



VIRGINIA BEACH CITY PUBLIC SCHOOLS CHARTING THE COURSE

School Board Services

Carolyn T. Rye, Chair
District 5 - Lynnhaven

Kimberly A. Melnyk, Vice Chair
District 7 – Princess Anne

Beverly M. Anderson At-Large	Daniel D. Edwards District 2 – Kempsville	Sharon R. Felton District 6 – Beach
Dorothy M. Holtz At-Large	Laura K. Hughes At-Large	Victoria C. Manning At-Large
Jessica L. Owens District 3 – Rose Hall	Trenace B. Riggs District 1 – Centerville	Carolyn D. Weems District 4 - Bayside

Aaron C. Spence, Ed.D., Superintendent

School Board Meeting

Tuesday, April 7, 2020 (6:00 p.m.)

Due to Governor Northam’s Stay at Home Executive Order Fifty-Five related to the COVID-19 coronavirus pandemic, it was determined that holding a School Board Meeting in person would pose a real and substantial threat to public health and safety. Therefore, in accordance with Bylaw 1-36, the School Board Meeting was conducted electronically holding Standing Rules related to the order of business in abeyance. The School Administration Building remained closed with School Board members participating remotely by phone. Audio was streamed live on vbschools.com as well as on VBTV Channel 47 and recorded for archival purposes

Public comment was invited through the School Board’s group e-mail account at vbcpschoolboard@googlegroups.com

MINUTES

- 1. Call to Order and Verbal Roll Call:** Chairwoman Rye called the School Board meeting to order at 6:00 p.m. announcing School Board members were participating remotely, and noted audio of the meeting was being streamed and broadcast with public comment invited via e-mail submitted to the School Board group e-mail account. After conducting a verbal roll call, the School Board Clerk affirmed a quorum was present with all School Board members participating by phone along with Superintendent Spence.
- 2. Adoption of the Agenda:** Chairwoman Rye called for a motion to adopt the agenda. Ms. Anderson made a motion, seconded by Mr. Edwards, that the School Board adopt the agenda as published. Without discussion, the School Board Clerk called for a verbal vote from each School Board member, and then announced the motion passed unanimously.
- 3. Approval of Minutes**
 - A. March 10, 2020 Regular School Board Meeting:** Chairwoman Rye called for a motion for the approval of the minutes of the School Board’s March 10, 2020 regular meeting. Ms. Riggs made the motion, seconded by Ms. Hughes. Without discussion, the School Board Clerk called for a verbal vote from each School Board member, and the minutes were approved unanimously as presented and to be ratified at a regular or special meeting after the State of Emergency and disaster have concluded.



B. March 25, 2020 Emergency Electronic School Board Meeting: Chairwoman Rye called for a motion for the approval of minutes of the School Board's March 25, 2020 emergency electronic meeting. Ms. Holtz made the motion, seconded by Ms. Anderson. Without discussion, the School Board Clerk called for a verbal vote from each School Board member, and the minutes were approved unanimously as presented and to be ratified at a regular or special meeting after the State of Emergency and disaster have concluded.

4. ***Discussion and Action on a Resolution Authorizing Finding that a Local Emergency Exists, Adoption of Procedures for Electronic or Other Public Meetings and Public Hearings, and to Ensure the Continuity of School Board and School Division Operations During the COVID-19 Pandemic Disaster***: Upon Chairwoman Rye's call for a motion, Vice Chair Melnyk presented the motion by reading a proposed resolution authorizing the finding that a local emergency exists, adoption of procedures for electronic or other public meetings and public hearings, and to ensure the continuity of School Board and School Division operations during the COVID-19 pandemic disaster. Ms. Riggs seconded the motion for the resolution presented as follows:

RESOLUTION AUTHORIZING FINDING THAT A LOCAL EMERGENCY EXISTS, ADOPTION OF PROCEDURES FOR ELECTRONIC OR OTHER PUBLIC MEETINGS AND PUBLIC HEARINGS, AND TO ENSURE THE CONTINUITY OF SCHOOL BOARD AND SCHOOL DIVISION OPERATIONS DURING THE COVID-19 PANDEMIC DISASTER

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

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 that the pandemic established the existence of a public health emergency that constituted a "disaster" as defined by Virginia Code § 44-146.16 arising from the public health threat presented by a communicable disease that is 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 requirements or regulations" as appropriate; and

WHEREAS, Executive Order Fifty-One further directed "state and local governments to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible;" and

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

WHEREAS, on March 13, 2020, Governor Northam issued Executive Order Fifty-One declaring that all K-12 schools in Virginia be closed from March 16-April 23, 2020; and

WHEREAS, the Attorney General of Virginia issued an opinion on March 20, 2020 stating that localities have the authority during disasters to adopt ordinances to assure the continuity of government and Executive Order Fifty-One authorizes actions to alleviate conditions resulting from the situation and to implement recovery and mitigation operations and activities so as to return to pre-event conditions; and



WHEREAS, on March 23, 2020, Governor Northam issued Executive Order Fifty-Three declaring that all K-12 schools in Virginia be closed for the remainder of the 2019-20 school year. Executive Order Fifty-Three further prohibited all private or public gatherings of groups of more than ten persons and the closure or modification of certain public and private businesses and services for the purposes of modifying the spread of COVID-19; and

WHEREAS, on March 24, 2020 the City Council of the City of Virginia Beach confirmed the declaration of local emergency made by the local director of emergency management and took necessary actions to further limit access to government facilities and services; and

WHEREAS, on March 30, 2020, Governor Northam issued Executive Order Fifty-Five declaring that all persons in Virginia should temporarily remain at home through June 10, 2020 unless meeting one of the exceptions in the Governor's Executive Orders; and

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

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

WHEREAS, the School Board finds that the novel COVID-19 pandemic and that state and national responses to the State of Emergency are unprecedented. Current School Board and School Division bylaws, policies, regulations, guidelines as well as applicable state and federal law and regulation do not adequately address the operation of the School Board and the School Division under current State of Emergency restrictions and emergency measures are needed; and

WHEREAS, this Resolution is in response to the State of Emergency and disaster caused by the COVID-19 pandemic and adoption of this Resolution will promote 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 RESOLVED

1. That the School Board finds that the COVID-19 pandemic 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
2. That certain matters regarding the continuity of School Board and School Division operations during and after the State of Emergency and disaster have concluded may require that actions be taken during the State of Emergency. Where clear authority does not exist, reasonable judgments by School Board Members, the Superintendent or authorized personnel or agents, authorized representatives of the School Board or authorized members of School Board committees, boards or agencies will be deemed appropriate. Where School Board approval is required, nothing in this subsection waives that requirement; and
3. That the State of Emergency and the COVID-19 pandemic make it unlawful and unsafe to assemble in one location a quorum for public entities including the School Board, School Board Committees and other committees, advisory boards and agencies created by the School Board or to which the School Board appoints all or a portion of its members (collectively "School Board entities" or individually "School Board entity"), or for such entities to conduct meetings in accordance with normal practices and procedures; and
4. That regular meetings and procedures followed by School Board entities must be temporarily suspended or modified in order for School Board and School Division operations to proceed during the State of Emergency. Therefore, notwithstanding any contrary provision of law, policy or regulation general or special, the following



Emergency Procedures are adopted to ensure the continuity of School Board and the School Division operations during this State of Emergency and disaster and until such time as normal business procedures and protocols can resume; and

A. Any meeting or activity which requires the physical presence of members of School Board entities may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum of such entity physically present in one location. The number of times remote participation is utilized by members will not be limited and remote participation in such meetings during the term of this Resolution will not be counted against a member after the Resolution or the State of Emergency have concluded; and

B. Prior to holding any such electronic meeting, the School Board entity shall provide public notice of at least three (3) days in advance of the electronic meetings identifying how the public may participate or otherwise offer comment; and

C. Any such electronic meeting of a School Board entity shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this Resolution, identify entity members physically and/or electronically present, identify persons responsible for receiving public comments and identify notice of the opportunities for the public to access and participate in such electronic meeting; and

D. Any such electronic meetings of a School Board entity may be, at the entity's discretion, open to electronic participation by the public and/or may be 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 and may also be solicited through telephonic or other electronic means during the course of the entity's meeting. All such public comments will be provided to the entity's members at or before the electronic meeting (if the entity's members did not directly receive the public comment) and made part of the record of such meeting; and

F. To the extent reasonably possible, the minutes of all electronic meetings 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 entity 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 State of Emergency and disaster have concluded; and

G. School Board entities are authorized to conduct emergency or special meetings that otherwise meet the requirements of law; and

H. School Board entities may recess into closed session during electronic meetings for any matters authorized by FOIA for closed session. The entities must follow FOIA procedures for closed session meetings as modified for electronic medium; and

I. The chairs of School Board entities or staff serving such entities are authorized to establish reasonable procedures for conducting such meetings including, but not limited to, changing meeting dates and times, and postponing or cancelling meetings-provided that notice is provided to the public and the entity members. The meeting agendas may be modified from regular agenda and/or meeting formats. Agendas and agenda materials not subject to confidentiality or closed session items will be made available to the public. Should the Governor rescind limitations on gatherings of persons in public or private before the State of Emergency is concluded, then in-person public meetings may be held by School Board entities after consultation with the Superintendent and provided that public health and safety measures such as social distancing and meeting modifications are taken into consideration and implemented as appropriate; and



J. The entities are authorized to waive minor deviations or inconsistencies from procedures established in this Resolution or required by law, bylaw, regulation or policy; and

K. Regular meeting procedures may be resumed at the direction of the entity chair or a staff member serving the entity.

5. That the School Board hereby reasonably determines and finds, based upon the above and all available facts, that the ongoing and continuing operation of the School Board is essential and indispensable to address the emergency and involve critical functions and legally imposed procedures, which, if not addressed, would result in immediate and irrevocable harm upon the students, staff, operations, facilities, and community members of Virginia Beach City Public Schools; and

6. That the those critical and essential functions and legally-required procedures which must be addressed by the School Board to ensure continuity in government include, but are not limited to, the procurement of goods and services necessary to continued functioning; adoption or amendment of policies and regulations to address changes in instruction, staffing, facility usage, transportation, provision of meals, calendar modifications, etc.; delivery of long-distance learning and modifications to existing technology; nonrenewal and/or dismissal of employees; compliance with due process protections and procedures for students (disciplinary matters) and staff (grievance procedure); provision and staffing of health services; adoption of budget amendments; payment of warrants; acquisition and disposal of public and real property; construction of facilities and related contract obligations; investigation and resolution of discrimination and other complaints involving employees and students, including compliance with Title IX obligations; legal compliance and litigation, and other essential matters critical to the operations of the school division which are anticipated in the immediate future and thereafter during the pendency of the COVID-19 pandemic.

7. That the provision of this Resolution shall remain in full force and effect for a period of ninety (90) days, unless amended, rescinded or readopted by the School Board but in no event shall such Resolution be effective for more than six months after the date of this Resolution. Upon rescission by the School Board, or automatic expiration as described herein, this Resolution shall terminate, and normal practices and procedures of the School Board and the School Division shall resume.

IT IS FURTHER RESOLVED: That a State of Emergency is deemed to exist and has existed since March 12, 2020, and this Resolution shall be effective upon its adoption.

School Board Legal Counsel, Kamala H. Lannetti, Deputy City Attorney, reported the basis for the resolution and explained each segment in detail before School Board members were called upon individually to comment.

After questioning the need for the stated 90-day effective period referenced in Item 7 of the resolution, Ms. Hughes proposed an amendment to insert “or until the Governor’s restrictions on public meetings are lifted.” Ms. Manning seconded the amendment. Following discussion, the School Board Clerk called for a verbal vote from each School Board member for the proposed amendment, and announced the motion failed with 4 ayes – Hughes, Manning, Rye and Weems; and 7 nays.

The sequence of calling upon individual School Board members for comment continued.

Ms. Manning expressed her opposition to Item 6 of the resolution stating it was too broad as it relates to the Attorney General’s March 20, 2020 opinion, and suggested instead items be addressed as they arose to ensure the public remains a part of the process. She then proposed



an amendment to remove Item #6 from the resolution in its entirety. Ms. Hughes provided a second. Ms. Lannetti provided examples of matters that fall under the parameters outlined in the resolution that may require School Board action, and Superintendent Spence reported the division is not closed and highlighted the continued work throughout the system. Following discussion, the School Board Clerk called for a verbal vote from each School Board member for the proposed amendment, and announced the motion failed with 3 ayes – Hughes, Manning, and Weems; and 8 nays.

Following further School Board comments, the School Board Clerk called for a verbal vote from each School Board member on the original motion, and announced the motion passed with 10 ayes; 1 nay – Manning, approving the resolution as presented above.

5. **Discussion and Action on the Personnel Report/Administrative Appointments:** Upon Chairwoman Rye's call for a motion, Mr. Edwards made a motion, seconded by Ms. Anderson, that the School Board approve the appointments and accept the resignations, retirements and other employment actions as listed on the Personnel Report dated March 24, 2020 amended April 2, 2020. Noting policy provides for the Superintendent's authority to fill budgeted full-time positions subject to School Board confirmation within ninety (90) days for all employees other than administrators, and thirty (30) days for administrative employees, Ms. Manning presented a substitute motion to approve only Administrative recommendations and defer the Personnel Report. Ms. Weems provided a second. After Superintendent Spence and John A. Mirra, Chief Human Resources Officer, explained the potential impact to include possibly losing applicants to other divisions, the substitute motion was withdrawn by Ms. Manning and agreed to by Ms. Weems. The School Board Clerk then called for a verbal vote from each School Board member on the original motion, and announced the motion passed unanimously. There were no Administrative appointments recommended by the Superintendent.
6. **Adjournment:** There being no further business before the School Board, Chairwoman Rye adjourned the meeting at 7:53 p.m.

Respectfully submitted:

Dianne P. Alexander, Clerk of the School Board

Approved:

Carolyn T. Rye, School Board Chair