



**Agenda Packet - DRAFT
Village of Clemmons Council
Regular Meeting**

May 11, 2020

**AGENDA
REGULAR MEETING OF THE
VILLAGE OF CLEMMONS COUNCIL
MAY 11, 2019 at 6:00 p.m.**

- I. Call to Order & Pledge of Allegiance – Mayor Wait
- II. Public Comments
- III. Minutes - Approval of Minutes – April 27, 2019 Regular Meeting
- IV. Changes and/or Approval of the Agenda
- V. Announcements
- VI. **Business – Information/Review Items for Future Action**
 - A. Marketing & Communications Director's Report
 - B. Manager's Report
 - 1. Financial Report for March 2020
 - 2. Budget Workshop Dates/Times
 - 3. FCSO Agreement Renewal
 - C. Attorney's Report
 - 1. New Rules for Meetings of Public Bodies and Remote Zoning Hearings During Declared Emergencies
 - D. Planner's Report
- Business – Action Items**
 - E. Public Hearing
 - 1. Zoning Map Amendment for Carlos Pereira from RS-15 & LO-S to RM-12-S (Residential Building, Multifamily) located at 3462 Clemmons Road - PIN number 5893-30-8703 and 5893-30-9990 – approx. +/- 8 acres - Zoning Docket C-234
 - F. State of Emergency Declaration Ordinance 2003-07 Amendment Discussion
 - G. Council Comments
- VII. Adjournment



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**REGULAR MEETING OF
THE VILLAGE OF CLEMMONS COUNCIL
April 27, 2020**

The Village of Clemmons Council met electronically on Monday, April 27, 2020, at 6 p.m. The meeting was held via Zoom Meeting due to the ongoing COVID-19 pandemic and guidelines and recommendations provided by the Centers for Disease Control and Prevention (CDC), as well as the State and Forsyth County. The following Board members were present: Mayor Wait, Council Members Barson, Binkley, Cameron, Rogers and Wrights. The following Staff members were present: Manager Buffkin, Attorney Fus, Clerk Shortt, Public Works Director Gunnell, Marketing and Communications Director Ford, Director of Operations Gearren and Planner Rahimzadeh.

Call to Order & Pledge of Allegiance

Mayor Wait called the meeting to order at 6:08 p.m. and led the Pledge of Allegiance.

Public Comments

There were no citizens in attendance. There were no individual comments submitted to be read into the record.

Approval of the Minutes

Council Member Cameron moved to approve the minutes of the April 13, 2020 regular meeting as presented. The motion was seconded by Council Member Rogers and unanimously approved.

Approval of the Agenda

Manager Buffkin requested the addition of “NCLM Voting Delegate” as Item 3. under Manager’s Report.

Council Member Rogers moved to approve the agenda as amended. The motion was seconded by Council Member Wrights and unanimously approved.

Announcements

There were none.

Business – Information/Review Items for Future Action

- A. *Marketing and Communications Director’s Report* – Marketing and Communications Director Ford provided an update on the following items and events:
- The farmer’s market is scheduled to open May 9, 2020. She advised some vendors are currently accepting pre-orders and making deliveries to Village Hall for pick up on Saturday mornings.
 - May 5, 2020 will be Firefighter Appreciation Day at Mama Mia’s Italian Ice from 1:00pm - 5:00pm. They will be taking curbside or call-in orders as well as

accepting cards, letters and drawings to be delivered to local departments. For every \$50 in sales on that day, they will cater Italian ice to a local fire department.

B. Manager's Report.

1. *Sheriff's Office Report for March 2020* – report was presented.
2. *Village Boards Advertising* – Manager Buffkin advised of the citizen board term expirations and that advertising will begin.
3. *NCLM Voting Delegate* – Manager Buffkin advised of a voting delegate needed to cast a single vote for the League Board of Directors in advance of their annual business meeting which will be held virtually on May 28, 2020.

Council Member Barson moved to appoint Council Member Cameron as the NCLM Voting Delegate to cast a single vote for the League Board of Directors in advance of their annual business meeting which will be held virtually on May 28, 2020. The motion was seconded by Council Member Binkley and unanimously approved.

C. Attorney's Report.

1. *State of Emergency Ordinance Discussion* - Attorney Fus advised Council that the NC Emergency Management Act provides the backdrop for what municipalities can do in regards to declaring a State of Emergency. It provides the restrictions that can be enacted. His recommendation is that the Village of Clemmons adopt the state statute verbatim.

Council consensus was to direct Staff to re-draft the ordinance similar to the State with procedural guidance for different types of emergencies and “time is of the essence” type scenarios.

D. Planner's Report.

1. *April 21, 2020 Draft Planning Board Meeting Minutes* – minutes were presented.

Business – Action Items

E. Call for Public Hearing.

1. Zoning Map Amendment for Carlos Pereira from RS-15 & LO-S to RM-12-S (Residential Building, Multifamily) located at 3462 Clemmons Road - PIN number 5893-30-8703 and 5893-30-9990 – approx. +/- 8 acres - Zoning Docket C-234.

Council Member Wrights moved to call for public hearing on Zoning Map Amendment for Carlos Pereira from RS-15 & LO-S to RM-12-S (Residential Building, Multifamily) located at 3462 Clemmons Road - PIN number 5893-30-8703 and 5893-30-9990 – Zoning Docket C-234 on Monday, May 11, 2019 at the Regular Village Council Meeting. The motion was seconded by Council Member Cameron and unanimously approved.

- F. Major Subdivision Preliminary Site Plan Review – Idolwood – C-20-001 - Planner Rahimzadeh advised this a major preliminary subdivision site plan review not a rezoning consideration that will consist of 30 lots and there will not be direct access to Idols Road. He advised that Planning Board unanimously recommended approval. Vincent Townsend, Project Engineer, and James Blakely, Developer, were available for questions.

Council Member Rogers made a motion to approve the preliminary major subdivision for Idolwood – C-20-001. The motion was seconded by Council Member Wrights and unanimously approved.

- G. Village Streets Paving Bids - The following quotes were received for village streets paving and the bid from Sharpe Brothers was recommended. Public Works Director Gunnell advised due to the current circumstances, additional streets may be added for paving based on the difference of budget estimates and a decrease in costs.

Company	Quote
Sharpe Brothers	\$621,710.95
Hanes Paving	\$1,041,757.26
APAC Atlantic, Inc.	\$727,474.00
Yadkin Valley Paving	\$667,031.70

Council Member Wrights moved to accept the bid from Sharpe Brothers for Village Streets Paving in the amount of \$621,710.95 plus a 20% contingency for a total of \$746,053.14 (attached hereto as Exhibit A and incorporated as part of the minutes). The motion was seconded by Council Member Barson and unanimously approved.

- H. Remote Participation Policy – Manager Buffkin presented a revised Remote Participation Policy. A brief discussion was held regarding the verbiage of #3 and the language was amended along with only items a. thru d. listed. The topic of written ballots was also discussed. Attorney Fus recommended a procedure for how to handle that situation remotely be done when/if the situation presented itself as this would be a rare occurrence and could incorporate relevant resources. He also recommended not holding quasi-judicial or evidentiary hearings unless an absolute must.

Council Member Barson moved to approve the Remote Participation Policy as amended (attached hereto as Exhibit B and incorporated as part of the minutes). The motion was seconded by Council Member Rogers and unanimously approved.

- I. Council Comments – Council Member Rogers read a text message received from a citizen regarding sidewalks and pathways. Council Member Cameron expressed her thoughts on the April 21, 2020 Planning Board meeting being extremely well done.

Adjournment

Council Member Rogers moved to adjourn the meeting at 7:34 p.m. The motion was seconded by Council Member Binkley and unanimously approved.

John Wait
Mayor

ATTEST:

Lisa Shortt, NCCMC
Village Clerk

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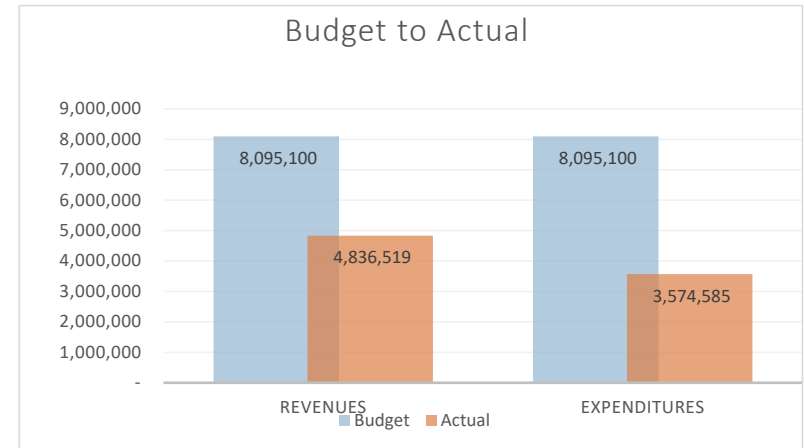


VILLAGE OF CLEMMONS
FINANCIAL SUMMARY
FOR MARCH 31, 2020

GENERAL FUND						
	Original Budget 6/30/2020	Revised Budget 6/30/2020	Actual as of 3/31/2020	%	Prior Year Actual 3/31/2019	
REVENUES						
Ad Valorem Taxes	2,642,700	2,642,700	2,528,549	96%	2,463,524	
Other taxes and licenses	3,000	3,000	2,147	72%	1,788	
Unrestricted intergovernmental	2,360,200	2,370,200	1,178,734	50%	1,148,685	
Restricted intergovernmental	833,315	953,315	807,722	85%	585,848	
Permits and fees	17,675	17,675	32,165	182%	25,360	
Investment earnings	155,000	155,000	115,499	75%	132,059	
Sponsorships & donations	8,000	8,000	5,100	64%	9,000	
Other revenues	-	-	166,603	0%	100	
Subtotal	6,019,890	6,149,890	4,836,519	79%	4,366,364	
Developer Contribution	147,480	147,480	-	-	-	
Service-Other Governments	11,240	11,240	-	-	50,000	
Sale of capital asset	26,000	26,000	-	-	-	
Undesignated Fund Balance Appr	309,250	378,850	-	-	-	
Restricted fund balance appr.	1,381,640	1,381,640	-	-	-	
Total general fund revenues	7,895,500	8,095,100	4,836,519	60%	4,416,364	
EXPENDITURES						
				Encumbrances		
Governing Body	75,650	79,250	57,376	2,717	75.8%	53,754
Administration	773,100	773,100	510,272	2,145	66.3%	433,881
Public Safety	1,445,315	1,470,315	722,707	4,158	49.4%	1,019,753
Public Works	2,336,275	2,336,275	1,505,347	402,617	81.7%	1,461,511
Powell Bill-Streets	1,203,005	1,203,005	47,343	2,829	4.2%	71,578
Planning & Zoning	278,745	428,745	114,199	25,502	32.6%	107,655
Clemmons Events & Marketing	125,860	125,860	70,349	3,074	58.3%	69,401
Park & Recreation	9,500	9,500	4,000	436	46.7%	3,753
Major repairs & renovations	-	-	-	-	0.0%	-
Capital Outlay	412,350	433,350	316,647	1,500	73.4%	770,556
Transfer to Capital Projects	1,235,700	1,235,700	226,345	-	18.3%	5,830
	7,895,500	8,095,100	3,574,585	444,978	49.7%	3,997,672
Revenue Over (Under) Expenditures			1,261,934			418,692

Encumbrances are contracts or purchases approved, but not paid.

STORMWATER FUND					
	Budget 6/30/2019	Actual As of 3/31/2020	%	Prior Year Actual 3/31/2019	
REVENUES					
Storm Water Fee	785,125	766,820	98%	765,720	
Storm Water Permits	6,000	4,588	76%	4,958	
Interest	45,500	21,245	47%	31,090	
Sponsorships	1,000	1,300	130%	1,025	
Other revenue	-	-	0%	500	
Subtotal	837,625	793,953	95%	803,293	
Sale of Capital Assets	25,000	-	0%	50,000	
Services Other Governments	3,900	-	0%	-	
Appropriated fund balance	1,456,180	-	0%	-	
Total	2,322,705	793,953	34%	853,293	
EXPENSES					
					Enc.
Stormwater Operating Expense	736,305	430,138	58,461	66%	332,017
Capital Improvement & Capital	1,586,400	230,234	616,719	53%	327,782
Transfers to Capital Project	-	-	-	0%	-
	2,322,705	660,372	675,180	28%	659,799
Revenue Over(Under)Expenditures		133,581			193,494



FUND BALANCE	
Fund Balance as of June 30, 2019	9,516,476
Revenue over(under)expenditures	1,261,934
Fund Balance as of March 31, 2020	<u>10,778,410</u>



VILLAGE OF CLEMMONS
 FINANCIAL SUMMARY
 FOR MARCH 31, 2020

BUDGET INFORMATION	
Beginning Budget	7,895,500
Amendments:	
20-G-1 for Transportation Study	100,000
20-G-2 Bike & Pedestrian Plan	50,000
20-G-4 James Street Ext	21,000
20-G-5 Board Appreciation	3,600
20-G-6 Public Safety Auto Claim	25,000
Revised Budget	<u>8,095,100</u>

CASH BALANCES AS OF MARCH 31, 2020	
General Fund	904,201
Hwy 158 Sidewalk	6,167
Stormwater Fund	2,061,092
Market Center Dr	157,558
	<u>3,129,018</u>

Market Center Drive	Budget	Project to Date	
Grant NC Dept. of Commerce	194,340	269,340	
Developer Payment	-	9,200	
Sewer Reserve	25,000	-	
Transfers from General Fund	\$ 824,740	\$ 354,167	43%
Transfers from Stormwater	\$ 109,200	\$ 104,916	96%
Total Revenue	\$ 1,153,280	\$ 737,623	64%
Phase I			
Design	\$ 48,300	\$ 48,300	\$ - 100%
Stormdrainage	\$ 15,000	\$ 14,664	\$ - 98%
Road & Sidewalk Construction	\$ 389,300	\$ 300,772	\$ 27,109 84%
Stamped Crosswalks	\$ 8,000	\$ -	\$ 8,000 100%
Backflow Preventor Upfit	\$ 48,000	\$ 47,850	\$ - 100%
Enhancements	\$ 89,500	\$ 39,581	\$ - 44%
Phase II			
Design	\$ 59,300	\$ 76,998	\$ - 130%
Storm drainage	\$ 94,200	\$ -	\$ - 0%
Sidewalk Phase II	\$ 400,000	\$ 13,867	\$ - 3%
Road Construction	\$ 274,780	\$ 3,280	\$ 3,350 2%
Stamped Crosswalks	\$ 37,400	\$ -	\$ - 0%
Enhancements	\$ 89,500	\$ 24,206	\$ - 27%
Total Expenditures	\$ 1,553,280	\$ 569,518	\$ 38,459 39%

SIDEWALK TO TANGLEWOOD ALONG 158			
Revenues	Budget	Project to Date	
STDP Grant	2,110,400	172,858	8%
Transfers from General Fund	1,569,100	59,131	4%
Total	3,679,500	231,989	6%
Expenditures			
Construction and Engineering	3,679,500	225,822	- 6%

Village of Clemmons
PAID CHECKS REPORT
3/1/2020 to 3/31/2020

Check#	Paid To	Description	Check Date	Amount
21076	CITY OF WINSTON SALEM	Water & Sewer	3/4/2020	\$2,152.83
21077	JAN-PRO CLEANING SYSTEMS	Mar Janitorial Service	3/4/2020	\$400.00
21078	Logics	LOGICS Maint & Support	3/4/2020	\$852.14
21079	On Target DJ	DJ Service	3/4/2020	\$250.00
21080	Piedmont Natural Gas	Natural Gas	3/4/2020	\$450.07
21081	RCJ Contracting, LLC	Replace Failing Drainage System with Drainage Ditch	3/4/2020	\$7,000.00
21082	Salisbury Newsmedia, LLC	PB Public Hearing	3/4/2020	\$101.93
21083	SealMaster	Crack Seal & Machine Rental	3/4/2020	\$1,444.50
21084	Vulcan Materials Company	Gravel Public Works	3/4/2020	\$938.09
21085	C&K PROPERTIES, LLC	March Rent	3/4/2020	\$1,200.00
21086	NC Child Support	Child Support	3/4/2020	\$206.77
21087	4S SIGN & SUPPLY, INC	3 & 4 Way Signs	3/11/2020	\$215.15
21088	BB&T Financial, FSB	Purchase Card Transactions see separate report	3/11/2020	\$9,903.30
21089	CINTAS CORPORATION	Medicine Cabinets	3/11/2020	\$36.28
21090	DUKE ENERGY	Utilities Village Hall	3/11/2020	\$1,170.01
21091	LJB Inc.	Professional Services	3/11/2020	\$4,823.50
21092	Piedmont Triad Computer Consulting, Inc.	Upgrade server and add remote access	3/11/2020	\$912.76
21093	Salem Services	Humidifier repair	3/11/2020	\$473.04
21094	Staples Credit Plan	Hanging File Folders	3/11/2020	\$73.63
21095	Time Warner Cable	Telephone & Internet	3/11/2020	\$995.86
21096	Triad Cleaning Crew	Feb Janitorial Service	3/11/2020	\$480.00
21097	Unifirst	Uniform & Mat Rental	3/11/2020	\$182.01
21098	W.K. Dickson & Co., Inc.	Springside Dam Evaluation	3/11/2020	\$5,115.00
21099	WEX Bank	Feb Gas & Fuel	3/11/2020	\$1,745.60
21100	WM Corporate Services Inc.	Trash Compactor	3/11/2020	\$5,068.89
21101	WM Corporate Services, Inc	Residential Trash & Recycling	3/11/2020	\$81,910.42
21102	YMCA of Northwest North Carolina	Wellness Benefit YMCA	3/11/2020	\$452.50
21103	AT&T	Telephone Neudorf	3/16/2020	\$430.74
21104	Blanco Tackabery & Matamoros, PA	Attorney Fee Feb	3/16/2020	\$8,761.25
21105	DUKE ENERGY	Street Lights	3/16/2020	\$8,040.56
21106	NC Child Support	Child Support	3/16/2020	\$206.77
21107	RCJ Contracting, LLC	Repair Drainage box 3728 Squirewood Dr	3/16/2020	\$6,200.00
21108	UHS Premium Billing	April Health Insurance	3/16/2020	\$26,518.56

Village of Clemmons
 PAID CHECKS REPORT
 3/1/2020 to 3/31/2020

Check#	Paid To	Description	Check Date	Amount
21109	Unifirst	Uniform & Mat Rental	3/16/2020	\$182.01
21110	Verizon	Cell Phone	3/16/2020	\$585.29
21111	KIMLEY-HORN AND ASSOCIATES INC	Design Market Center Drive	3/19/2020	\$2,235.00
21112	Sunbelt Rentals, Inc.	Air Compressor to crack seal streets	3/19/2020	\$905.52
21113	Traction	Finance Charge Parts	3/19/2020	\$1.16
21114	RCJ Contracting, LLC	Knob Hill Repairs	3/19/2020	\$1,500.00
21115	American Screenprinting	Spring Cleanup T-shirts	3/22/2020	\$922.00
21116	CINTAS	Uniform rental	3/22/2020	\$91.89
21117	Municipal Insurance Trust	Dental Vision Life STD	3/22/2020	\$2,318.82
21118	Piedmont Triad Computer Consulting, Inc.	Trend Micro Renewal	3/22/2020	\$478.51
21119	C&K PROPERTIES, LLC	Deputy Office	3/24/2020	\$2,400.00
21120	CINTAS	Mat Village Hall	3/24/2020	\$15.79
21121	DUKE ENERGY	Utilities Village Yard	3/24/2020	\$1,714.07
21122	KIMBRELL, WESLEY S.	Cell phone reimbursement	3/24/2020	\$204.00
21123	Morris Business Solutions	Copier Per Copy	3/24/2020	\$185.60
21124	Osburn Associates, Inc.	Post for Street Signs & Speed limit signs	3/24/2020	\$3,615.00
21125	Robert J Young Company	Per Copy	3/24/2020	\$81.75
21126	SHI International Corp.	Lenovo Think pad Office Home & Business & docking station	3/24/2020	\$281.82
21127	BB&T Financial, FSB	Purchase Card Transactio See Separate Report	3/30/2020	\$5,645.85
21128	CAROLINA INDUSTRIAL EQUIPMENT	Repair Street Sweeper	3/30/2020	\$320.39
21129	CINTAS	Uniform & Mat Rental	3/30/2020	\$91.89
21130	Forsyth County	Municipal Election	3/30/2020	\$25,710.32
21131	Lewisville-Clemmons Chamber of Commerce	Membership dues & 1 Lunch	3/30/2020	\$310.00
21132	Logics	Payroll Support	3/30/2020	\$2,850.00
21133	NC Child Support	Child Support	3/30/2020	\$620.31
21134	Parker Farm Service	Mower Parts	3/30/2020	\$671.95
21135	SHI International Corp.	Lenovo Think pad Office Home & Business & docking station	3/30/2020	\$472.50
21139	AMERICAN HERITAGE LIFE INSURANCE COMPANY	Supplemental Insurance	3/30/2020	\$304.07
		Total Checks:		\$233,427.67
		Total For GENERAL FUND		\$194,676.37
		Total For SIDEWALKS & TANGLEWOOD GREENWAY		\$2,758.75
		Total For STORM WATER UTILITY		\$33,757.55
		Total For MARKET CENTER DRIVE		\$2,235.00

Village of Clemmons
PAID CHECKS REPORT
3/1/2020 to 3/31/2020

Check#	Paid To	Description	Check Date	Amount
		GRAND TOTAL		\$233,427.67

Organization: Village of Clemmons

Title: BB&T Purchase Card Transactions

Fiscal Year: 2020

Vendor Name	Invoice Number	Invoice Amount	Invoice Description	Check #	Check Date
BB&T Financial, FSB	4imprint_2.10.20	\$265.14	Pet Bowl Public Education	21088	3/11/2020
BB&T Financial, FSB	Ace 02.03.20	\$8.53	Saw Oil	21088	3/11/2020
BB&T Financial, FSB	Ace 02.04.20	\$25.08	Propane for Cracksealing	21088	3/11/2020
BB&T Financial, FSB	Ace 02.04.20. (2)	\$31.94	Propane for Cracksealing	21088	3/11/2020
BB&T Financial, FSB	Ace 02.10.20	\$17.06	Oil Mix	21088	3/11/2020
BB&T Financial, FSB	Ace 02.17.20	\$25.08	Propane for Crack Seal	21088	3/11/2020
BB&T Financial, FSB	Ace 02.18.20	\$25.08	Propane for Crack Seal	21088	3/11/2020
BB&T Financial, FSB	Ace 02.21.20	\$16.04	Pitch Fork Handle	21088	3/11/2020
BB&T Financial, FSB	Ace 02.25.20	\$29.87	Bar Oil	21088	3/11/2020
BB&T Financial, FSB	Ace Hardware 02.07.20	\$14.92	Chain saw parts	21088	3/11/2020
BB&T Financial, FSB	ACEVentures 2.11.20	\$64.05	2 Chairs	21088	3/11/2020
BB&T Financial, FSB	ACEVenturesInc 2.3.20	\$224.00	Chairs	21088	3/11/2020
BB&T Financial, FSB	Alphaomega 2.25.20	\$26.42	Posters Lip SYNC	21088	3/11/2020
BB&T Financial, FSB	Amazon 01.29.20	\$18.85	Computer Adapter	21088	3/11/2020
BB&T Financial, FSB	Amazon22520	\$17.98	Employee Receivable	21088	3/11/2020
BB&T Financial, FSB	AnimotoInc 02.15.20	\$264.00	Create Video Subscription	21088	3/11/2020
BB&T Financial, FSB	Apple.com 2.5.20	\$0.99	Telephone	21088	3/11/2020
BB&T Financial, FSB	APWA 02.19.20	\$250.00	Conference Registration	21088	3/11/2020
BB&T Financial, FSB	Army Navy 02.13.20	\$160.45	Boots for Austin	21088	3/11/2020
BB&T Financial, FSB	AutoZone 01.28.20	\$17.07	SW4 Repair	21088	3/11/2020
BB&T Financial, FSB	BBQ 02.26.20	\$26.07	Lunch during Class	21088	3/11/2020
BB&T Financial, FSB	Big Lots	\$19.74	PS Supplies	21088	3/11/2020
BB&T Financial, FSB	Buffalo 02.07.20	\$106.26	Lunch @ Farm Show	21088	3/11/2020
BB&T Financial, FSB	Canva01.20	\$25.90	Canva subscription	21088	3/11/2020
BB&T Financial, FSB	CAT 02.13.20	\$107.27	Tub Grinder Maintenance	21088	3/11/2020
BB&T Financial, FSB	Chickfila 1.30.20	\$291.43	Host Mayor's Round Table	21088	3/11/2020
BB&T Financial, FSB	CityWS 2.20.20	\$2.00	Parking MPO Meeting	21088	3/11/2020
BB&T Financial, FSB	ConstantContact 2.20	\$66.50	Constant Contact	21088	3/11/2020
BB&T Financial, FSB	Costco 02.27.20	\$45.88	PW Supplies	21088	3/11/2020
BB&T Financial, FSB	Cross 02.03.20	\$72.77	Tub Grinder Maintenance	21088	3/11/2020
BB&T Financial, FSB	Cross 02.11.20	\$81.53	Tub Grinder Maintenance	21088	3/11/2020
BB&T Financial, FSB	DaddyJoe	\$32.37	Pickup Signs	21088	3/11/2020
BB&T Financial, FSB	EventNCLM_2.13.20	\$250.00	Finance Officer Spring Conference	21088	3/11/2020
BB&T Financial, FSB	Facebook_2.22.20	\$10.00	Facebook Boost Lip Sync	21088	3/11/2020
BB&T Financial, FSB	Facebook_2.27.20	\$10.00	Facebook Boost Lip Sync	21088	3/11/2020

Organization: Village of Clemmons

Title: BB&T Purchase Card Transactions

Fiscal Year: 2020

Vendor Name	Invoice Number	Invoice Amount	Invoice Description	Check #	Check Date
BB&T Financial, FSB	Fastenal 02.19.20	\$4.91	L5 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Fastenal 02.20.20	\$23.49	Sign Bolts	21088	3/11/2020
BB&T Financial, FSB	Forsyth Mower 02.11.20	\$15.85	Oil for Tub grinder	21088	3/11/2020
BB&T Financial, FSB	Freightliner 02.27.20	\$141.92	Filters	21088	3/11/2020
BB&T Financial, FSB	Goin Postal 01.30.20	\$2.23	Envelope & Postage	21088	3/11/2020
BB&T Financial, FSB	Goin Postal 01.30.20 (2)	\$8.05	Postage	21088	3/11/2020
BB&T Financial, FSB	GraMac 02.04.20	\$22.79	Brine Tank Supplies	21088	3/11/2020
BB&T Financial, FSB	Green Resource 02.17.20	\$761.61	Landscape Supplies	21088	3/11/2020
BB&T Financial, FSB	Harbor 02.11.20	\$105.40	Hoses & Dollies	21088	3/11/2020
BB&T Financial, FSB	Harbor 02.20.20	\$245.50	Tool Box	21088	3/11/2020
BB&T Financial, FSB	HomeTeam 2.7.20	\$54.40	Pest Control	21088	3/11/2020
BB&T Financial, FSB	Horns 02.21.20	\$13.60	Inspection	21088	3/11/2020
BB&T Financial, FSB	Horns Garage 01.29.20	\$13.60	Inspection	21088	3/11/2020
BB&T Financial, FSB	Intrex 02.21.20	\$90.73	Hard Drive	21088	3/11/2020
BB&T Financial, FSB	James River 02.27.20	\$69.20	Filters	21088	3/11/2020
BB&T Financial, FSB	Liners Shoe 01.28.20	\$149.75	Boots for GW	21088	3/11/2020
BB&T Financial, FSB	Lowes 01.28.20	\$3.71	Supplies	21088	3/11/2020
BB&T Financial, FSB	Lowes 01.30.20	\$146.70	Brine Tank supplies	21088	3/11/2020
BB&T Financial, FSB	Lowes 02.06.20	\$21.31	Splash Blocks	21088	3/11/2020
BB&T Financial, FSB	Lowes 02.11.20	\$45.98	Fan Repair Chem Rm	21088	3/11/2020
BB&T Financial, FSB	Lowes 02.11.20 (2)	\$39.47	Zep	21088	3/11/2020
BB&T Financial, FSB	Mavis 01.28.20	\$98.94	PT4 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Mower Works 02.27.20	\$273.54	Speed Control for Salt spreader	21088	3/11/2020
BB&T Financial, FSB	MPP 02.07.20	\$38.00	Hand Tool	21088	3/11/2020
BB&T Financial, FSB	Municode 2.12.20	\$453.64	UDO	21088	3/11/2020
BB&T Financial, FSB	Napa 01.19.20	\$7.86	Shop Hose Repair	21088	3/11/2020
BB&T Financial, FSB	Napa 01.30.20	\$27.64	TD2 maintenance	21088	3/11/2020
BB&T Financial, FSB	Napa 02.05.20	\$6.20	Wire	21088	3/11/2020
BB&T Financial, FSB	Napa 02.07.20	\$3.47	Fuse	21088	3/11/2020
BB&T Financial, FSB	Napa 02.12.20	\$105.08	L7 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Napa 02.14.20	\$26.57	L7 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Napa 02.18.20	\$74.73	L5 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Napa 02.24.20	\$60.07	PT3 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Napa 02.27.20	\$7.09	Paint	21088	3/11/2020
BB&T Financial, FSB	NAPA2.5.20	\$7.88	Wiper Blade BT2	21088	3/11/2020

Organization: Village of Clemmons

Title: BB&T Purchase Card Transactions

Fiscal Year: 2020

Vendor Name	Invoice Number	Invoice Amount	Invoice Description	Check #	Check Date
BB&T Financial, FSB	NCSU 02.05.20	\$47.00	Pesticide Safety Class	21088	3/11/2020
BB&T Financial, FSB	Office Depot 01.28.20	\$56.46	Whiteboard for Conf Rm	21088	3/11/2020
BB&T Financial, FSB	OReilly 02.13.20	\$37.79	Shop Paint	21088	3/11/2020
BB&T Financial, FSB	OReilly 02.25.20	\$17.06	TC35 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Parkway Ford 01.29.20	\$102.30	PT6 Maintenance	21088	3/11/2020
BB&T Financial, FSB	Performance 02.05.20	\$83.06	Shop Supplies	21088	3/11/2020
BB&T Financial, FSB	Poindexter 01.29.20	\$221.78	Brine Tank Supplies	21088	3/11/2020
BB&T Financial, FSB	Poindexter 01.29.20 (2)	\$18.06	Concrete mix	21088	3/11/2020
BB&T Financial, FSB	Poindexter 01.30.20	\$12.05	Concrete	21088	3/11/2020
BB&T Financial, FSB	Sams 01.31.20	\$246.92	Supplies	21088	3/11/2020
BB&T Financial, FSB	Sams 02.17.20	\$259.04	Supplies	21088	3/11/2020
BB&T Financial, FSB	shellisland 2.27.20	\$293.92	Deposit Hotel FO Summer Conference	21088	3/11/2020
BB&T Financial, FSB	Sink 02.27.20	\$65.78	Filters	21088	3/11/2020
BB&T Financial, FSB	Snap On 02.25.20	\$586.07	Upgrade Scan Tool	21088	3/11/2020
BB&T Financial, FSB	SOGC218003429752	\$485.00	Emotional Intelligence Class	21088	3/11/2020
BB&T Financial, FSB	Southern Fastener 01.30.20	\$56.27	Brine Tank supplies	21088	3/11/2020
BB&T Financial, FSB	Stamp.com02.20	\$19.20	Stamps.com	21088	3/11/2020
BB&T Financial, FSB	Staples 01.28.20	\$37.34	Office Supplies	21088	3/11/2020
BB&T Financial, FSB	Staples 01.29.20	\$160.11	PS Router	21088	3/11/2020
BB&T Financial, FSB	Staples 02.11.20	\$117.39	Office Supplies	21088	3/11/2020
BB&T Financial, FSB	Staples 02.11.20 (2)	\$64.01	Office Supplies	21088	3/11/2020
BB&T Financial, FSB	Staples 1.27.20	\$12.80	Supplies Planner	21088	3/11/2020
BB&T Financial, FSB	Tractor Supply	\$64.01	Brine Tank Supplies	21088	3/11/2020
BB&T Financial, FSB	Tractor Supply 02.04.20	\$11.12	Brine Tank Supplies	21088	3/11/2020
BB&T Financial, FSB	Tractor Supply 02.17.20	\$128.09	PT10 Bed Mat	21088	3/11/2020
BB&T Financial, FSB	Transit & Level 1.31.20	\$335.46	Re-cell batteries	21088	3/11/2020
BB&T Financial, FSB	TrophyKits 02.25.20	\$107.10	Trophy Lip Sync	21088	3/11/2020
BB&T Financial, FSB	United Refrigeration 02.03.20	\$133.99	Filters for Building	21088	3/11/2020
BB&T Financial, FSB	Walmart 01.30.20	\$43.06	PS Supplies	21088	3/11/2020
BB&T Financial, FSB	Walmart 02.11.20	\$33.25	Wiper fluid	21088	3/11/2020
BB&T Financial, FSB	Walmart 02.26.20	\$2.45	Water for VH	21088	3/11/2020
BB&T Financial, FSB	Winston Tractor 02.25.20	\$224.18	TC35 Maintenance	21088	3/11/2020
		<u>\$9,903.30</u>			

Organization: Village of Clemmons	Title: BB&T Purchase Card Transactions	Fiscal Year: 2020		Check #	Check Date
Vendor Name	Invoice Number	Invoice Amount	Invoice Description		
BB&T Financial, FSB	Ace 03.05.20	\$172.89	Edger Attachment	21127	3/30/2020
BB&T Financial, FSB	Ace 03.10.20	\$4.26	VH Repair	21127	3/30/2020
BB&T Financial, FSB	Ace Hardware 03.16.20	\$41.62	Tree Pruner	21127	3/30/2020
BB&T Financial, FSB	Amazon 03.13.20	\$75.75	Urinal Supplies	21127	3/30/2020
BB&T Financial, FSB	Apple3.5.20	\$0.99	Apple	21127	3/30/2020
BB&T Financial, FSB	APWA 03.18.20	(\$250.00)	Credit for cancelled conference	21127	3/30/2020
BB&T Financial, FSB	BrickOven	\$235.68	Retreat	21127	3/30/2020
BB&T Financial, FSB	Canva 03.20	\$25.90	Canva Subscription	21127	3/30/2020
BB&T Financial, FSB	Carolina Hydraulics 03.04.20	\$852.63	Rebuilt Claw Cylinder	21127	3/30/2020
BB&T Financial, FSB	Chicfila_03122020	\$148.38	Retreat	21127	3/30/2020
BB&T Financial, FSB	ConstantCon 3.20	\$66.50	Constant Contact	21127	3/30/2020
BB&T Financial, FSB	Cross 03.09.20	\$86.79	L5 Maintenance	21127	3/30/2020
BB&T Financial, FSB	Cross 03.19.20	\$62.98	Sprayer #2 Repair	21127	3/30/2020
BB&T Financial, FSB	Cross 0317.20	\$73.21	L5 Repair	21127	3/30/2020
BB&T Financial, FSB	Dillon 03.06.20	\$459.65	Supplies	21127	3/30/2020
BB&T Financial, FSB	DW Depot 02.28.20	\$108.89	Case Dog waste bags	21127	3/30/2020
BB&T Financial, FSB	DW Depot 03.17.20	\$108.89	Dog Waste Bags	21127	3/30/2020
BB&T Financial, FSB	Facebook 30920	\$10.00	Facebook	21127	3/30/2020
BB&T Financial, FSB	Facebook31.20	\$1.32	Facebook	21127	3/30/2020
BB&T Financial, FSB	Food Lion 03.17.20	\$50.00	I-Tunes Card	21127	3/30/2020
BB&T Financial, FSB	Forsyth Mower 03.16.20	\$53.38	Edger Blades	21127	3/30/2020
BB&T Financial, FSB	Green Resource 02.27.20	\$66.77	Prodiamine	21127	3/30/2020
BB&T Financial, FSB	Harbor 03.23.20	\$59.71	Gloves	21127	3/30/2020
BB&T Financial, FSB	HomeTeam 03.20	\$54.40	March Pest Control	21127	3/30/2020
BB&T Financial, FSB	KK 03.25.20	\$25.37	Food - Bulk Pickup	21127	3/30/2020
BB&T Financial, FSB	Longleaf 3.2.20	\$60.86	Books	21127	3/30/2020
BB&T Financial, FSB	Lowe's 03.03.20	\$17.67	Grasshopper 2 Maintenance	21127	3/30/2020
BB&T Financial, FSB	Lowe's 03.06.20	\$52.76	PW Supplies	21127	3/30/2020
BB&T Financial, FSB	Lowe's 03.13.20	\$131.30	Spray Tank #2 Supplies	21127	3/30/2020
BB&T Financial, FSB	Lowe's 03.16.20	\$65.86	Spray Tank #2 Supplies	21127	3/30/2020
BB&T Financial, FSB	Napa 03.09.20	\$14.49	Paint	21127	3/30/2020
BB&T Financial, FSB	Napa 03.17.20	\$10.02	DT3 Maintenance	21127	3/30/2020

Organization: Village of Clemmons	Title: BB&T Purchase Card Transactions	Fiscal Year: 2020		Check #	Check Date
Vendor Name	Invoice Number	Invoice Amount	Invoice Description		
BB&T Financial, FSB	Napa 03.19.20	\$3.20	Sprayer #2 Repair	21127	3/30/2020
BB&T Financial, FSB	NAPA 3.26.20	\$15.73	Parts	21127	3/30/2020
BB&T Financial, FSB	NCLM 03202014450987	\$410.00	NCLM 2020 Conference	21127	3/30/2020
BB&T Financial, FSB	NCLM 2020 BuffinC	(\$375.00)	NCLM 2020 Cancelled	21127	3/30/2020
BB&T Financial, FSB	NCLM 2020 Cam Cr	(\$410.00)	NCLM 2020 Cancelled	21127	3/30/2020
BB&T Financial, FSB	NCLM 2020 Cr	(\$375.00)	Cancelled	21127	3/30/2020
BB&T Financial, FSB	NCLMBuffkin2020	\$375.00	NCLM 2020 Conference	21127	3/30/2020
BB&T Financial, FSB	NCLMRogers2020	\$375.00	NCLM 2020 Conference	21127	3/30/2020
BB&T Financial, FSB	NCSofS 3.2.20	\$52.00	Notary Renewal Clerk	21127	3/30/2020
BB&T Financial, FSB	NCState 3.2.20	\$100.00	Site Development & Hwy Access	21127	3/30/2020
BB&T Financial, FSB	NCSU 02.28.20	\$200.00	SW Training Registration	21127	3/30/2020
BB&T Financial, FSB	Norfolk Wire 03.09.20	\$83.18	Wire for Council Rm	21127	3/30/2020
BB&T Financial, FSB	Northern 03.04.20	\$86.35	PW Supplies	21127	3/30/2020
BB&T Financial, FSB	Oreilly 03.19.20	\$21.30	Oil for maintenance	21127	3/30/2020
BB&T Financial, FSB	Oriental 03.18.20	\$93.80	Public Participation Giveaways	21127	3/30/2020
BB&T Financial, FSB	Plow&Hearth2020	\$63.26	Employee Sympathy	21127	3/30/2020
BB&T Financial, FSB	Poindexter 03.05.20	\$104.98	Repair SW Bldg	21127	3/30/2020
BB&T Financial, FSB	Poindexter 03.13.20	\$30.10	Sprayer #2 Repair	21127	3/30/2020
BB&T Financial, FSB	Sams 03.03.20	\$271.70	Supplies	21127	3/30/2020
BB&T Financial, FSB	Sheraton_03.06.20	\$279.22	Spring FO Conference	21127	3/30/2020
BB&T Financial, FSB	Sherwin 03.05.20	\$9.58	Paint PW Bldg	21127	3/30/2020
BB&T Financial, FSB	Sherwin 03.05.20 (2)	\$64.83	Paint SW Bldg	21127	3/30/2020
BB&T Financial, FSB	Sherwin 03.10.20	\$11.51	Spray Paint	21127	3/30/2020
BB&T Financial, FSB	Sherwin 03.12.20	\$11.13	Paint	21127	3/30/2020
BB&T Financial, FSB	Sherwin 03.12.20 (2)	\$11.13	Paint	21127	3/30/2020
BB&T Financial, FSB	SnapOn 03.17.20	\$178.06	Small Tools	21127	3/30/2020
BB&T Financial, FSB	SouthwestAthletics2020	\$200.00	Sign Advertising	21127	3/30/2020
BB&T Financial, FSB	stamps.com3.22.20	\$250.00	Postage	21127	3/30/2020
BB&T Financial, FSB	Stamps.comMar	\$19.20	Postage	21127	3/30/2020
BB&T Financial, FSB	Staples_03.05.20	\$205.97	Printing Zoning Case	21127	3/30/2020
BB&T Financial, FSB	Staples_3.4.20	\$19.20	USB Supplies	21127	3/30/2020
BB&T Financial, FSB	Tractor 03.10.20	\$56.57	Pull A-long for Auger	21127	3/30/2020

Organization: Village of Clemmons

Title: BB&T Purchase Card Transactions

Fiscal Year: 2020

Vendor Name	Invoice Number	Invoice Amount	Invoice Description	Check #	Check Date
BB&T Financial, FSB	Tractor 03.12.20	\$62.95	Sprayer #2 Repair	21127	3/30/2020
BB&T Financial, FSB	Tractor 03.13.20	\$13.61	Spray Tank #2 Supplies	21127	3/30/2020
BB&T Financial, FSB	USPS 03.16.20	\$4.10	Certified Mailing	21127	3/30/2020
BB&T Financial, FSB	USPS 03.19.20	\$4.10	Certified Mailing	21127	3/30/2020
BB&T Financial, FSB	USPS 03.23.20	\$55.00	Stamps	21127	3/30/2020
BB&T Financial, FSB	USPS3.26.	\$9.20	Postage	21127	3/30/2020
BB&T Financial, FSB	Walmart 03.03.20	\$50.49	Oil for Services	21127	3/30/2020
BB&T Financial, FSB	Walmart 03.09.20	\$2.45	Water VH	21127	3/30/2020
BB&T Financial, FSB	Walmart 03.20.20	\$29.01	Supplies	21127	3/30/2020
BB&T Financial, FSB	Winston Tractor 02.28.20	\$24.02	TN70 Maintenance	21127	3/30/2020
		<u>\$5,645.85</u>			

Coates' Canons Blog: New Rules for Meetings of Public Bodies During State-Level Declared Emergencies

By Frayda Bluestein

Article: <https://canons.sog.unc.edu/new-rules-for-meetings-of-public-bodies-during-state-level-declared-emergencies/>

This entry was posted on May 05, 2020 and is filed under Board Member Powers & Authority, Board Structure & Procedures, Featured Posts Related To COVID-19, Land Use & Code Enforcement, Motions, Minutes, & Hearings, Open Government, Open Meetings, Quasi-Judicial Decisions, Quorum & Voting Requirements

As a part of the Act to Provide Aid To North Carolinians In Response to the Coronavirus Disease 2019 (COVID-19) Crisis, (S.L. 2020-3, SB 704) the General Assembly has enacted modifications to the laws governing meetings of public bodies, and voting and quorum rules for city and county governing boards. The new law modifies those rules and provides specific guidance regarding remote meetings, including quorum, notice, voting, public comment, and public hearings. These provisions are in Section 4.31 of the Act, (starting on page 61 in the PDF linked above). The new provisions for remote public meetings became effective on May 4, 2020, and only apply when there is a declaration of a state of emergency by the Governor or General Assembly under GS 166A-90.20. They aren't triggered by city or county emergency declarations. The new law also provides that any electronic meeting undertaken via remote participation between March 10, 2020 and the effective date of the new law is not deemed invalid due to the use of the use of electronic communication to conduct that meeting. This blog summarizes the new provisions.

Remote meetings authorized and defined. The new law enacts GS 166A-19.24, which authorizes any public body to conduct remote meetings in accordance with the rules set out in the act, as well as with the provisions of the open meetings law. "Remote meeting" is defined as: *An official meeting, or any part thereof, with between one and all of the members of the public body participating by simultaneous communication.* "Simultaneous communication" is defined as: *Any communication by conference telephone, conference video, or other electronic means.* Official meeting and public body are defined as set out in the open meetings law.

Simultaneous communication requirements. When meeting using simultaneous communication in an official meeting, the method must allow for any member of the public body to hear what is said by the other members of the public body; hear what is said by any individual addressing the public body; and be heard by the other members of the public body when speaking to the public body. In other words, the person participating remotely must be able to hear and be heard throughout the meeting. The law also requires any members who are participating by simultaneous communication and can't be seen by the public body to identify themselves when the roll is taken, when the remote meeting commences, prior to participating in deliberations (including making motions, proposing amendments, and raising points of order), and prior to voting.

Requirements for conducting remote meetings. As with all other official meetings of public bodies, the precise notice requirements that apply to an electronic meeting depend on whether the meeting qualifies as a regular, special, emergency, or recessed meeting. Prior to the new legislation, every electronic meeting notice had to specify the "location and means" whereby members of the public could listen to the meeting. GS 143-318.13(a). Under the new law, an electronic meeting notice issued during a state of emergency declared by the Governor or General Assembly must specify the means by which the public can access the remote "as that meeting occurs." It doesn't have to specify a physical location where members of the public can go to hear the meeting. This exception makes sense because, as we have seen, situations serious enough to trigger a gubernatorial or legislative emergency declaration can sometimes lead to restrictions on mass gatherings.

The remote meetings must be simultaneously streamed online so that simultaneous live audio, and video, if any, is available to the public. If the means of the remote meeting is a conference call, the public body can provide access by providing an opportunity to dial in or stream the audio live and listen to the meeting.

Minutes of remote meetings must reflect the use of simultaneous communication, which members were participating by

simultaneous communication, and when those members joined or left the remote meeting.

The public body must comply with GS 143-318.13(c), which prohibits acting by reference such as deliberating, voting, or otherwise taking action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the public body to understand what is being deliberated, voted, or acted upon. This provision does not prohibit a public body from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the meeting.

All documents to be considered during the remote meeting must be provided to each member of the of the public body.

All chats, instant messages, texts, or other written communications between the members of the public body regarding public business during a remote meeting are public records.

Closed Sessions: The new law allows public bodies to meet in closed session as authorized in GS 143-318.11, and makes it clear that a public body is not required to provide access to the remote meeting while it is in closed session. The public body must comply with all of the requirements in the new law and the open meetings law, including noticing an open meeting, allowing access to the open portion of the meeting, making a motion in open session to go into closed session indicating the provision that authorizes the closed session, preparing minutes and a general account, and coming out of closed session to continue the meeting or adjourn. Public bodies may want to consider developing strategies to protect confidential information when members are participating remotely.

Public Hearings: The new law authorizes public bodies to conduct public hearings during a remote meeting and take action based on those hearings. It adds a requirement that written comments may be submitted at any time between the notice of the public hearing and 24 hours after the public hearing. A consequence of this requirement is that the public body will not be able to take action on the matter immediately following the public hearing. It will have to take action at a later meeting or recess the meeting long enough to comply with the 24-hour requirement.

Quasi-Judicial Evidentiary Hearings: These evidentiary hearings are required when a decision involves due process rights, and require evidential testimony by the applicant and other people whose due process rights may be affected. These people have standing to testify and challenge the final decision. The trial-like nature of quasi-judicial evidentiary hearings present difficult issues for remote meetings. The new law does, however, authorize the use of remote meetings for quasi-judicial, subject the following requirements:

- The right of an individual to a hearing and decision occur during emergency;
- All persons subject to the quasi-judicial proceeding who have standing to participate in the quasi-judicial hearing have been given notice of the quasi-judicial hearing and consent to the remote meeting;
- All due process rights of the parties affected are protected.

This provision raises some difficult issues. It may be challenging for the public body to identify all of the individuals who have standing in order to the obtain their consent. A detailed definition of "Standing" for challenging local government quasi-judicial decisions can be found in GS 160A-393 (d). In some cases it may easy to identify people who have standing but in some cases, people with standing might not be identified until the hearing is under way. In addition, the time frame within which a quasi-judicial meeting may be held is subject to multiple interpretations. It's not clear when the right "occurs." Putting these issues aside, as described in Adam Lovelady's blog post here, there remain many practical challenges and legal risks with conducting quasi-judicial hearings with remote participation.

Quorum: Local governments have struggled with the issue of whether members of a public body who are not physically present can be counted as present for purposes of a quorum. As I noted in a blog post here, this is mostly an issue for the governing boards of cities and counties due to the language in their quorum and voting statutes that make reference to members being present or physically present. For other public bodies, the open meetings generally law generally recognizes electronic meetings as official meetings. The new law modifies the city and county quorum statutes (GS 153A-43, GS 160A-73), making it clear that a member of any public body who is participating by simultaneous communication must be counted as present for purposes of a quorum as long the communication is maintained for that member. *This means that during a state-level state of emergency, there is no requirement to have a quorum physically present at a remote meeting.*

Both the city and county quorum statutes provide that if a member has withdrawn without being excused by a majority of the members present, the member is counted as being present for purposes of a quorum. This provision applies under the new law, but it's not clear how it would work. If a person is participating with video, it would be possible for a person physically move out of the frame of the video and no longer being seen. Other situations are more difficult. What if the person is participating with audio only. If the person puts down the phone and walks away, it would difficult determine if the person is still present. As a practical matter, the presiding officer or any board members could ask the person to confirm that the person is still present. What if the person intentionally terminates the connection? In that case it appears that under the amended quorum rules, that person is no longer counted as being present. Similarly, if the person's connection is severed due to technical issues, the person is no longer participating simultaneously and therefore no longer counted as present.

Voting: The new law provides that the vote of each member is to be counted as if the member physically present only as long as the simultaneous communication is maintained for that person. As noted earlier, under the new law, during a remote meeting all votes must be conducted by roll call. In addition, the new law provides that notwithstanding the authority in GS 143-218(b), no vote by secret or written ballots on paper or electronic may be taken in a remote meeting.

For city and county governing boards, the new law provides that the provisions of GS 153A-44 and GS 160A-75 (the voting statutes) apply. In addition, the new law modifies the voting statutes to provide that a vote or a failure by any member who is participating by simultaneous communication must treated as if the member were physically present. This applies only as long as the communication is maintained for that member.

The default "yes" rule: The city voting statute provides that if a council member is present, has not been excused from voting, and does not vote, the member is counted as voting yes. This is often called the default "yes" rule. The voting statute for boards of county commissioners does not include a default "yes" provision, but many counties have incorporated it into their local rules. How does the default "yes" rule apply to a member who is participating with simultaneous communication? Here's a suggested analysis. Since all votes are roll call, and members participating with simultaneous communication must identify themselves before they vote, only those that have done so can vote. If a person has been identified as being present for the vote, but does not vote, it should be recorded as a yes. If a person is present but doesn't identify him or herself, the person can't vote, and if the person attempts to vote it should not count. If the person has terminated the communication before the vote, or if the person has lost communication due to technical problems, the person is no longer counted as present and cannot vote.

Implications for Electronic Meetings After the State of Emergency: With the onset of the pandemic, there was broad concern about the lack of clarity regarding the authority and procedures for remote and electronic meetings. In our earlier blog posts and advising for local government officials regarding we attempted to balance adherence to the statutory language and the need to protect the health and safety. The most difficult issues have been how to meet the quorum and voting requirements for city and county governing boards. For most other public bodies, the statutes and procedures are much more open to local policies. In addition, as set out in blog posts regarding strategies for electronic meetings, here and here, there are reasonable practices for electronic meetings that preserve the obligation of access and align with existing law. As noted in my earlier in this blog, the legislature has seen fit validate all the use of electronic means in meetings undertaken between March 10 and May 4.

As we look forward to the effect of the new law, what implications might there be for the use of electronic/remote meetings when there is no emergency? One implication might be that if there was already authority to meet remotely, there would be no reason for the legislature to specifically authorize it in a state of emergency. A different argument might be that the



legislature intended to create specific powers to be authorized only in an emergency. Language in the new law supports that analysis. GS 166A-19.24(h), says: "Not Exclusive. – This section applies only during emergency declarations and does not supersede any authority for electronic meetings under Article 33C of Chapter 143 of the General Statutes." This suggests that the new provisions don't change anything that is already law under the open meetings law. There's an upside to that, in that there's a lot in the new law that is specific to extraordinary circumstances and wouldn't be necessary for normal times. The downside is that we're left with the same questions and no clear answers with respect whether and how local governments can continue some of the practices that have been so critical to maintaining access while doing business during these difficult times.

Links

- www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S704v6.pdf
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-393.html

Coates' Canons Blog: Remote Zoning Hearings during Declared Emergencies

By Adam Lovelady

Article: <https://canons.sog.unc.edu/remote-zoning-hearings-during-declared-emergencies/>

This entry was posted on May 06, 2020 and is filed under Board Structure & Procedures, Featured Posts Related To COVID-19, Land Use & Code Enforcement, Legislative Decisions, Motions, Minutes, & Hearings, Planning, Quasi-Judicial Decisions, Zoning

COVID-19 and related shutdowns have forced local governments to dramatically alter meetings. With some questions swirling around the authority and procedures for remote public meetings, the General Assembly stepped in to provide clarity. As outlined in this blog, new legislation clearly outlines procedures for remote public meetings during declared emergencies, authorizes remote public hearings with one important caveat, and authorizes remote quasi-judicial evidentiary hearings with several limiting conditions.

The new legislative clarity is especially important for planning and zoning decisions that commonly require public hearings and/or quasi-judicial evidentiary hearings, and this blog focuses on those decisions.

Remote Public Meetings

Session Law 2020-3 (Senate Bill 704), Section 4.31(a), enacts G.S. 166A-19.24, which provides authority and procedures for remote meetings by simultaneous communication during declarations of emergency by the Governor or General Assembly. This authority is limited to only the area of the declared emergency and only for the duration of the declared emergency. Note that these new rules and procedures apply to a remote meeting, which is defined as an official meeting “with between one and all of the members of the public body participating by simultaneous communication.” If all members of the board are together in person for a meeting, it is not a remote meeting subject to these limits and procedures. The rules apply to remote *public meetings*, generally; as discussed below, additional limitations are placed on the *public hearings* and *quasi-judicial evidentiary hearings* that may occur during the remote public meeting.

Frayda Bluestein’s blog on the New Rules for Meetings provides a careful analysis of the provisions. Here is a brief summary. For a remote public meeting during a declared emergency, the local government must provide proper notice, including information about how the public can access the meeting. The method of remote meeting must allow members to hear, and be heard by, members of the board and the public. Simultaneous communication is defined broadly to include conference telephone, conference video, and other electronic means. The remote meeting must be simultaneously streamed live online or otherwise available for the public. Minutes must reflect that the meeting was remote, how board members accessed the meeting, and when board members joined or left the meeting. All chats by instant message, text message, or other written communication by the board members regarding the transaction of public business are deemed public records.

If a member of the board is not visible, he or she must identify himself or herself for roll call, deliberations and motions, and voting. All documents must be provided to the board members. All discussions, deliberations, and actions must be clear to the listening public; board members must not refer to a matter merely by letter, number, or other designation. All votes are by roll call.

With regard to quorum, a board member only counts as present during the period when he or she maintains communication; if the connection is dropped, the member is no longer present for quorum. Similarly, votes by board members are counted as if the member were physically present only while the simultaneous communication is maintained.

Remote Zoning Public Hearings

The new law includes a provision to allow public hearings to be held during an authorized remote meeting, but there is an added requirement for written public comment. A local board may conduct any public hearing required or authorized by law during a remote meeting, but the board must allow written comments on the subject of the public hearing to be submitted between publication of notice and 24 hours after the public hearing.

In normal times it is common for a local government board to hold a public hearing on a zoning matter and then, at the same meeting, turn immediately to deliberate and vote on the zoning matter. It seems that such immediate action is not possible under the new provision for remote public hearings. The new legislation, it appears, effectively extends the public hearing for an additional 24 hours for written comments. It would be improper for the governing board to vote on the matter while the public is still invited to comment.

So, for example, if the board holds a remote public hearing on a rezoning on Tuesday night and closes the hearing at 8:00 pm, the board must accept written comments from the public from the time of published notice (10-25 days prior to the hearing as required by statute) until 8:00 pm on Wednesday. The board could take up the rezoning matter for deliberation and vote after 8:00 pm Wednesday—by recessing (continuing) the matter to the next regularly scheduled meeting or at a properly noticed special meeting. There would be no need for additional notice for a *public hearing*, but the subsequent *public meeting* would need to be properly noticed.

Remote Quasi-Judicial Evidentiary Hearings

Under Section 4.31 of Session Law 2020-3 (Senate Bill 704), the new G.S. 166A-19.24 authorizes local governments to hold quasi-judicial evidentiary hearings by remote meeting during a declared emergency subject to notable limitations. With those limitations and the legal and practical challenges of ensuring due process, quasi-judicial evidentiary hearings remain difficult, but not impossible, to manage remotely.

One note to start. The provision for remote quasi-judicial evidentiary hearings is permissive: “A public body *may* conduct a quasi-judicial proceeding as a remote meeting” when certain conditions are met. There is not a requirement to hold remote evidentiary hearings. But, if a property owner is dependent upon the issuance of a particular approval or if a shot-clock is expiring for an application, there may be circumstances when a remote evidentiary hearing is necessary.

Under the new law a local board may conduct a quasi-judicial evidentiary hearing remotely only if three conditions are met: (1) the right to a hearing and decision occurs during the emergency, (2) all individuals with standing consent to the remote hearing, and (3) all due process rights are preserved. Consider each in turn.

The right of an individual to a hearing and decision occur during the emergency.

The phrasing here is not clear and the meaning has some ambiguity. That said, it is reasonable to interpret this provision as allowing a quasi-judicial evidentiary hearing to continue remotely if, under normal circumstances, that hearing would have occurred during the time of the declared emergency. The intent of the Session Law is to provide relief from the crisis and continuity of government. The title of the Session Law is “An Act to Provide Aid to North Carolinians in Response to the Coronavirus Disease 2019 (COVID-19) Crisis,” and Part VI, which includes these rules on quasi-judicial hearings, is titled “Continuity of State Government/Regulatory Relief.” With that in mind, it is reasonable to interpret this particular provision as allowing more, not fewer hearings to be remote. Plus, the additional conditions (discussed below) will prevent many hearings from going remote.

An alternate interpretation of the provision is that remote evidentiary hearings are permitted only for those matters where a decision shot-clock will expire during the declared emergency (the “right . . . to a hearing and decision occur during the emergency”). A preservation commission, for example, must decide a request for a certificate of appropriateness within 180 days. There is statutory obligation to hear the case within a specified time. In contrast, variances typically get a hearing and decision in a reasonable time—there is not a right to a variance hearing and decision by a date certain. A narrow interpretation of the new law would say that certificates of appropriateness and other approvals with shot-clocks may be handled remotely, but not other quasi-judicial decisions. This narrow interpretation, though, carves out a broad range of quasi-judicial development decisions and seems to go against the legislative intent.

All persons subject to the quasi-judicial proceeding who have standing to participate in the quasi-judicial hearing have been given notice of the quasi-judicial hearing and consent to the remote meeting.

The persons with standing here will be the same as those identified by G.S. 160A-393 for standing to appeal a quasi-judicial decision to superior court: the applicant, an individual with an ownership interest in the subject property (or an option for such), the local government (when a decision by the local government is being appealed), an individual who will suffer special damages, or an association that includes a member who will suffer special damages. In order to hold a remote evidentiary hearing under the new statute, the local government will need consent from each of those parties with standing. To be clear, this is specific to parties with legal standing; this does not give a member of the general public a veto over a remote evidentiary hearing.

Determining standing of the applicant, the landowner, and the local government may be easy, but determining standing for neighbors who suffer special damages is more challenging, as highlighted in recent caselaw and as outlined in this blog on Standing and Quasi-Judicial Hearings. And, in contrast to a court case where the parties are known ahead of time, for many zoning matters individuals with standing may not assert rights until the hearing—or even after the hearing.

This already-tricky area of quasi-judicial practice is further complicated by the new law on remote evidentiary hearing. The new statute for remote meetings requires consent from all persons with standing, even if they are indifferent to the case. This puts the local government in a position of identifying who has standing prior to the hearing. But, standing is a question of law for the board, not an administrative task for staff.

One option is to seek consent from each nearby property owner who receives notice (essentially presuming they have standing). That would be overly generous to the neighbors' case for standing, but it would be a way of casting a broad net to ensure consent from anyone who does have standing. The request for consent could even invite the individual to allege standing (as is sometimes requested on applications of appeals of staff decisions or appeals of certificates of appropriateness). If a neighbor withholds consent, then the board could either wait and hold the evidentiary hearing in person at a later time or attempt the remote hearing, starting with the threshold question of standing of the individual withholding consent. To be sure, that latter option would be a practically awkward and legally tricky remote hearing on the topic of standing of an individual who is objecting to the remote hearing.

Alternatively, a local government could seek consent only from a very few neighboring owners with a clear showing of special damages (along the lines of the *Cherry* case discussed in the blog on standing linked above). Then, if there was a challenge from another individual, it would be resolved on appeal to superior court. A challenge to this approach is that there is a narrow determination of standing by staff (not the board) and prior to the hearing itself.

Regardless of the approach, it will be prudent to send notice of the decision to the same individuals that received notice of the evidentiary hearing—notifying those interested individuals of the outcome and starting the clock for appeal to superior court.

All due process rights of the parties affected are protected.

Finally, as is always the case in quasi-judicial evidentiary hearings, the due process rights of the parties must be honored in a remote evidentiary hearing. There are legal and practical challenges to doing that remotely. Those challenges are not insurmountable, but they are substantial. How is evidence submitted and reviewed? How are witnesses cross-examined? What if a party does not have the technology or connectivity to participate fully? These are all questions that must be addressed if and when a local government moves forward with a quasi-judicial evidentiary hearing.

Some of those legal concerns and practical considerations are outlined in my recent blog post on Remote Participation in Quasi-Judicial Evidentiary Hearings. Among other things, use video conference (and test it out ahead of time), establish clear ground rules for all involved, and avoid handling hotly contested cases remotely, if possible.

Conclusion

The rules for remote public meetings of Session Law 2020-3 are outlined in the new G.S. 166A-19.24 and carefully analyzed in Frayda Bluestein's blog post on the topic. Those rules will apply to governing boards, planning boards, boards of adjustment, and other local development boards that may be meeting during a declared emergency.

Additionally, if a board is holding a public hearing remotely—such as for a zoning amendment or rezoning—then the additional requirements for remote public hearings will apply. Notably, the board will need to allow for written public comments from the time of published notice until 24 hours after the hearing. This means that the board will need to vote at a recessed or subsequent meeting.

And finally, if a board is holding a quasi-judicial evidentiary hearing remotely, the following conditions must apply: the right to a hearing and decision occurs during the emergency, all individuals with standing consent to the remote hearing, and all due process rights are preserved.

Links

- www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2020-3.pdf

**ORDINANCE AMENDING THE VILLAGE OF CLEMMONS ZONING ORDINANCE
OF THE UNIFIED DEVELOPMENT ORDINANCES (UDO) AND
ZONING MAP OF THE VILLAGE OF CLEMMONS, NORTH CAROLINA**

Zoning Petition of Carlos Pereira

Ordinance Number 2020-02

BE IT ORDAINED by the Village of Clemmons Council as follows:

Section 1. The Village of Clemmons Ordinance of the Unified Development Ordinance (UDO) and the Official Map of the Village of Clemmons are hereby amended by changing the zoning classification **from RS-15 & LO-S to RM-12-S (Residential Building, Multifamily) (Zoning Docket C-234)**

Legal Description for Carlos Pereira

The property is located at 3462 Clemmons Road and BEING all that certain lot or parcel of land with PIN 5893-30-9990.00 and a portion of that certain lot or parcel of land with PIN 5893-30-8703.00, both lots or parcels lying and being located in the Village of Clemmons, Forsyth County, North Carolina, and being more particularly described as follows: BEGINNING at a point located at the eastern corner of certain property owned by Carlos A. Pereira, Jr., PIN 5893-30-9990.00, said point also being the northern corner of certain property owned now or formerly by Jeffrey C. Cook, PIN 5893-40-3730.00, and also being in a western line of property owned now or formerly by Kinnamon Village LLC, PIN 5893-40-4940.00; thence from said point of BEGINNING and continuing with such western line of Kinnamon Village LLC North 48°35'39" West, a distance of 660.3 feet to a point; thence North 89°38'34" West, a distance of 16.3 feet to a point; thence South 00°23'52' East, a distance of 220.9 feet to a point; thence South 89°00'44' West, a distance of 177.5 feet to a point; thence South 02°16'43" East, a distance of 347.9 feet to a point; thence South 48°19'53" East, a distance of 335.8 feet to a point; thence North 45°25'59" East, a distance of 209.4 feet to a point; thence South 48°35'39" East, a distance of 65.75 feet to a point; thence North 41°24'30" East, a distance of 339.4 feet to a point, said point being the point and place of BEGINNING, and containing 298,793 square feet, more or less. Said property contains a total of 8 acres, more or less.

Section 2. This ordinance shall be effective from and after its adoption.

Adopted this the ____ day of May, 2020.

John L. Wait
Mayor

ATTEST:

Lisa Shortt
Village Clerk

Ordinance Number 2020-01

ORDINANCE AMENDING ORDINANCE
TO AUTHORIZE THE DECLARATION OF A
STATE OF EMERGENCY

WHEREAS, NCGS 166A-19.22 authorizes the declaration of a local state of emergency for any emergency as defined in G.S. 166A-19.3(6), and G.S. 166A-19.31 empowers the governing body of municipalities to enact ordinances to permit the imposition of certain prohibitions and restrictions during a state of emergency;

WHEREAS, the governing body may delegate to the mayor the authority for such declaration and also to impose those prescribed and authorized prohibitions and restrictions appropriate at a particular time;

WHEREAS, the Clemmons Council deems it necessary, for planning purposes, to adopt the authorized prohibitions and restrictions as set forth per G.S. 166A-19.31 and further enumerated below and to activate such portions, or all, of the prohibitions and restrictions as deemed necessary by the mayor, or the governing body, in order to react and more effectively protect the community's health, safety, and welfare needs of the people within the Village;

NOW, THEREFORE, BE IT RESOLVED THAT Chapter 33 of the Clemmons Code of Ordinances is hereby amended to read as follows:

§ 33.01 DEFINITIONS.

“Emergency” means: “An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.”

“State of Emergency” means: “A finding and declaration, in accordance with the N.C. Emergency Management Act, that an emergency exists.”

§ 33.02 PROHIBITIONS AND RESTRICTIONS.

The Mayor or the Village Council shall have the authority to determine and proclaim the existence of a State of Emergency and to impose any of the prohibitions and restrictions allowed under the N.C. Emergency Management Act, including the following prohibitions and restrictions or such other prohibitions and restrictions that may be allowed under the N.C. Emergency Management Act, as amended from time to time:

- (1) Of movements of people in public places, including any of the following:
 - a. Imposing a curfew.
 - b. Directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction.
 - c. Prescribing routes, modes of transportation, and destinations in connection with evacuation.
 - d. Controlling ingress and egress of an emergency area, and the movement of persons within that area.
 - e. Providing for the closure, within the emergency area, of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel, except to the movement of emergency responders and other persons necessary for recovery from the emergency.
- (2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.
- (3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.
- (4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except lawfully possessed firearms or ammunition.
- (5) Upon other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during the State of Emergency.

§ 33.03 LIMITATION OF PROHIBITIONS AND RESTRICTIONS.

(A) The Mayor or Village Council is authorized to limit the application of prohibitions and restrictions to any area specifically designated and described within the village and to specific hours of the day or night; and to exempt from prohibitions and restrictions police officers, firefighters, doctors, nurses, and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the village.

(B) A declared state of emergency shall take effect immediately upon the issuance of the proclamation unless otherwise stated in the proclamation. The Mayor or Village Council shall immediately report the substance of applicable prohibitions and restrictions to the mass communications media.

§ 33.04 TERMINATING OR AMENDING STATE OF EMERGENCY.

A State of Emergency and any prohibitions or restrictions imposed thereunder shall be terminated as soon as circumstances warrant by the official or officials who imposed the State of Emergency or the prohibitions or restrictions. The Mayor shall terminate any State of Emergency declared by the Mayor or any prohibitions or restrictions imposed by the Mayor when directed to do so by the Village Council.

RESOLVED AND ADOPTED, this the 11th day of May, 2020.

John L. Wait
Mayor

ATTEST:

Lisa M. Shortt, NCCMC
Village Clerk