

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	September 6, 2022
Action Required:	Enactment of Resolution (1 Reading Only)
Presenter:	Lisa Robertson, City Attorney
Staff Contacts:	Michael Rogers, City Manager
Title:	For consideration of ending the Locally-declared State of Emergency for COVID-19 (1 reading)

Background

1. **2020 Local Declaration of COVID Emergency.** On March 12, 2020 City Council, by **Resolution (#R-20-035, attached)**, authorized the City Manager to declare a local state of emergency related to the COVID-19 virus. On that same date, the City Manager issued a Public Safety Order, declaring the local state of emergency. Together, these documents are referred to in this Memo as the “Local Declaration”. A declaration of local emergency has the effect of notifying the public of a serious situation, makes the City eligible for state or federal disaster funding in certain situations, and confers extended fiscal and procurement powers upon the City Manager. A Local Declaration does not alter FOIA requirements, or otherwise modify or enhance any of the normal roles, responsibilities or legal authority of the City Manager or members of City Council. **The Local Declaration remains in effect indefinitely, until “when, in its judgment all emergency actions have been taken” City Council takes “appropriate action” to end the declared emergency, see Va. Code Sec. 44-146.21(A).** (Note: the Board of Supervisors of Albemarle County ended its own locally-declared state of emergency, on March 16, 2022).
2. **Measures to Address the Local Declaration.** Separate and apart from the Local Declaration, City Council enacted two ordinances to implement emergency actions necessary to address COVID-19:
 - a. Continuity of government operations—on March 25, 2020 (#O-20-049) City Council enacted an “**Ordinance to Modify Deadlines, Modify Public Meeting and Public Hearing Practices**”, to implement actions needed to address the COVID emergency and ensure the continued provision of government services, (“Continuity of Government Ordinance”), as authorized by Va. Code §15.2-1413. This state statute specifies that “a local government may, by ordinance, provide a method to assure continuity in government in the event of a disaster, notwithstanding any contrary provision of law, general or special.” . Many localities, like Charlottesville, used this enabling legislation to justify holding electronic public meetings, because—at the outset of the COVID-19 pandemic—FOIA did not allow local public bodies to

conduct meetings without there being a quorum of members physically assembled together in the same room. Charlottesville's COG Ordinance was enacted for a 6-month period of time, and has been extended for additional 6-month periods. **The most recent COG Ordinance in effect (#O-22-029, attached) expires September 8, 2022.**

- b. *Regulation of public actions*—Council enacted an “**Ordinance to Prevent the Spread of the Novel Coronavirus**” (#O-20-093, enacted July 27, 2020, **repealed April 2021**), which included restrictions on the size of certain gatherings, and required individuals to wear masks in specified public places. This local ordinance was enacted in addition to the restrictions imposed by the Virginia Governor through issuance of various Executive Orders.

Discussion

In 2021 Special Session I (cc. 33, 490) the General Assembly amended FOIA, to include provisions expressly authorizing all-virtual electronic meetings during a declared state of emergency, if the catastrophic nature of the declared emergency makes it impractical or unsafe to assemble a quorum in a single quorum. The General Assembly also expanded the ability for public bodies to meet electronically, *outside* a state of emergency. As a result of this new FOIA legislation, the COG Ordinance is no longer necessary for the primary purpose for which it was originally enacted: i.e., authorization of all-virtual electronic meetings during a local state of emergency.

- In **June 2021**, the **Governor allowed the Emergency to expire at the state level**, after previously ending all COVID-19 state-level mitigation measures as of May 28, 2021.
- On **March 16, 2022** the Albemarle County Board of Supervisors ended its locally-declared state of emergency.
- In **April 2022** City Council resumed meetings at which a quorum is physically assembled.

At this time, Staff is unaware of any COVID-related actions which need to be taken as emergency measures. In April 2022 Council and staff began a transition to normal FOIA meetings and procedures, and the new FOIA provisions will allow all-virtual meetings to continue for most boards and commissions. Furthermore, the manner in which in-person meetings have resumed for Council, the Planning Commission, the Board of Architectural Review, etc., is now expressly authorized by FOIA, and City Council also has broad general authority to continue restrictions within City-owned premises to reduce the spread of COVID-19 during in-person meetings (for example: pursuant to the fifth enumerated power within Section 14 of the City Charter: City Council has general authority “**to make regulations to...prevent the...spreading of contagious or infectious diseases...**”). Also, by ordinance, Council has designated the City Manager as the public official charged with general supervision and control of City-owned premises and property, per City Code Sec. 2-157. As a result of the foregoing provisions of law, there are no measures currently being implemented--either by City Council or the City Manager's Office--which could not continue if City Council adopts the attached resolution.

Alignment with City Council's Vision and Strategic Plan

N/A

Community Engagement

N/A

Budgetary Impact

Expanding the number of boards and commissions who would be given permission to have hybrid meetings (i.e., meetings at which public *participation* would be allowed in person and electronically, simultaneously) would potentially create a need for additional staff or contract services. Otherwise, enacting the resolution proposed to end the locally-declared state of emergency, in and of itself, is not believed to have a budgetary impact.

Recommendation

Staff recommends approval of the attached Resolution.

Suggested Motion: "I move the RESOLUTION Ending the Local Emergency Declared by the City Manager on March 12, 2020 in response to the Coronavirus 2019"

Alternatives

Council may decline to approve the proposed Resolution.

Attachments

1. Resolution Ending State of Emergency
2. R 20 035
3. O 22 029