

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
September 25, 2018**

**ADDENDUM
To
AGENDA**

ACTION ITEMS

13

Adoption of a Resolution Confirming the Declaration of Local
Emergency and Consenting to all Actions Taken by the Director
of Emergency Management and County Staff

Board Agenda Item
September 25, 2018

ACTION – 13

Adoption of a Resolution Confirming the Declaration of Local Emergency and
Consenting to all Actions Taken by the Director of Emergency Management and County
Staff

ISSUE:

Board of Supervisors adoption of a resolution confirming the declaration of local emergency and consenting to actions taken by the Director of Emergency Management and County Staff.

RECOMMENDATION:

The County Executive recommends that the Board:

- 1) Confirms the Declaration of Local Emergency effective August 12, 2018 and the Termination of Declared Local Emergency effective 12:00 p.m. August 13, 2018;
- 2) Approves and consents to all actions taken by the Director of Emergency Management and County staff pursuant to the Declaration of Local Emergency and the Fairfax County Emergency Operations Plan.

TIMING:

Board action is requested on September 25, 2018, which is the next regularly scheduled meeting of the Board following the Declaration of Local Emergency by the County Executive, in his capacity as the Director of Emergency Management.

BACKGROUND:

Due to the anniversary of the Unite the Right Rally in Washington D.C. on August 12, 2018, the County Executive, in his capacity as the Director of Emergency Management, signed a Declaration of a Local Emergency effective August 12, 2018. The County Executive determined that all coordinated local government emergency actions had been taken and terminated the Declaration of Local Emergency effective 12:00 p.m. August 13, 2018.

The Commonwealth of Virginia Emergency Services and Disaster Law of 2000, codified at Virginia Code §§ 44-146.13 through 44-146.28.1, authorizes the Director of Emergency Management to declare the existence of a local emergency when the governing body cannot convene, subject to confirmation by the governing body at its next regularly scheduled meeting or at a special meeting within forty-five days of the

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declaration, whichever occurs first. Va. Code Ann. § 44-146.21(a) (2013). As September 25, 2018, is the Board's next regularly scheduled meeting following the Declaration of a Local Emergency, the Board is requested to adopt a Resolution to confirm the Declaration of Local Emergency and to approve and consent to all actions taken by the Director of Emergency Management and County staff pursuant to the declaration and the Fairfax County Emergency Operations Plan.

FISCAL IMPACT:

The Declaration of a Local Emergency by the governing body is necessary for the County to seek funds for such actions as recovery, clean-up and evaluation should such funds become available.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution

Attachment 2: Declaration of a Local Emergency effective August 12, 2018

Attachment 3: Termination of Declared of Local Emergency effective 12:00 p.m. August 13, 2018

Attachment 4: Declaration of a State of Emergency for the Commonwealth of Virginia

STAFF:

Bryan J. Hill, County Executive

Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia on Tuesday, September 25, 2018, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Commonwealth of Virginia Emergency Services and Disaster Law of 2000, as amended, and set forth in Chapter 3.2 of Title 44 of the Code of Virginia, authorizes the Director of Emergency Management to declare the existence of a local emergency when the governing body cannot convene, subject to confirmation by the governing body at its next regularly scheduled meeting or at a special meeting within 45 days of the declaration; and

WHEREAS, circumstances associated with the anniversary of the Unite the Right Rally in Washington, D.C., created an emergency of sufficient severity and magnitude to warrant coordinated state and local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; and

WHEREAS, the emergency necessitated the Declaration of a State Emergency by the Governor of the Commonwealth of Virginia on August 8, 2018; and

WHEREAS, the emergency necessitated the Declaration of a Local Emergency by the Director of Emergency Management, effective August 12, 2018, and subsequent Termination of Declared Local Emergency effective 12:00 p.m. August 13, 2018; and

WHEREAS, circumstances did not permit the governing body to convene to consent to the declaration of a local emergency; and

WHEREAS, the Board of Supervisors of Fairfax County seeks to confirm the Declaration of Local Emergency, Termination of Declared Local Emergency and to

approve and consent to all actions taken by the Director of Emergency Management and County staff pursuant to the declaration and the Fairfax County Emergency Operations Plan; now therefore be it

RESOLVED that the Board of Supervisors of Fairfax County

1. Confirms the Declaration of Local Emergency effective August 12, 2018; and
2. Confirms the Termination of Declared Local Emergency effective 12:00 p.m. August 13, 2018; and
3. Approves and consents to all actions taken by the Director of Emergency Management and County staff pursuant to the Declaration of Local Emergency and the Fairfax County Emergency Operations Plan.

A Copy Teste:

Catherine Chianese
Clerk of the Board of Supervisors

DECLARATION OF LOCAL EMERGENCY FAIRFAX COUNTY, VIRGINIA

WHEREAS, the Governor of the Commonwealth of Virginia has declared a state of emergency in response to planned events surrounding the upcoming anniversary of the "Unite the Right" rally on August 12, 2018, to prepare and coordinate the Commonwealth's response to ensure the protection of its residents' lives, property and Constitutional rights; and

WHEREAS, these events will affect Fairfax County, Virginia, due to the presence of potentially large numbers of participants, protestors and counter-protestors in the County; and


WHEREAS, these events pose a threat of substantial harm or injury to the public and substantial loss of or damage to property, and warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering caused by these events; and

WHEREAS, due to these events, a condition of peril to life and property necessitates the declaration of a local emergency; and

WHEREAS, circumstances do not permit the Fairfax County Board of Supervisors to convene to consent to the declaration of a local emergency; it is hereby

DECLARED, subject to confirmation by the Fairfax County Board of Supervisors at its next regularly scheduled meeting, or at a special meeting within 45 days, whichever occurs first, that, effective August 12, 2018, a local emergency will exist throughout Fairfax County because these events have created an emergency that threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship, or suffering threatened pursuant to Virginia Code §§ 44-146.16 and 44-146.21(A); and it is

FURTHER DECLARED that the Fairfax County Emergency Operations Plan is now in effect.



Bryan J. Hill, County Executive
Director of Emergency Management

Termination of Declared Local Emergency

WHEREAS, due to the planned events surrounding the anniversary of the Unite the Right rally on August 12, 2018, Fairfax County, Virginia, faced dangerous conditions of sufficient severity and magnitude to necessitate the proclamation of the existence of a local emergency on August 12, 2018; and

WHEREAS, such a declaration of a local emergency was issued on August 12, 2018, subject to confirmation by the Board of Supervisors, which is the governing body of Fairfax County, in accordance with Virginia Code § 44-146.21; and

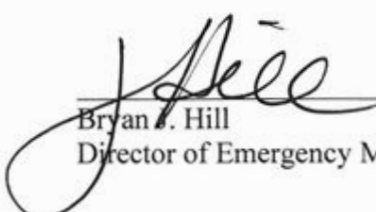
WHEREAS, all coordinated local government emergency actions necessary to prevent or alleviate the damage, loss, hardship or suffering threatened or caused by the events have been taken, and it is no longer necessary for that declaration of a local emergency to remain in effect;

NOW, THEREFORE, that previously declared local emergency is hereby terminated effective 12:00pm on August 13, 2018.

All actions taken by the Director of Emergency Management, including, but not limited to, the Declaration of a Local Emergency issued on August 12, 2018, and this termination of that declared local emergency shall be subject to confirmation by the Board of Supervisors of Fairfax County pursuant to Virginia Code § 44-146.21.

Dated: _____

8/13/18


Bryan L. Hill
Director of Emergency Management



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER FIFTEEN (2018)

DECLARATION OF A STATE OF EMERGENCY IN PREPARATION FOR THE ANNIVERSARY OF CHARLOTTESVILLE

Importance of the Issue

The “Unite the Right” rally in Charlottesville on August 12, 2017, resulted in the tragic deaths of 32-year-old Heather Heyer, Virginia State Police Lieutenant H. Jay Cullen, III, and Virginia State Police Trooper-Pilot Berke M.M. Bates. Anniversary events, rallies, and protests are planned to be held in the City of Charlottesville and in Washington, D.C., on August 11-12, 2018. Accordingly, I declare a state of emergency in the Commonwealth of Virginia in order to prepare and coordinate our response to ensure the protection of residents’ lives, property, and Constitutional rights.

State action is required to protect the health and general welfare of Virginia residents. The anticipated effects of this situation constitute a disaster wherein human life and public and private property are, or are likely to be, imperiled, as described in § 44-146.16 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the *Code of Virginia*, as Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby proclaim a state of emergency exists. Accordingly, I direct state and local governments to render appropriate assistance to prepare for these events, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible.

In order to marshal all public resources and appropriate preparedness, response, and recovery measures to meet this threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the *Code of Virginia*, I order the following:

- A. Implementation of the Commonwealth of Virginia Emergency Operations Plan (COVEOP), as amended, by state agencies along with other appropriate state plans.
- B. Activation of the Virginia Emergency Operations Center (VEOC) and the Virginia Emergency Support Team (VEST), as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to local governments and emergency services assignments of other agencies as necessary and determined by the State Coordinator of Emergency Management and other agencies as appropriate.
- C. Activation of the Virginia National Guard and the Virginia Defense Force to state active duty to assist in providing such aid.
- D. Provision of assistance by the Virginia National Guard to the Virginia Department of State Police to ensure crowd control, direct traffic, prevent looting, and perform such other law enforcement functions as deemed necessary by the Superintendent of State Police (in consultation with the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety and Homeland Security). Pursuant to § 52-6 of the *Code of Virginia*, I authorize the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers as deemed necessary. The members of the Virginia National Guard activated for this event shall be authorized under *Code of Virginia* § 44-75.1(A)(3), to perform all acts necessary to accomplish the above assistance. The Virginia National Guard shall have the power of arrest to enforce laws, including all violations of Section 18.2, Chapter 9, Articles 1 and 2 of the *Code of Virginia* (Crimes Against Peace and Order; Riot and Unlawful Assembly; Disorderly Conduct), and such other acts necessary to protect lives, preserve property, and in defense of self and others. Any bonds and/or insurance required by § 52-7 of the *Code of Virginia* shall be provided for them at the expense of the Commonwealth. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the *Code of Virginia* and are not subject to the civilian authorities of county or municipal governments.
- E. Evacuation of areas threatened or stricken by effects of this event, as appropriate. Pursuant to § 44-146.17(1) of the *Code of Virginia*, I reserve the right to direct and compel the evacuation of all or part of the populace therein from such areas upon a determination by the State Coordinator of Emergency Management. I reserve the right to control the ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein based upon a determination made by the State Coordinator of Emergency Management. Violations of any order to evacuate shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.
- F. Activation, implementation, and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §§ 44-146.17(5) and 44-146.28:1 of the *Code of*

Virginia. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the *Code of Virginia*.

- G. Provision of appropriate assistance, including temporary assignments of non-essential state employees to the Adjunct Emergency Workforce, be rendered by state agencies to respond to this situation.
- H. Authorization for the heads of executive branch agencies to act, when appropriate, on behalf of their regulatory boards to waive any state requirement or regulation where the federal government has waived the corresponding federal or state regulation based on the impact of events related to this situation.
- I. Activation of the statutory provisions in § 59.1-525 *et seq.* of the *Code of Virginia* related to price gouging.
- J. Authorization of a maximum of \$2,000,000 in state sum sufficient funds for state and local government mission assignments authorized and coordinated through the Virginia Department of Emergency Management that are allowable as defined by The Stafford Act, 42 U.S.C. § 5121 *et seq.* This funding is also available for state response and recovery operations and incident documentation. Out of this state disaster sum sufficient, I authorize an amount estimated at \$250,000 for the Department of Military Affairs for the state's portion of the eligible disaster-related costs incurred for salaries, travel, and meals during mission assignments authorized and coordinated through the Virginia Department of Emergency Management.
- K. Implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28(b) of the *Code of Virginia*. Section 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies.
- L. During this declared emergency, any person who holds a license, certificate, or other permit issued by any state or political subdivision thereof, evidencing the meeting of qualifications for professional, mechanical, or other skills, the person, without compensation other than reimbursement for actual and necessary expenses, may render aid involving that skill in the Commonwealth during this emergency. Such person shall not be liable for negligently causing the death of, or injury to, any person or for the loss of, or damage to, the property of any person resulting from such service as set forth in *Code of Virginia* § 44-146.23(C). Additionally, members and personnel of volunteer, professional, auxiliary, and reserve groups identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments, as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of § 44-146.23(A) of the *Code of Virginia*, shall

not be liable for the death of, or any injury to, persons or damage to property as a result of such activities, as provided in § 44-146.23(A) of the *Code of Virginia*.

- M. Designation of physicians, nurses, and other licensed and non-licensed health care providers and other individuals as well as hospitals, nursing facilities and other licensed and non-licensed health care organizations, political subdivisions and other private entities by state agencies, including the Departments of Health, Behavioral Health and Developmental Services, Social Services, Emergency Management, Transportation, State Police, Motor Vehicles, as representatives of the Commonwealth engaged in emergency services activities, at sites designated by the Commonwealth, within the meaning of the immunity provisions of § 44-146.23(A) of the *Code of Virginia*, in the performance of their disaster-related mission assignments.
- N. As provided in § 44-146.23(F) of the *Code of Virginia*, no individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, fraternal organization, religious organization, charitable organization, or any other legal or commercial entity and any successor, officer, director, representative, or agent thereof, who, without compensation other than reimbursement for actual and necessary expenses, provides services, goods, real or personal property, or facilities at the request and direction of the State Department of Emergency Management or a county or city employee whose responsibilities include emergency management shall be liable for the death of or injury to any person or for the loss of, or damage to, the property of any person where such death, injury, loss, or damage was proximately caused by the circumstances of the actual emergency or its subsequent conditions, or the circumstances of this emergency.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC as defined herein and in § 44-146.28 of the *Code of Virginia*, other than costs defined in the paragraphs above pertaining to the Virginia National Guard and pertaining to the Virginia Defense Force, shall be paid from state funds.

Effective Date of this Executive Order

This Executive Order shall be effective August 8, 2018, and shall remain in full force and in effect until September 12, 2018, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 8th day of August, 2018.



A handwritten signature in black ink, reading "Ralph S. Northam", written over a horizontal line.

Ralph S. Northam, Governor

Attest:

A handwritten signature in black ink, reading "Kelly Thomasson", written over a horizontal line.

Kelly Thomasson, Secretary of the Commonwealth