



**Town Council
Emergency Called Council Meeting Minutes
April 2, 2020**

The Town Council of the Town of Bedford, Virginia, on Thursday, April 2, 2020 held an emergency special meeting at 6:00 p.m. in the Council Chambers of the Town Municipal Building at 215 East Main Street, Bedford, Virginia. The special meeting was called for the purpose of considering:

- a) Confirmation by the Town Council of a Declaration of Local Emergency concerning the spread of COVID-19 issued by Town Manager, Barrett F. Warner as Coordinator of Emergency Management on March 23, 2020 and
- b) An Emergency Ordinance allowing for the Continuity of Government Operations during the pandemic.

Town Council members present:

Mayor Steve Rush, Vice Mayor Tim Black, Councilman Stacey Hailey, Councilman Bruce Johannessen, Councilman Bryan Schley, Councilman Darren Shoen, and Councilman C. G. Stanley

Town Council members absent:

None.

Town Staff present:

Town Manager Barrett Warner; Town Attorney William W. Berry, IV; and Julia Peters, Recording Secretary

Mayor Rush called the meeting to order at 6:00 PM. The Mayor noted presence of John Barnhart, Reporter for the Bedford Bulletin, the only member of the public appearing in response to the notice duly given as required by the Town Charter, the Town Code, and the Virginia Freedom of Information Act.

NEW BUSINESS:

Town Manager Bart Warner reported that the purpose of the called meeting was to adopt a couple of documents that would put the Council back in business and enable it to conduct the Town’s business in regular meetings under emergency provisions. He asked the Council members to ratify his Declaration of a Local Emergency issued March 23, 2020. A copy of the Declaration was included in each of the Council member’s agenda packets.

On a motion by Councilman Johannessen, seconded by Councilman Hailey, voted upon and carried by a roll call vote, Council adopted the Declaration of a Local Emergency issued on March 23, 2020. Roll call vote as follows:

Vice Mayor Black	aye
Councilman Hailey	aye
Councilman Johannessen	aye
Councilman Schley	aye
Councilman Shoen	aye
Councilman Stanley	aye
Mayor Rush	aye

The motion carries with seven members voting aye.

The Declaration is as follows:

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Town of Bedford, Virginia is declaring a local emergency due to the spread of COVID-19, a communicable disease of public health threat; and

WHEREAS, due to COVID-19, a condition exists causing peril to life and health of the general public;

NOW THEREFORE BE IT RESOLVED that an emergency now exists throughout the Town of Bedford, Virginia.

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said emergency, the powers, functions, and duties of the Coordinator of Emergency Management of the Town of Bedford shall be those prescribed by State law and the ordinances, resolutions, and approved plans of the Town of Bedford in order to mitigate the effects of said emergency.

Adopted this, the 23rd day of March, 2020.

Barrett F. Warner
Town Manager

The next order of business was for Council to vote upon the Emergency Ordinance to allow for the continuity of government operations during the pandemic, including altering the process for conducting public meetings; restricting the use of public buildings or facilities; providing additional powers to the Coordinator of Emergency Management to incur costs, waive procedures, and take other temporary actions; and suspending deadlines and procedures.

On a motion by Vice Mayor Black, seconded by Councilman Johannessen, to adopt the Emergency Ordinance, discussion followed:

Mr. Warner and Mr. Berry noted the ordinance was composed using similar language taken from emergency ordinances adopted by Chesapeake and Goochland County.

In response to a question from Mr. Shoen regarding how the future meetings would be handled for public participation, Mr. Warner said the meetings would be broadcast on Shentel Station Channel 12 and also through Facebook streaming from the Town's social media page. Public comments will be entertained via email.

Mr. Black noted the ordinance would expire after 60 days unless Town Council officially extended the timeframe and Mr. Warner said it could be renewed up to six months from the date of adoption. Mr. Warner also said the Chief of Police is the Coordinator of Emergency Management as written in Town Code and Mr. Warner as Town Manager is the Deputy Coordinator or backup to Chief Foreman.

In response to a question from Mr. Shoen regarding meetings held electronically, Mr. Berry said he believed, but was not sure, that Zoom could be used where Council members did not need to be physically present to attend the particular meeting. Mr. Warner noted that IT Administrator Mrs. Crouch was working on the details of the future meetings but ideally all Council members would be present while maintaining appropriate social distancing, and broadcasting the meeting for the general public. There are still certain deadlines that must be met including advertising the tax rate. The only relief from the deadline would have to come from the State. Mayor Rush said the tax rate issue can be addressed at the April 14 meeting and he would like to put the budget off until possibly the end of May or the first of June. It was also noted that the tax rate, when adopted, could be lowered thereafter but not raised.

Voted upon and carried by a roll call vote. Roll call as follows:

Mr. Hailey	aye
Mr. Johannessen	aye
Mr. Schley	aye
Mr. Shoen	aye
Mr. Stanley	aye
Vice Mayor Black	aye
Mayer Rush	aye

The motion carries with seven members voting aye.

The Ordinance is as follows:

Ordinance No. 20-3

EMERGENCY ORDINANCE TO ALLOW FOR THE CONTINUITY OF GOVERNMENT OPERATIONS DURING THE PANDEMIC, INCLUDING ALTERING THE PROCESS FOR CONDUCTING PUBLIC MEETINGS; RESTRICTING THE USE OF PUBLIC BUILDINGS OR FACILITIES; PROVIDING ADDITIONAL POWERS TO THE COORDINATOR OF EMERGENCY MANAGEMENT TO INCUR COSTS, WAIVE PROCEDURES, AND TAKE OTHER TEMPORARY ACTIONS; AND SUSPENDING DEADLINES AND PROCEDURES

WHEREAS, on January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency in response to the spread of the novel coronavirus (COVID-19); and

WHEREAS, on March 12, 2020, the Governor, in Executive Order 51, declared a state of emergency in the Commonwealth of Virginia, acknowledging the spread of COVID-19 as a disaster as defined in Virginia Code §44-146.16; and

WHEREAS, Executive Order 51 authorized local governments to render appropriate assistance and to alleviate conditions, as appropriate, to prepare for and mitigate the effects of the virus; and

WHEREAS, on March 13, 2020, the President of the United States found and declared the outbreak of COVID-19 to constitute a national emergency, beginning March 1, 2020; and

WHEREAS, on March 23, 2020, in accordance with Virginia Code §44-146.21, the Town Manager of the Town of Bedford declared a local state of emergency in the Town of Bedford;

WHEREAS, on March 17 and 23, the Governor requested and then directed Virginians to avoid non-essential gatherings of more than 10 people; and

WHEREAS, the Town Council of the Town of Bedford convened a special meeting on April 2, 2020, and confirmed, pursuant to Virginia Code §44-146.21, the declaration of emergency in the Town of Bedford; and

WHEREAS, the Town Council has determined that COVID-19 constitutes a communicable disease of public health threat which has caused a disaster as those terms are defined in Virginia Code §44-146.16; and

WHEREAS, while the Town Council values transparency in government and public engagement, it also finds that emergency measures are necessary to mitigate the spread of

COVID-19 and to protect the health, safety, and welfare of residents and employees, while still providing for government operations to continue during this state of emergency; and

WHEREAS, Virginia Code §15.2-1413 provides that the Town Council, notwithstanding any contrary provision of law, may adopt an ordinance to assure the continuity of government operations during this disaster and for up to six months; and

WHEREAS, Virginia Code §44-146.21 further provides that the locality, during a declared local emergency, may proceed without regard to time-consuming procedures and formalities prescribed by law, except for mandatory constitutional requirements; and

WHEREAS, Virginia Code §15.2-1102 provides the Town with authority to adopt necessary regulations to prevent the spread of contagious diseases among its residents; and

WHEREAS, the Town Council also has the inherent authority to vary the Town’s policies, procedures, and practices to assure the continuity of government operations; and

WHEREAS, government operations includes the work of the Town Council and other local bodies, and the personnel who for or on behalf of local public bodies; and

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

NOW THEREFORE BE IT ORDAINED, that this uncodified ordinance is hereby enacted as follows:

An Emergency Ordinance Allowing for the Continuity of Government Operations During the Pandemic

Sec. 1. Purpose; Effective Date; Expiration

This ordinance allows for variances from state laws and town ordinance in order to protect the health, safety, and welfare of residents and employees from the spread of COVID-19 while still providing for government operations to continue during this state of emergency.

The operations of government includes management of all Town facilities and the work of all local boards, including the Town Council, the planning commission, the board of zoning appeals, and any other local or regional board, commission, committee, or authority created by the Town Council or to which the Town Council appoints or recommends for appointment all or a portion of its members (collectively “Public Bodies” and individually “Public Body”), including employees who work for or on behalf of any Public Body.

At this time, public health experts recommend against assembling groups of people in confined spaces. Accordingly, this ordinance contains modifications for public meetings which

should be followed while it is deemed unwise or unsafe to gather in one location a quorum for any Public Bodies, or to invite members of the public to physically gather together for public meetings.

Moreover, the spread of COVID-19 may make it impossible or impractical for government operations to meet all normally imposed deadlines, regulations, and time frames, or to comport, in some instances, with lengthy procedures and processes such as procurement or employment processes.

This emergency ordinance is effective immediately and will remain in effect for 60 days unless amended, rescinded, or readopted in conformity with the notice provision of Virginia Code §15.2-1427; however, in no event will the ordinance be effective for more than six months from the conclusion of the declared disaster. Upon repeal or expiration of this ordinance, normal government operations will resume.

Sec. 2. Public Meetings and Public Hearings

- A. Any regularly scheduled or regular meeting of any Public Body may be canceled by the chair if there is no essential business that needs to occur or if conditions otherwise make it impractical to meet. Notice of the cancellation must be provided to the Public Body members and the public as soon as is practicable.
- B. In the alternative, any regular schedule or regular meeting of any Public Body may be held by solely electronic or telephonic means without a quorum of members physically present and without members of the public physically present, provided the following occurs:
 - 1. The meeting is accessible to the public through live audio or video on the Town's or Public Body's website, a dial-in telephone number, or a social media platform.
 - 2. The agenda and public notice for the meeting must:
 - a. Include a statement that the meeting is being held using electronic means under this ordinance;
 - b. Contain specific information about how members of the public can access the meeting; and
 - c. If there are any public hearing or public comment items, specifically identify how members of the public can provide comment, including one or more of the following: by e-mail, in writing, by telephone, through a social media platform, or via other electronic means.
 - 3. The agenda is posted on the Town's or Public Body's website at least six days prior to the meeting, except that the agenda of any regularly scheduled meeting occurring with seven days of the adoption of this ordinance must be posted by two working days after adoption of this ordinance. Other materials associated with the meeting, if any, must be made available to the public at the same time they are provided to the Public Body members.
 - 4. For public hearings and any items for which public comment is permitted, the following rules apply:
 - a. Normal rules of order apply with respect to requiring the name and home address of the commenter, that comments relate to the hearing or comment topic, that

appropriate limits on the number of comments per person per item apply, and that comments be of reasonable length.

- b. Public Bodies may allow public comments to be submitted via phone call, e-mail, or in writing, up until a reasonable time before the start of the meeting so long as those comments are then provided to the Public Body members prior to any decision on an item.
 - c. If available, members of the public may provide comments through leaving a voicemail on a dedicated phone number up until a reasonable time before the start of the meeting so long as those comments are then provided to the Public Body members prior to any decision on an item.
 - d. If available, members of the public may provide comments through telephonic or interactive electronic means (call-in meeting access, social media platform) during the meeting so long as those comments are received by or provided to the Public Body members prior to any decision on an item.
 - e. The Public Body may choose to receive additional comments through any means for a period of time after the public hearing or public meeting, so long as it announces and publicizes that opportunity and those comments are provided to the Public Body members prior to any decision on any item.
 - f. All public comments must be made a part of the record of the Public Body either by being summarized in or included within the meeting minutes.
5. Any votes taken during the meeting must be taken by roll call, individually recording each member's name and vote.
 6. The minutes of any meeting under this ordinance must conform to the requirements of law, including identifying the forms of electronic communication used, the members participating and the means by which they participated, the opportunities for public access or participation, a summary of the public comments, if any, and the actions taken at the meeting.
- C. Public Bodies may hold special meeting consistent with the provision in (B) except that notice of the special meeting need only be provided at least three working days prior to the meeting, and the agenda and associated materials, if any, need to be made available to the public at the same time as they are made available to the Public Body members.
 - D. Public Bodies may hold emergency meetings consistent with Virginia Code §2.2-3708.
 - E. Any item on an agenda for a regularly scheduled, regular, special, or emergency meeting held hereunder may be continued to a later date or time for the purpose of reviewing and considering comments from the public.

Sec. 3. Public Buildings, Facilities, Real Property and Events

The coordinator of emergency management and the town manager are empowered to restrict members of the public from entering or congregating around Town-owned buildings, facilities, and real property as is reasonably necessary to ensure the health, safety, and welfare of the public or Town staff. Moreover, the coordinator of emergency management or the town manager may cancel, postpone, or reschedule any events scheduled for any Town-owned building, facility or property as necessary to ensure the health, safety, and welfare of the public or Town staff.

Sec. 4. Additional Powers of the Coordinator of Emergency Management and Town Manager

- A. *Funding and Contracts.* To the extent of unobligated funds available in excess of appropriations in the approved budget, the coordinator of emergency management and/or town manager may enter into contracts and incur obligations necessary to protect the health and safety of persons and property, and to provide emergency assistance to persons affected by this disaster.
- B. *Procedures.* The coordinator of emergency management and/or town manager may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring obligations, employing workers, renting equipment, purchasing supplies and materials, and other expenditures of public funds.
- C. *Other Temporary Actions.* The coordinator of emergency management and/or town manager may temporarily take any of the following actions: waive or reduce fees imposed by Town ordinance; waive enforcement, in whole or in part, of any Town ordinance; and modify, limit, waive, suspend, or amend any Town program, service, function, process, or procedure. The coordinator and/or town manager must apply the action uniformly for similar situations and not on a case-by-case basis. The coordinator and/or town manager's actions will only be effective until the next regular meeting of the Town Council. The Town Council may ratify and extend the time for which the coordinator and/or town manager's action remains in effect.

Sec. 5. Suspension of Deadlines, Time Frames, and Procedures

Town personnel are encouraged to take action as is practical and appropriate to meet deadlines or time frames established under state law or Town ordinances, however, notwithstanding any provision of law, regulation, or policy to the contrary, any deadlines requiring action by the Town, any Public Body, or Town employees are suspended. Time frames for review or expedited reviews are also suspended. Failure to meet any deadline or time frame will not constitute a default, violation, approval, ratification, or recommendation. Any policies or procedures inconsistent with this ordinance are hereby suspended.

This ordinance shall be effective upon adoption.

This ordinance shall expire after 60 days unless re-adopted by the Town Council after public notice.

ADJOURNMENT:

Being no further business, Mayor Rush adjourned the meeting at 6:05 p.m.

Steve Rush, Mayor

Debra Anderson, Clerk of the Council