

Thomas Jefferson Planning District Commission
Thursday, June 29, 2021 at 12 pm
Online Remote Meeting

AGENDA

Join Zoom Meeting

<https://us02web.zoom.us/j/85883801052?pwd=QVpTaVBXRkZ3L1hvTUtQTUozZ1ByZz09>

Meeting ID: 858 8380 1052

Passcode: 178581

By call-in 1(301) 715-8592#

- | | | |
|-----------|---|---------------|
| 1. | Call to Order | 12:00 pm |
| | a. Notice of Electronic Meeting and Commissioner and Public Protocol | |
| 2. | Matters from the Public | 12:00 – 12:05 |
| | a. Comments by the public are limited to no more than 2 minutes per person. | |
| | b. Comments provided via email, online, web site, etc. (Read by Sandy Shackelford) | |
| 3. | Presentations | 12:05 – 12:10 |
| | a. Inter-Governmental Review for Housing Preservation Grant – Shirese Franklin | |
| 4. | *Resolutions | 12:10-12:10 |
| | a. Inter-Governmental Review and Support for Housing Preservation Grant | |
| 5. | *New Business | 12:10-12:20 |
| | a. FOIA Code of Virginia § 2.2-3708.2 – Christine Jacobs and David Blount | |
| 6. | Other Business | 12:20 |
| | a. Next Regularly-Scheduled Meeting – August 5, 2021 (NOTE: No July Meeting) | |
| | i. | |
| | *ADJOURN | 12:20 |
| | *Designates Items to be Voted On* | |
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NOTICE OF ELECTRONIC MEETING
DUE TO COVID-19 STATE OF EMERGENCY

This meeting of the Thomas Jefferson Planning District Commission is being held pursuant to Item 4.0-01 of the Virginia state budget (Chapter 552) that allows public bodies to hold electronic meetings in the current COVID-19 emergency, in that it is impracticable or unsafe to assemble in a single location and that the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body.

This meeting is being held via electronic video and audio means through Zoom online meetings

and is accessible to the public with close captioning and there will be an opportunity for public comment during that portion of the agenda.

Notice has been provided to the public through notice at the TJPDC offices, to the media, web site posting and agenda.

The meeting minutes will reflect the nature of the emergency, the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.

A recording of the meeting will be posted at www.tjpd.org within 10 days of the meeting.

June 29, 2021

Thomas Jefferson Planning District Commission
Inter-Governmental Review

FY21-00031: Intergovernmental Review: TJPDC Application for Housing Preservation Grant.

TJPDC is applying for Housing Preservation Grant (HPG) federal funding for FFY21. The allocation for the state of Virginia is \$323,190. Applications are limited to half that amount, or \$161,595. TJPDC has served as the grantee for the regional Housing Preservation Grant program for the past six years, succeeding Piedmont Housing Alliance (PHA), who served as the grant recipient and administrator for the region for several years. TJPDC will continue to subcontract with local housing non-profit organizations (AHIP, Fluvanna/Louisa Housing Foundation, Skyline CAP, and the Nelson County Community Development Foundation) to carry out individual modification projects in their respective counties. If awarded, the grant will provide funding for emergency repairs, rehabilitation, and home safety modifications for very low-income rural homeowners in Albemarle, Fluvanna, Greene, Louisa, and Nelson counties. A draft statement of activities was made available for review and published in the Daily Progress on June 15, 2021.

TJPDC Contact:

Name: Shirese Franklin

Phone: (434) 422-4080 Email: sfranklin@tjpd.org

Address: PO Box 1505, Charlottesville, VA 22902

Date IGR Received: June 3, 2021

Date IGR Presented to TJPDC Commission: June 29, 2021

Date of Comment Period Opened: June 15, 2021

Public Comment Period Ends: July 2, 2021

Attested to:

Christine Jacobs, Interim Director



City of Charlottesville

Albemarle County

Fluvanna County

Greene County

Louisa County

Nelson County

401 East Water Street • Post Office Box 1505 • Charlottesville, Virginia 22902-1505

Telephone (434) 979-7310 • Fax (434) 979 1597 • Virginia Relay Users: 711 (TDD) • email: info@tjpd.org • web: www.tjpd.org

Housing Preservation Grant (HPG) – TJPDC Pre-Application

(a) Standard Form (SF) 424 – original and 2 copies attached.

(b) Statement of Activities

(1) Pre-application Information

(i) TJPDC's Housing Preservation Grant Program Description: The Thomas Jefferson Planning District Commission (TJPDC) was created in 1972 and is one of 21 PDCs and Regional Commissions in Virginia. Planning District Commissions were established by the General Assembly in 1969, to encourage and facilitate regional solutions to problems of area-wide significance. TJPDC has a long history of leadership in the area of affordable housing. TJPDC serves as the administrative and planning agent for the Charlottesville HOME Consortium, established through TJPDC efforts in 1992 as the first HOME Consortium in Virginia. From its inception in 1993 through 2020, total HOME funds to our region through the Consortium have totaled \$21 million, with an addition \$2.16 million applied in Program Income. HOME funds have been used to assist homebuyers, rehabilitate owner-occupied homes, and develop new housing units for home ownership or rental. Housing Preservation Grant funds have been an important adjunct to the HOME program, providing additional funds for rehabilitation projects.

TJPDC created and incorporated the Thomas Jefferson Housing Improvement Corporation (TJHIC) in 1983 to assist in the development and provision of new residential housing, and in the improvement, repair, and rehabilitation of substandard residential housing and community development in the Virginia Counties of Albemarle, Fluvanna, Greene, Louisa, and Nelson. Tax-exempt status was approved by the IRS in 1985. TJHIC also became a Community Development Housing Organization (CHDO).

In 1996, TJHIC became the Piedmont Housing Alliance (PHA), which assumed its non-profit status and all housing projects. In 1998, PHA initiated a regional Elderly and Disabled Home Safety Revolving Loan Fund to provide low interest loans and deferred loans for emergency repairs and home safety modifications for elderly and disabled persons in the five counties of the planning district. In 2005, the program became a grant fund (Repair & Rehabilitation Fund) focusing on home repairs and rehabilitation for low-income households regardless of age or whether persons with disabilities were involved.

PHA received Housing Preservation Grants in 2001, 2002, 2005, 2006, 2008, 2009, 2010, 2011, 2012, and 2013. PHA requested that the TJPDC apply for HPG funds in July 2015. TJPDC was awarded \$32,495.11 for the period beginning October 1, 2015 and ending September 30, 2017. Sixteen projects were completed by September 2016, serving 34 people, with an average HPG assistance level of \$1,692.88 per project. Our second HPG grant totaled \$41,683. Sixteen projects were completed, serving 33 people, with average assistance of \$2,605.20. The FFY17 HPG grant totaled \$54,338, with 20 projects completed serving 32 people. The FFY18 HPG grant totaled \$119,745.24, with 29 projects completed, serving 49 people, with an average assistance of \$3,039.46. The FFY19 HPG grant totaled \$117,821.46 underway with 25 projects serving 40 people, with an average assistance of \$2,974.95. The FFY20 grant is underway with 6 projects completed serving and an additional 10 underway; the FFY20 grant runs through September 30, 2022.

Client demand for these resources is very high in this region. Capacity to effectively deliver services is also high, with established housing non-profits consisting of the Albemarle Housing Improvement Program (AHIP), the Fluvanna/Louisa Housing Foundation (F/LHF), Skyline CAP (serving Greene County), and the Nelson County Community Development Foundation (NCCDF). All of these housing organizations have been designated by the localities as sub-recipients for the HOME program, and have close working relationships with TJPDC.

TJPDC continues to manage the program as PHA established it in the past. TJPDC has agreements in place with local housing non-profit organizations to carry out individual modification projects in their respective counties. Our local housing non-profits are familiar with the program and its eligibility criteria, program requirements, and documentation. These housing organizations have robust referral systems with agencies in the region to identify rural homeowners who need repairs and rehabilitation modifications. They have well-established procedures to prescreen and assess the needs of eligible homeowners, develop the scopes of work, and carry out or oversee the rehabilitation work. Due to the lack of funding, these organizations have lengthy waiting lists.

- (ii) Process:** The process includes: 1) Outreach Workers for the local housing non-profits, and other referral agencies, prescreen applicants, verify income and assess need. 2) Outreach Workers assist applicants in filling out the grant application. 3) The completed application is then sent to TJPDC for final approval by the Project Officer, who will also prepare the environmental review documents, including obtaining a ruling from the Department of Historic Resources, prior to project commencement. 4) TJPDC's Project Officer then assigns approved projects to the appropriate subcontracting agency. 5) The subcontracting agency oversees the project, recruits volunteers and donated materials when possible, hires contractors and subcontractors as needed, and arranges the final inspection by the local building inspector, when required, or another qualified inspector. 6) The Project Officer verifies the work, monitors billing, and prepares and files grant and expense reports.
- (iii) Environmental Impacts:** A visual assessment will be done by the subcontracting agency before any work is initiated. Any identified concerns will be further assessed so that each project is designed to minimize any environmental impact. TJPDC's staff will prepare maps showing the floodplain, wetlands, endangered species, habitats, proximity to railroads and airports, and use EPA's NEPAassist tool to identify proximity to hazardous sites and environmental justice concerns. TJPDC creates a map showing the location of the project on most-recently available USGS quadrangle maps, and accesses and prints out a map and relevant information from DHR's V-CRIS on-line database. Either TJPDC or the sub-recipient compiles the package for submission to the Virginia Department of Historic Resources (DHR), providing a clear description of the project, the location shown on USGS map, photographs, and the results of the DHR Archive Search. TJPDC and its subrecipients will only undertake activities for which DHR has determined that no historic properties will be affected by the proposed work and properties not located in a floodplain.
- (iv) Development Standards:** USDA Rural Development standards for existing dwellings will be used. If required, a local building permit will be acquired for each site, and modifications will meet all local standards.

- (v) **Time Period:** All funds will be utilized as quickly as possible since the need is great. All funds will be utilized by the end of the 2-year grant period or sooner.
- (vi) **Staffing:** With this grant, the Project Officer will approve applications, verify work, monitor billing, prepare and file grant and expense reports, and distribute funds. One of TJPDC planners will prepare the maps for the environmental review process, with the Project Officer preparing the balance of the Environmental Review Record. The Finance Director will process check requests, obtaining necessary signatures for checks, and prepare financial statements to support reimbursement requests. The Finance Director will not charge time directly to the project; financial work is included in TJPDC's indirect cost rate.
- (vii) **Number of Persons to Be Served:** The number of households estimated to be served with this grant is based on average assistance of \$4,000 per unit, or 35 very low-income households (estimate of 50 people). Minority applicants are anticipated to total approximately 50% of total applicants.
- (viii) **Area Served:** Within Virginia's Thomas Jefferson Planning District, all four rural counties (Fluvanna, Greene, Louisa, and Nelson) plus the eligible rural areas of Albemarle County will be served.
- (ix) **Grant Budget:** The HPG allocation for Virginia is \$323,190. Applications are limited to requesting one-half of that amount, or \$161,595. TJPDC is applying for \$161,595, and that figure is used throughout this application. See Form 424A Section A-Budget Summary. The budget includes \$161,595 in HPG funds and \$137,355.75 in funding match provided by sub-recipients carrying out the projects. \$24,239.25 of the HPG funds are budgeted for TJPDC's administrative costs directly related to the project. This represents 15% of HPG funds and 8.82% of the total project budget. The remaining \$137,355.75 in HPG grant funds, along with \$137,355.75 of match funding, will be used for grants for the actual emergency repairs and home safety modifications. Draws against grant funds will be made monthly or quarterly, with financial and program reports submitted quarterly.
- (x) **Indirect Cost Proposal:** TJPDC receives other federal funds. TJPDC's indirect cost rate proposal is submitted to the Virginia Department of Transportation (VDOT) as part of its application for federal funding for the Metropolitan Planning Organization (MPO). VDOT serves as the cognizant agency, acting on behalf of the Federal Highways Administration (FHWA). TJPDC's indirect cost rate is based on the actual rate for the most recently completed audit. The rate calculated by the FY20 audit is 66%. Materials submitted to VDOT, including pages extracted from the FY20 audit, are included in this application package.
- (xi) **Accounting System:** All invoices will be submitted to TJPDC's Program Officer for approval before payment. Revenues and expenses are reviewed on a monthly basis. Quarterly financial summaries will be submitted to Rural Development. In-kind donations and volunteer hours will also be documented in the quarterly reports. TJPDC utilizes QuickBooks for its financial management system. TJPDC uses a chart of accounts to classify transactions. Governmental financial statements are produced at the end of the fiscal year. An independent firm conducts the annual audit. TJPDC's fiscal year runs from July 1 to June 30. The audit serves as the basis for the indirect cost rate proposal for the fiscal year following its preparation.

(xii) Evaluation Method: Quarterly reports are provided to Rural Development and oversight is provided by the Program Manager and the Outreach Workers. Suggestions and input from TJPDC staff and the Housing Directors Council will be used to improve the program. TJPDC will continue the practice of surveying collaborating agencies at the end of the year.

(xiii) Other Funding: Subrecipients have committed to provide local match equal to awarded HPG funds. Volunteer labor and donated materials will be utilized by the subcontracting agencies when possible. All funds will be leveraged utilizing federal, state, and local assistance where available, cash donations, special event proceeds, private foundation grants, and support from local financial institutions and corporate donors. Only non-federal funds will be reported as match.

(xiv) Program Income: HPG funds are proposed to be used as grants. In the event that a client has the ability to repay some or all of the funds, repayments will be treated as program income, and utilized in the same way as the original HPG funding. All program income and designated donations are considered restricted funds and are identified in separate line items in the general ledger.

(xv) Security Instruments: Any security instruments required will be held by the housing non-profit completing the work. If any of the housing non-profits should cease operations, all security instruments will be assigned to another non-profit in the region.

(xvi) Other Information – TJPDC initially applied for 2015 HPG funds in response to a request from Piedmont Housing Alliance (PHA). PHA provided guidance and sample forms to assist TJPDC in setting up its forms and procedures, and these are working well.

(xvii) Outreach Efforts: All housing non-profits conduct their own outreach efforts, and have strong referral networks. These efforts have resulted in long waiting lists. Eligible clients will be drawn from current waiting lists and new outreach efforts and referrals from local agencies. Outreach has resulted in applicants that are proportionately similar to the population of the service areas. Exhibit E-1 will be used to report on demographic characteristics of clients served.

(2) Organizational Experience and Capacity: TJPDC has a long history of providing affordable housing services in the region. TJPDC serves as the administrative and planning agent for the Charlottesville HOME Consortium, established through TJPDC efforts in 1992 as the first HOME Consortium in Virginia. From its inception in 1993 through 2020, total HOME funds to our region through the Consortium have totaled \$21 million, with an additional \$2.16 million applied in Program Income. HOME funds have been used to assist homebuyers, rehabilitate owner-occupied homes, and develop new housing units for home ownership or rental. Housing Preservation Grant funds have been an important adjunct to the HOME program, providing additional funds for rehabilitation projects.

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Piedmont Housing Alliance (PHA), which assumed its non-profit status and all housing projects.

On behalf of the Charlottesville HOME Consortium, TJPDC served as the grantee and project manager for the Heat Pump Revolving Loan Fund Energy Efficiency Conservation Block Grant (EECBG) program funded through the Department of Mines Mineral and Energy (DMME). From June 2010 through July 2012, thirty-nine (39) projects were carried out to replace and upgrade existing failed or inefficient systems for households at 80% Area Median Income (AMI) in the Counties of Fluvanna, Greene, Louisa and Nelson. ARRA Funds disbursed totaled \$178,500 in construction funds and \$19,500 in project management (soft) costs for a total of \$198,000. Other federal funds applied totaled \$58,465.00 and \$19,500 in non-Federal funds, for a total of \$275,465. Through September 30, 2018, 35 additional projects were completed applying revolving loan funds totaling \$87,267.15. TJPDC submitted annual reports to DMME.

TJPDC staff members involved in HPG administration include: Project Officer, Planning Program Manager to create maps for the Environmental Review Records (ERRs), and Finance Director, overseen by the Director of Housing and the Executive Director.

The Project Officer is TJPDC's Planner Shirese S.R. Franklin, who joined TJPDC in September 2019. She is the lead staff for the HOME Consortium and provides staff support for the Housing Directors Council. She holds a Bachelor of Arts in English Literature from Southern Illinois University-Carbondale and a Master of Urban Planning and Public Policy from the University of Illinois in Chicago. She is the TJPDC Project Manager for the Solid Waste and Recycling Plan and the Hazard Mitigation Plan. Her work at the TJPDC also includes the Rivanna River Corridor Plan, The Zion Crossroad Plan, and the Regional Housing Plan

Nick Morrison, the Senior Planning Program Manager, has been assigned to create the maps for the Environmental Review Record for both the HPG program and the HOME Consortium. Nick joined the TJPDC in September of 2015. He holds a Bachelor of Science in Housing from the University of Georgia and a Master of Urban and Regional Planning from the University of West Georgia. Nick's work with the TJPDC has spanned several program areas, including administration of the Rural Transportation Program, the Rivanna River Corridor Plan, administering the agency's GIS services, CDBG contracts with local governments, and guiding several small area plans

Finance Director Don Reed is responsible for TJPDC's fiscal management. He is a Certified Public Accountant and has been with the TJPDC since 2006.

Since February of 2021, Christine Jacobs has served as the Interim Executive Director. Prior to the interim director role, she was the agency's Chief Operating Officer and Director of Housing. Christine continues to oversee all of the TJPDC's housing programs, to include the HOME Consortium, the Housing Preservation Grant, the Regional Housing Partnership, and the Regional Housing Plan. Christine joined the TJPDC in 2018. She holds a Master of Leadership and Public Policy and a Master of Teaching from the University of Virginia.

Letters of support from the Nelson County Community Development Foundation (NCCDF), Albemarle Housing Improvement Program (AHIP) and the Fluvanna/Louisa Housing Foundation (F/LHF) are attached.

(3) Evidence of Applicant's Legal Existence The Thomas Jefferson Planning District Commission (TJPDC) was created in 1972 and is one of 21 PDCs and Regional

Commissions in Virginia. Planning District Commissions were established by the General Assembly in 1969, to encourage and facilitate regional solutions to problems of area-wide significance. See attached:

TJPDC Charter

TJPDC Bylaws

List of TJPDC Commissioners

(4) Most Recent Audit (Year Ended June 30, 2020) and Current Financial Statements

FY20 Audit prepared by Robinson, Farmer, Cox Associations, approved by the Commission on November 5, 2020 as well as Financial Statements through April 2021 are attached.

- (5) Need:** There is a great need among very low-income persons for financial assistance with home safety repair and rehabilitation. Households needing home modifications are estimated to be about 6% of all households in the rural counties. The Thomas Jefferson Planning District 2018-2022 Consolidated Plan was approved by the City Council on May 7, 2018 and by the TJPDC on June 7, 2018. This plan again specifically includes goals to preserve housing by assisting residents with the rehabilitation of substandard owner-occupied houses

Median household incomes from all four rural counties are under the state median income. The incidence of poverty in the rural counties ranges from 6% to over 12%. 10% of the region's elderly, for example, are below the poverty line. Although some limited funding is available for home modifications, this does not begin to meet the need particularly in the rural counties. The TJPDC Housing Preservation Grant Program will help to meet the needs of very low-income persons who need assistance to make their homes safe and livable.

- (6) Overcrowding:** Overcrowding Policy: If there is an applicant in an overcrowded situation and that applicant wishes to alleviate this condition, we will consider providing assistance to the applicant to achieve the range outlined in 1944-N, 1944.656.

- (7) Other Activities of Applicant:** The Thomas Jefferson Planning District Commission (TJPDC) is a political subdivision of the Commonwealth. In addition to its housing programs, TJPDC staffs the Charlottesville-Albemarle Metropolitan Planning Organization, the Rural Transportation Program, and RideShare. TJPDC provides a variety of services to its member localities (the City of Charlottesville and the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson), including transportation and community planning, mapping, project management, and data compilation and analysis. TJPDC provides staff support for the Rivanna River Basin Commission. TJPDC's budget for FY21 primarily reflects funding that has already been secured, and projects a balanced budget for the year. TJPDC has sufficient funding to assure continued operation of other activities for the period of the HPG agreement.

(8) Other Information Addressing Selection Criteria

Energy Efficiency: TJPDC and partner agencies are interested in improving the energy efficiency of rehabilitated units. The Albemarle Housing Improvement Program (AHIP) is an Earthcraft certified builder. In all of AHIP's HVAC repairs, they try to achieve the maximum efficiency and all windows they use are low e and efficient. The Nelson County Community Development Foundation also prioritizes energy efficiency in its projects.

(c) Form RD 1940-20 “Request for Environmental Information”, Exhibits F-1 and F-2, and RD Instruction 2000-FF – See attached.

(d) Identification Process

- (1) Historic Preservation:** All structures regardless of age will be assessed by the subcontracting agency for eligibility for historic designation before modification. Applicable historic preservation requirements will be followed when designing the modification project. Please see attached correspondence with the Virginia Department of Historic Resources.
- (2) Floodplains/Wetlands:** Although it is not anticipated that these repairs or modifications would impact floodplains or wetlands, the subcontracting agency will assess each project and consult with the Thomas Jefferson Soil and Water Conservation District office or Army Corps of Engineers as necessary.
- (3) Coastal Barriers Resources System -** Our region is not part of this system.
- (4) Coordination with other agencies:** Subrecipients work with local agencies to receive referrals of applicants with housing repair needs. The subcontracting agency will seek the assistance of other public and private organizations and programs that provide assistance in the rehabilitation of historic properties. A list of these agencies has been acquired from the State Historic Preservation Office.

(e) SHPO concurrence - The State Historic Preservation Office was informed of our proposal for HPG funding on June 14, 2021. The letter from DHR was received on June 24, 2021, and is included in the pre-application package.

(f) Consultation with local government – TJPDC is the agency tasked with A-95 reviews on applications requesting federal funding. The purpose of the A-95 process is to review applications for regional consistency to best utilize public resources. Information on this application has been provided for inclusion in the meeting packet for the May 7, 2020 meeting as an Intergovernmental Review (IGR). An extract from the minutes showing the action taken by the Commission at the meeting is included in this application package.

(g) Public comment - A Legal Notice was submitted to the *The Daily Progress*, the region’s major local daily newspaper, for publication on Tuesday, June 15, 2021 regarding the availability of the statement of activities for public comment, accepted through July 2. A Thomas Jefferson Planning District Commission special newsletter was circulated on June 18, 2021, distributed to approximately 1,300 individuals in the region.

(h) Form RD 400-1 and Form RD 400-4 - See attached.

Also attached are forms: AD-1047, AD-1048, AD-1049, RD 1940-Q, and RD 1910-11.



Thomas Jefferson Planning District Commission
POB 1505, 401 E. Water Street, Charlottesville, VA 22902 www.tjpd.org
(434) 979-7310 phone • info@tjpd.org email

**RESOLUTION OF INTERGOVERNMENTAL REVIEW AND PROJECT SUPPORT
FOR HOUSING PRESERVATION GRANT**

WHEREAS, the Thomas Jefferson Planning District Commission, in cooperation with the City of Charlottesville and Counties of Albemarle, Greene, Fluvanna, Louisa and Nelson, resolves to apply for a Housing Preservation Grant from the Rural Housing Services, authorized by Section 533 of Housing Act of 1949, as amended by Section 522 of Title V of the Housing Urban-Rural Recovery Act of 1983 (Pub. L. 98-181); and

WHEREAS, the Thomas Jefferson Planning District Commission has met the pre-application requirements §1944.674 of Housing Preservation Grants; and

WHEREAS, the Thomas Jefferson Planning District Commission is eligible to submit application for such grants through the Rural Housing Services, as stated in Policies and Procedures Instruction Manual (HPG) Part 1944, Subpart N;

WHEREAS, United States Executive Order 12372 of July 14, 1982 requires federal agencies to provide opportunities for consultation with state and local governments directly affected by federal financial assistance; and

WHEREAS, Executive Order 12372 is more commonly known as Intergovernmental Reviews (IGR's) and the TJPDC is the designated regional entity for Virginia Region Ten; and

WHEREAS, the TJPDC has notified all required state and local agencies of this intent to apply for their comments and concerns prior to final execution of a funding agreement; and

NOW, THEREFORE, BE IT RESOLVED that the Thomas Jefferson Planning District Commission endorses the Application to Rural Development for HPG funds, in the total amount of \$161,595.00; and

AND IS SO RESOLVED that the Intergovernmental Review of providing notice to state, regional and local governmental agencies have now occurred; and

BE IT FURTHER RESOLVED by the Thomas Jefferson Planning District Commission that Christine Jacobs, Interim Executive Director of the TJPDC, is authorized to submit the above-mentioned project to the Rural Housing Services for funding and to sign all approvals, contracts, certifications and amendments pertaining to the application, award and implementation of this funding.

Adopted by the Thomas Jefferson Planning District Commission at a special session meeting of the Commission on June 29, 2021 in the City of Charlottesville, Virginia, a quorum being present.

Christine Jacobs, Interim Executive Director
Thomas Jefferson Planning District Commission

Jesse Rutherford, Commission Chair
Thomas Jefferson Planning District Commission

Date

Date

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 490

An Act to amend and reenact § 2.2-3708.2 of the Code of Virginia, relating to the Virginia Freedom of Information Act; meetings held by electronic communication means during a state of emergency.

[S 1271]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3708.2 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3708.2. Meetings held through electronic communication means.

A. The following provisions apply to all public bodies:

1. Subject to the requirements of subsection C, all public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that:

a. Such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or

b. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision is limited each calendar year to two meetings.

2. If participation by a member through electronic communication means is approved pursuant to subdivision 1, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public. If participation is approved pursuant to subdivision 1 a, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance. If participation is approved pursuant to subdivision 1 b, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to subdivision 1 b is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

3. Any public body, *or any joint meetings thereof*, may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17 *or the locality in which the public body is located has declared a local state of emergency pursuant to § 44-146.21*, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to ~~address the emergency~~ *provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities*. The public body convening a meeting in accordance with this subdivision shall:

a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;

b. Make arrangements for public access to such meeting *through electronic communication means, including videoconferencing if already used by the public body*; ~~and~~

c. *Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and*

d. Otherwise comply with the provisions of this ~~section~~ *chapter*.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

The provisions of this subdivision 3 shall be applicable only for the duration of the emergency declared pursuant to § 44-146.17 or 44-146.21.

B. The following provisions apply to regional public bodies:

1. Subject to the requirements in subsection C, regional public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.

2. If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from

which the member participated; however, the remote location need not be open to the public.

If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

C. Participation by a member of a public body in a meeting through electronic communication means pursuant to subdivisions A 1 and 2 and subsection B shall be authorized only if the following conditions are met:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at one primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

D. The following provisions apply to state public bodies:

1. Except as provided in subsection D of § 2.2-3707.01, state public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided that (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subdivision 2, and (iii) members of the public are provided a substantially equivalent electronic communication means through which to witness the meeting. For the purposes of this subsection, "witness" means observe or listen.

If a state public body holds a meeting through electronic communication means pursuant to this subsection, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

2. Notice of any regular meeting held pursuant to this subsection shall be provided at least three working days in advance of the date scheduled for the meeting. Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.

The notice shall include the date, time, place, and purpose for the meeting; shall identify the primary or central meeting location and any remote locations that are open to the public pursuant to subdivision 4; shall include notice as to the electronic communication means by which members of the public may witness the meeting; and shall include a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

3. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body conducting the meeting.

4. Public access to the remote locations from which additional members of the public body participate through electronic communication means shall be encouraged but not required. However, if three or more members are gathered at the same remote location, then such remote location shall be open to the public.

5. If access to remote locations is afforded, (i) all persons attending the meeting at any of the remote locations shall be afforded the same opportunity to address the public body as persons attending at the primary or central location and (ii) a copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body for the meeting shall be made available for inspection by members of the public attending the meeting at any of the remote locations at the time of the meeting.

6. The public body shall make available to the public at any meeting conducted in accordance with this subsection a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179.

7. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes. For emergency meetings held by electronic communication means, the nature of the emergency shall be stated in the minutes.

8. Any authorized state public body that meets by electronic communication means pursuant to this subsection shall make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:

- a. The total number of meetings held that year in which there was participation through electronic communication means;
 - b. The dates and purposes of each such meeting;
 - c. A copy of the agenda for each such meeting;
 - d. The primary or central meeting location of each such meeting;
 - e. The types of electronic communication means by which each meeting was held;
 - f. If possible, the number of members of the public who witnessed each meeting through electronic communication means;
 - g. The identity of the members of the public body recorded as present at each meeting, and whether each member was present at the primary or central meeting location or participated through electronic communication means;
 - h. The identity of any members of the public body who were recorded as absent at each meeting and any members who were recorded as absent at a meeting but who monitored the meeting through electronic communication means;
 - i. If members of the public were granted access to a remote location from which a member participated in a meeting through electronic communication means, the number of members of the public at each such remote location;
 - j. A summary of any public comment received about the process of conducting a meeting through electronic communication means; and
 - k. A written summary of the public body's experience conducting meetings through electronic communication means, including its logistical and technical experience.
- E. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

2. Nothing in this act is intended to limit the authority of the General Assembly in the exercise of its authority to set its rules of procedure pursuant to Article IV, Section 6 of the Constitution of Virginia.