

MEMORANDUM

TO: PlanRVA Board of Commissioners
Richmond Regional Transportation Planning Organization
Central Virginia Transportation Authority

Martha Heeter, PlanRVA Executive Director
Chet Parsons, Director of Transportation

FROM: Eric Gregory
Hefty, Wiley & Gore, P.C.
Legal Counsel

DATE: January 4, 2022

SUBJECT: Continuing State of Emergency and Virtual Meetings

I advised the PlanRVA Board and the agencies hosted by PlanRVA, the RRTPO, and the CVTA, in early December that because the City of Richmond's state of emergency in effect per Ord. No. 2021-181 would expire on December 31, 2021, public bodies within the City would no longer be able to meet via electronic communications means (virtually) after that date. We have been advised by the City Attorney's office of other legislation adopted by City Council, however, that provides for a continued state of emergency to be in effect, due to the ongoing COVID-19 pandemic. This memo provides further clarification and guidance on this issue.

City of Richmond Ordinance No. 2021-181 (see attached) was adopted on Jun. 28, 2021, and extended Ord. No. 2020-093 (adopted Apr. 9, 2020) the continuity of government ordinance, until December 31, 2021. In light of the expiration of the Governor's state of emergency on June 30th and the fact that City Council did not extend this ordinance, it expired on December 31st. However, as of December, the City of Richmond had several other declarations of local emergency in effect, most of which dealt with civil unrest that has now subsided.

But, Res. No. 2020-R025, adopted Mar. 16, 2020 (see attached), consents to the Mayor's declaration of a local emergency due to the potential spread of COVID-19. City Council has not taken action to end the COVID-19 local emergency, as required by Va. Code § 44-146.21(A), and so this state of emergency continues in effect. Therefore, this locally declared state of emergency, presently existing in the City of Richmond, authorizes public bodies within the City to continue to meet via electronic communications means (virtually) pursuant to and in compliance with Virginia Freedom of Information Act § 2.2-3708.2(A)(3) (see attached).

Until City Council takes action to end the local state of emergency, the City Attorney's office is advising their public body clients that they may avail themselves of Virginia Code § 2.2-

3708.2(A)(3) to hold meetings through electronic communication means should they determine that the circumstances warrant such. Based upon this guidance, some public bodies, including some state agency boards that are within the City, are choosing to meet in-person and others are more comfortable remaining virtual.

I concur with the City Attorney's office's guidance and therefore advise that the PlanRVA board, RRTPO, and the CVTA board and their respective committees, may continue to meet via electronic communications means (virtually) if they choose to do so, in compliance with Virginia Code § 2.2-3708.2(A)(3).