic or other electronic means during the course of the electronic meeting at which the matter is presented, and/or
- 2. Comments received by email, recorded phone message, or any other means of communication received following the presentation but before a future meeting at which the Board takes action on the matter which is the subject of the hearing.

In the event of (2), the Board Chair will announce prior to or following the presentation that comments will be received following the meeting, and the public shall be allowed not less than six calendar days following the presentation to submit comments. All such public comments will be provided to members of the Public Entity at or before the meeting at which action is considered and taken and made part of the record for such meeting; and

- f. The minutes of all electronic meeting shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. The Public Entities may approve minutes of an electronic meeting at a subsequent electronic meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.
- g. Notice of any public meeting shall be provided in accordance with the Virginia Freedom of Information Act, Virginia Code §§ 15.2-1427 and 15.2-2204, or other applicable law relating to such notices, to the extent practicable under prevailing public health conditions, the closure of public buildings, and the availability of public media. In lieu of physical posting, meeting notices and agendas may be posted on the County’s website only.

BE IT FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Entity, its officers (including Constitutional Officers) and employees of its organization shall be suspended during this emergency and disaster, however, the Public Entities, officers and employees thereof are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

BE IT STILL FURTHER ORDAINED, that non-emergency public hearings and action items of Public Entities may be postponed to a date certain provided that public notice is given so that the public are aware of how and when to present their views.

BE IT STILL FURTHER ORDAINED, that the provisions of this Emergency Ordinance shall remain in full force and effect for a period of 60 days, unless amended, rescinded or re-adopted by the Board in conformity with the notice provisions set forth in Virginia Code §15.2-1427 but in no event shall such ordinance be effective for more than 6 months. Upon rescission by the Board or automatic expiration as described herein, this emergency ordinance shall terminate and normal practices and procedures of government shall resume.

Nothing in this Emergency Ordinance shall prohibit Public Entities from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration.

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

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wassmer, Sheperd, Green  
 Nay: (0)

EMERGENCY ORDINANCE – YORK COUNTY BOARD OF EQUALIZATION

Mrs. Noll then moved the adoption of proposed Ordinance No. 20-12 that reads:

AN EMERGENCY ORDINANCE, AMENDING SECTION 21-18 OF THE COUNTY CODE OF YORK COUNTY, VIRGINIA, RELATIVE

TO MEETINGS OF THE YORK COUNTY BOARD OF EQUALIZATION DURING TIMES OF DECLARED EMERGENCY OR DISASTER

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order 51 declaring a state of emergency for the Commonwealth of Virginia arising from the novel Coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order 51 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, on March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19; and

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

WHEREAS, on March 17, 2020, this Board confirmed the declaration of local emergency made by the County Administrator, acting as local Director of Emergency Management on March 13, as amended on March 17, 2020; and

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

WHEREAS, Virginia Code § 15.2-1413 provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster for a period not to exceed six months; and

WHEREAS, Virginia Code § 15.2-1427(F) authorizes local governing bodies of counties to adopt emergency ordinances without public notice, subject to subsequent reapproval as provide by the statute; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID-19 pandemic promotes public health, safety and welfare and is consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED by the Board that Section 21-18 of the County Code of York County is amended as follows, and that this ordinance is adopted as an emergency and is effective upon adoption:

**Sec. 21-18. Hearings of the Board of Equalization**

- a. The Board of Equalization shall sit beginning March 1, or the first day thereafter which is not a Saturday, a Sunday or a legal holiday, of each even-numbered year for the purpose of hearing the applications of property owners for correction of their assessment(s). In no event shall such hearings be held earlier than thirty (30) days after the date the county assessor has completed his hearings. The Board of Equalization shall provide ten (10) days notice, as required by section 58.1-3378 of the Code of Virginia, of the place and time of its sittings to equalize real estate assessments. All property owners wishing to be heard must file an application for hearing on or before February 28 of each such year or within thirty (30) days of the termination of hearings by the county assessor, whichever is later. Forms for such application shall be available at the office of the county assessor and no property owner who fails to meet the filing deadline shall be heard. The Board of Equalization shall conduct hearings on a continuing basis, and except as provided in (b), below, shall conclude its work on or before April 30 of such year. In odd-numbered years, the Board of Equalization shall meet according to need upon authorization of the Board of Supervisors. In the event that the circuit court shall grant an extension of time for the completion of reassessments pursuant to Code of Virginia section 58.1-3257 and York County

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Code section 21-11, all times set out in this section shall automatically be extended likewise.

- b. In the event of a declaration of local or state emergency or disaster by the proper authorities, the Board of Equalization, or the County Administrator or the Board of Supervisors, may delay completion of hearings until such time as the emergency or disaster has ceased or such other time as the County Administrator or the Board of Supervisors may permit, and suitable notice and publication of hearing dates and times can be given as required by law.

On roll call the vote was:

Yea: (5) Noll, Wassmer, Shepperd, Zaremba, Green  
Nay: (0)

EMERGENCY ORDINANCE – TEMPORARY FORMS OF TAX RELIEF

Mr. Wassmer then moved the adoption of proposed Ordinance No. 20-13 that reads:

AN EMERGENCY ORDINANCE TO IMPLEMENT CERTAIN TEMPORARY FORMS OF TAX RELIEF, INCLUDING WAIVERS OF COUNTY CREDIT CARD FEES, REDUCTIONS IN PENALTIES AND INTEREST FOR DELINQUENT TAX AND UTILITY BILL PAYMENTS, AND A WAIVER OF RETURNED CHECK FEES ON ELECTRONIC PAYMENTS, IN ORDER TO PROVIDE A MEASURE OF FINANCIAL RELIEF DURING THE DECLARED EMERGENCY AND DISASTER RELATED TO THE COVID-19 VIRUS

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 Orders 51, 53, and 55 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 addressed other matters relating to the disaster including prohibitions on certain gatherings of people; and

WHEREAS, on March 17, 2020, the Board confirmed the declaration of local emergency made by the local director of emergency management on March 13, as modified on March 17, 2020; and

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

WHEREAS, the Board finds that the disaster, and actions taken to prevent the spread of the disease, have caused, and will continue to cause, extreme financial hardship for the county government and for its citizens, such that the Board wishes to provide a measure of relief to the citizens and business owners of the County by means of emergency amendments of various County ordinances relating to taxation and other fiscal matters; and

WHEREAS, Code of Virginia § 15.2-1427(F) authorizes counties to adopt emergency ordinances without notice to be effective for a period not to exceed sixty (60) days unless re-adopted in accordance with applicable provisions of the Virginia Code; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID-19 pandemic promotes public health, safety and welfare and is consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED as follows:

1. Anything in the County Code or in any County ordinance notwithstanding, the penalty for payment beyond the due date on any local taxes assessed for the tax year 2020 on real property, tangible personal property (including motor vehicles, trailers, semitrailers), business tangible personal property, business machinery and tools, or boats or other watercraft, or on any sewer utility fee per County Code § 18.1-79, solid waste fee per County Code §19-75, or water utility fee per County Code § 22-112, shall be two percent (2%) for payments made on or prior to September 30, 2020, and for payments made thereafter shall increase to the amounts stated in the applicable ordinance, to a maximum of ten percent (10%).
2. Anything in the County Code or in any County ordinance notwithstanding, the interest for payment beyond the due date on any local taxes assessed on real property, tangible personal property (including motor vehicles, trailers, semitrailers), business tangible personal property, business machinery and tools, or boats or other watercraft, or on any sewer utility fee per County Code § 18.1-79, solid waste fee per County Code §19-75, or water utility fee per County Code § 22-112, shall be two percent (2%) for payments made on or after May 1, 2020 and on or prior to September 30, 2020, and for payments made thereafter shall increase to the amounts stated in the ordinance, to a maximum of ten percent (10%).
3. County Code §§ 2-2, 18.1-81, 19-77, and 22-114 are hereby amended to state that the fee shall be waived for any electronic check (commonly known as an e-check) for payment of taxes or any other sums due the county, submitted on or after May 1, 2020, which is subsequently dishonored for reasons other than that there are insufficient funds or the account has been closed, but has been returned specifically as “no account/unable to locate” or “invalid account number”, provided that full payment is thereafter made in full on or before thirty (30) days after the County Treasurer has notified the payor that the check has been dishonored. Notification shall have deemed to have occurred as of the date that notification is made by telephone or email, or on the date that written notice is deposited with the United States Postal Service, postage prepaid.
4. Any other provision of the County Code, or administrative directive or regulation of the Treasurer notwithstanding, all credit card fees charged for the payment of County taxes or utility fees are waived for payments made on or after May 1, 2020 and on or before September 30, 2020. Any such fees shall be accounted as administrative costs and not as a reduction in the amount of tax or fee paid.

BE IT FURTHER ORDAINED, that the provisions of this Emergency Ordinance shall remain in full force and effect for a period of 60 days, unless amended, rescinded or readopted by the Board in conformity with the notice provisions set forth in Virginia Code §15.2-1427.

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

On roll call the vote was:

Yea:	(5)	Wassmer, Shepperd, Zaremba, Noll, Green
Nay:	(0)	

PROPOSED EMERGENCY ORDINANCE – CLOSING AND PROHIBITING PUBLIC ACCESS

Mr. Shepperd then moved the adoption of proposed Ordinance No. 20-14 that reads:

AN EMERGENCY ORDINANCE TO RATIFY ACTIONS OF THE COUNTY ADMINISTRATOR IN CLOSING AND PROHIBITING PUBLIC ACCESS TO CERTAIN PARKS AND PUBLIC AREAS DURING THE DECLARED EMERGENCY AND DISASTER RELATED TO THE COVID-19 VIRUS

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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 Orders 51, 53, and 55 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 addressed other matters relating to the disaster including prohibitions on certain gatherings of people; and

WHEREAS, on March 17, 2020, the Board confirmed the declaration of local emergency made by the local director of emergency management on March 13, as modified on March 17, 2020; and

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

WHEREAS, on March 30, the County Administrator, acting in accordance with his authority pursuant to the York County Public Areas ordinance, specifically section 17-3(b), promulgated a regulation prohibiting all use of Yorktown Beach, and the public restrooms and the piers at the Yorktown waterfront, as well as all playground areas within the York County parks system, and this Board wishes to ratify the actions of the County Administrator by the adoption of this ordinance; and

WHEREAS, Code of Virginia § 15.2-1427(F) authorizes counties to adopt emergency ordinances without notice to be effective for a period not to exceed sixty (60) days unless readopted in accordance with applicable provisions of the Virginia Code; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID-19 pandemic promotes public health, safety and welfare and is consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 21st day of April, 2020 that, public access to and use of the Yorktown beach, the public restrooms and all County-owned piers at the Yorktown waterfront, and all playground areas and equipment located in any park in the County park system, is prohibited, and that the previous actions of the County Administrator in prohibiting such public access to and use of such public areas and facilities under Chapter 17 of the County Code of York County is ratified and confirmed.

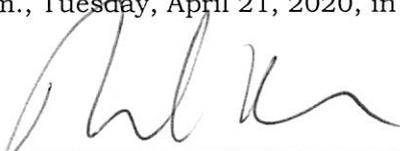
BE IT FURTHER ORDAINED, that the provisions of this Emergency Ordinance shall remain in full force and effect for a period of 60 days, unless amended, rescinded or readopted by the Board in conformity with the notice provisions set forth in Virginia Code §15.2-1427.

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

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wassmer, Green  
Nay: (0)

Meeting Adjourned. At 6:13 p.m. Chairman Green declared the meeting adjourned to 6:15 p.m., Tuesday, April 21, 2020, in the Board Room of York Hall.

  
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Neil A. Morgan  
County Administrator

  
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W. Chad Green, Chairman  
York County Board of Supervisors