

City of Fredericksburg, Virginia

City Council

AGENDA

Council Chambers

715 Princess Anne Street

Fredericksburg, Virginia 22401

Hon. Mary Katherine Greenlaw, Mayor
Hon. William C. Withers, Jr., Vice-Mayor, Ward Two
Hon. Kerry P. Devine, At-Large
Hon. Matthew J. Kelly, At-Large
Hon. Jason N. Graham, Ward One
Hon. Timothy P. Duffy, Ph.D., Ward Three
Hon. Charlie L. Frye, Jr., Ward Four

Tuesday, June 2, 2020

3:00 p.m.

Mary Katherine Greenlaw, Presiding

SPECIAL SESSION

The City Council Meeting will hold an e-meeting pursuant to and in compliance with City Council Ord. 20-05. The public is encourage to access the meeting though the broadcast on Cox Channel 84 and Verizon Channel 42. The meetings can also be viewed on our

www.regionalwebtv.com/fredcc or

Facebook live at

www.facebook.com/FXBGgov

Agenda

1. Call To Order

"This Meeting is being held electronically by "Go to Meeting" application, pursuant to City Council Ordinance 20-05, An Ordinance to Address Continuity of City Government during the Pendency of a Pandemic Disaster.

The members participating are: [List members by name]

Members of the public have been invited to access this meeting by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc on Facebook Live at facebook.com/FXBGgov

2. Invocation

Councilor Matthew J. Kelly

3. Pledge Of Allegiance

Mayor Mary Katherine Greenlaw

4. City Manager Agenda

A. Report On Events Related To The May 31, 2020 Declaration Of Emergency

B. Resolution 20-___, Confirming The City Manager's Declaration Of A Local Emergency And Ratifying Emergency Orders #2 And #3 In Response To Civil Unrest

Documents:

[4B.PDF](#)

C. Any Further Orders/Business That May Be Requested

5. Adjournment



June 2, 2020
Special Meeting
Resolution 20-__

MOTION:

SECOND:

RE: Confirming the City Manager's Declaration of a Local Emergency and Ratifying Emergency Orders #2 and #3 in Response to Civil Unrest

ACTION: APPROVED: Ayes: 0; Nays: 0

The City of Fredericksburg has been the site of multiple public gatherings, demonstrations, and processions responsive to the death of George Floyd in the custody of, and at the hands of, Minneapolis, Minnesota law enforcement officers. The individuals participating in these gatherings were expressing, among other things, their anger, frustration, and general dissatisfaction with the continuing, senseless deaths of black people in police custody nationwide.

Most of those participating peacefully exercised their fundamental rights of freedom of speech and freedom of association. This peaceful, and even angry speech on matters of public concern is at the heart of the First Amendment's protection. The First Amendment reflects a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open. Speech concerning public affairs is more than self-expression; it is the essence of self-government.

However, there were incidents of unlawful activity. In one, a group of 200 to 300 people moved from the public sidewalks and on to U.S. Route 1. When the protesters arrived at Route 1, they blocked northbound and southbound lanes, kneeling on one knee and then walked southbound towards Cowan Boulevard. Fredericksburg police officers asked protesters to leave the area on their own accord multiple times, but they ignored the commands. At approximately 8:34 p.m., when the protesters arrived at the intersection of Route 1 and Cowan Boulevard, they made a straight line for Police Headquarters, at which time the police declared an unlawful assembly, making this announcement several times to protesters. After these warnings, officers deployed tear gas to disperse the gathering.

At approximately 10:00 p.m. on May 31, 2020, by virtue of the authority vested in him by Code of Virginia §44-146.21, the City Manager, as the City's Director of Emergency Management, issued a Declaration of Local Emergency in response to this emergency, which threatened substantial injury or harm to the residents of Fredericksburg or substantial damage to or loss of property in the City.

At approximately 11:00 p.m., the City Manager issued City of Fredericksburg Emergency Order #2 in response to Civil Unrest. In this Order, the City Manager declared a curfew beginning at 11:30 p.m. May 31, 2020 to 6:00 a.m. June 1, 2020, unless extended by further emergency order.

At approximately 3:00 p.m. on Monday, June 1, the City Manager issued Emergency Order #3 in Response to Civil Unrest. This order declared a city-wide curfew between the hours of 8 p.m. and 6 a.m. beginning June 1, 2020 and ending June 3, 2020, among other things.

Code of Virginia §44-146.21 provides that “[i]n the event the governing body cannot convene due to [a] disaster or other exigent circumstances, the [local] director [of emergency services] . . . may declare the existence of a local emergency, subject to confirmation by the governing body at its next regularly scheduled meeting or at a special meeting within 45 days of the declaration, whichever occurs first.”

Therefore, the City Council hereby resolves that:

1. City Council confirms the Declaration of Local Emergency issued by the City Manager, in his capacity as the City’s Director of Emergency Management, on May 31, 2020, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.
2. City Council ratifies the City Manager’s Emergency Order #2 and Emergency Order #3 in response to Civil Unrest.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk’s Certificate

I certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 20-__, adopted at a special meeting of the City Council held Date, 2020, at which a quorum was present and voted.

Tonya B. Lacey, MMC
Clerk of Council



**DECLARATION OF LOCAL EMERGENCY
FOR THE CITY OF FREDERICKSBURG
DUE TO CIVIL UNREST**

The City of Fredericksburg has experienced significant events in the past 24 hours that have required intervention to restore order, ensure the safety of protestors and the public, and protect property. These events have included civil unrest at the Police Headquarters on Cowan Avenue and downtown.

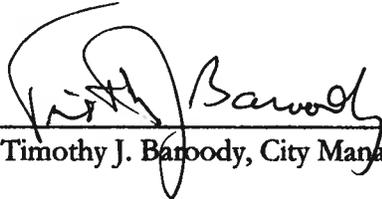
The City has a compelling interest to maintain peace and order in the face of escalating tension. The effects of this civil unrest constitute an emergency wherein human lives and public and private property are imperiled, as described in § 44-146.16 of the Code of Virginia (Code). Action is necessary to preserve life and property and to alleviate the conditions caused by this situation.

THEREFORE, I Timothy J. Baroody, City Manager of the City of Fredericksburg, Virginia, hereby declare that a state of emergency exists in Fredericksburg, Virginia, and I hereby invoke and declare in full force and effect in Fredericksburg, Virginia, all laws and statutes of the Commonwealth of Virginia for the exercise of all necessary emergency authority for the protection of health and safety of the persons and property of Fredericksburg, Virginia.

This local emergency is declared pursuant to the "Commonwealth of Virginia Emergency Services and Disaster Law of 2000," Virginia Code § 44-146.13, *et seq.* In accordance with these provisions:

All public officials and employees of Fredericksburg, Virginia are hereby directed to exercise the utmost diligence in discharge of the duties required of them for the duration of the emergency and in the execution of emergency laws, regulations, and directives, state and local. All citizens are called upon and directed to comply with emergency measures, to cooperate with the City of Fredericksburg Coordinator of Emergency Management in the execution of emergency operational plans, and to comply with the lawful directions of properly identified public officials.

Ordered this 31 day of May, 2020.



Timothy J. Baroody, City Manager



**CITY OF FREDERICKSBURG
EMERGENCY ORDER # 2
IN RESPONSE TO CIVIL UNREST**

Governor Northam issued Executive Order Number Sixty-Four (2020), “Declaration of a State of Emergency Due to Civil Unrest and Institution of a Curfew in the City of Richmond.”

The City of Fredericksburg has experienced significant events in the past 24 hours that have required intervention to restore order, ensure the safety of protestors and the public, and protect property. These events have included civil unrest at the Police Headquarters on Cowan Avenue and in downtown Fredericksburg. Accordingly, Fredericksburg City Manager Timothy J. Baroody issued a Declaration of Local Emergency on May 31, 2020. There exists at this time an imminent threat of civil commotion or disturbance in the nature of a riot which constitutes a clear and present danger.

The City of Fredericksburg has a compelling interest to maintain peace and order in the face of escalating tension. The effects of this civil unrest constitute an emergency wherein human lives and public and private property are imperiled, as described in § 44-146.16 of the Code of Virginia (Code). Action is necessary to preserve life and property and to alleviate the conditions caused by this situation.

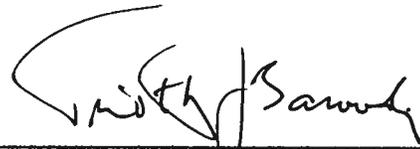
Therefore, by virtue of the authority vested in Fredericksburg City Manager and Director of Emergency Management Timothy J. Baroody pursuant to Fredericksburg City Charter Section 22(G), Virginia Code §44-146.21, Fredericksburg City Code §26-32 *et seq.*, and the Declaration of Local Emergency for the City of Fredericksburg dated May 31, 2020; under the authority of Code of Virginia §15.2-925, and in coordination with the Virginia Department of Emergency Management pursuant to Virginia Code §44-146.18,

It is hereby ordered that the City of Fredericksburg shall be under a curfew beginning at 11:30 p.m. May 31, 2020 to 6:00 a.m. June 1, 2020, unless extended by further emergency order. While the curfew is in place no person shall be present on any street, road, alley, avenue, park, or other public place in the City of Fredericksburg with the following exceptions:

- Persons traveling to and from home, work, or places of worship;
- Hospital personnel;
- Members of the press;
- State and City of Fredericksburg employees and volunteers;
- Military personnel including but not limited to national guard troops;
- Private emergency medical transport workers;
- Persons seeking emergency services; and
- Other emergency workers.

Nothing in this Order shall be construed to prohibit or restrict travel to a hospital in the event of a medical emergency, nor shall such travel be considered in violation of this Order.

Under City Code §26-34, and City Code §1-14, violation of this Order is a Class 1 misdemeanor.



Timothy J. Baroody, City Manager

Date: May 31, 2020



**CITY OF FREDERICKSBURG
EMERGENCY ORDER # 3
IN RESPONSE TO CIVIL UNREST
JUNE 1, 2020**

1. Introduction.

The Fredericksburg City Council's Vision Statement reads:

Sharing Our Past, Embracing the Future

The people of Fredericksburg are building a 21st century urban center on the foundation of this historic city at the fall line of the Rappahannock River. Fredericksburg is the hub of regional economic activity, a city with a multicultural population and thriving cultural scene, a place that works for everyone, a community where the people are writing the next chapters of Fredericksburg's history.

On May 30th and 31st, 2020, the City was the scene of public gatherings, demonstrations, and processions in response to the death of George Floyd in Minneapolis, Minnesota, while in police custody. Many of the individuals participating in these gatherings were expressing, among other things, their anger, frustration, and general dissatisfaction with the continuing, senseless deaths of George Floyd and of black people in police custody nationwide. Most of those participating peacefully exercised their fundamental rights of freedom of speech and freedom of association.

This peaceful, and even angry speech on matters of public concern is at the heart of the First Amendment's protection. The First Amendment reflects a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open. Speech concerning public affairs is more than self-expression; it is the essence of self-government.

However, there were incidents of unlawful activity. In one, a group of 200 to 300 people moved from the public sidewalks and on to U.S. Route 1. When the protesters arrived at Route 1, they blocked northbound and southbound lanes, kneeling on one knee and then walked southbound

towards Cowan Boulevard. Fredericksburg police officers asked protesters to leave the area on their own accord multiple times, but they ignored the commands. At approximately 8:34 p.m., when the protesters arrived at the intersection of Route 1 and Cowan Boulevard, they made a straight line for Police Headquarters, at which time the police declared an unlawful assembly, making this announcement several times to protesters. After these warnings, officers deployed tear gas to disperse the gathering.

At approximately 10:00 p.m., on May 31, 2020, the City urged residents to “shelter in place” because of a large demonstration downtown. Shortly thereafter, by virtue of the authority vested in him by Code of Virginia §44-146.21, the City Manager, as the City’s Director of Emergency Management, issued a Declaration of Local Emergency in response to the unlawful activities, which threatened substantial injury or harm to the residents of Fredericksburg or substantial damage to or loss of property in the City.

At approximately 11:00 p.m. on May 31, 2020, the City Manager issued City of Fredericksburg Emergency Order #2 in response to Civil Unrest. In this Order, the City Manager declared a curfew beginning at 11:30 p.m. May 31, 2020 to 6:00 a.m. June 1, 2020, unless extended by further emergency order.

These outdoor gatherings, demonstrations, and processions are taking place during “Phase One” of the Commonwealth’s response to the COVID-19 Public Health Emergency, a time at which all public in-person gatherings of more than 10 individuals are prohibited under Virginia Governor Ralph Northam’s Executive Order 61, issued May 8, 2020; and when face coverings are recommended by the Centers for Disease Control to slow the spread of the virus.

They are occurring against the further backdrop of nationwide protests, some of which involve unlawful activity including vandalism and looting.

Virginia Governor Ralph Northam issued Executive Order Number Sixty-Four, Declaring a State of Emergency Due to Civil Unrest and Instituting a Curfew in the City of Richmond on May 31, 2020 due to past and potential future civil unrest that poses a danger to public safety. This Order, among other things, directs local governments to render appropriate assistance to prepare for and respond to this situation, 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.

Governor Northam's Executive Order Number Sixty-Four declares that the City of Richmond shall be under a curfew between the hours of 8 p.m. and 6 a.m. beginning May 31, 2020 and ending June 3, 2020. The District of Columbia, likewise, is under a citywide curfew beginning at 7 p.m. on Monday, June 1. Fredericksburg is located midway between Richmond and the District of Columbia.

The problems experienced as a result of this situation endanger the health, safety, and welfare of persons and property within the City of Fredericksburg and potentially hinder the execution of the ordinances of the City, the laws of the Commonwealth of Virginia and of the United States.

2. Legal authority.

The City Manager is authorized to protect the health and safety of persons and property whenever a local emergency has been declared, under Code of Virginia §44-146.21(C) and City Code Chapter 26 §26-36. A violation of an order issued under this authority is a Class 1 misdemeanor under City Code §§26-34 and 1-14.

Governor Northam's Executive Order Number Sixty Four further authorizes local governments to render appropriate assistance to prepare for and respond to this situation, 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.

Code of Virginia §15.2-1115 and City Code Chapter 59 authorize the City Manager to provide notice to abate and order the abatement of any public nuisance, defined as "the doing of any act or the omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of public or private property, tends to depreciate the value of the property of others, or in any way renders other persons insecure in the life or the use of property." Under City Code §59-3 it is unlawful for any person to create, cause, permit or maintain a public nuisance.

City Code Chapter 66, Article II, §§66-47 *et seq.* authorize the City Manager to issue a special event permit for the use of any public street or sidewalk for a group consisting of 20 or more persons. No person shall continue to organize, direct or lead any special event within the City unless the Chief of Police has granted a permit for the event. Section 66-52 provides a limited exception for expressive activities and spontaneous events, which are reflected in this order.

3. Order.

Therefore, by virtue of the legal authorities vested in him as Fredericksburg City Manager and Director of Emergency Management, Timothy J. Baroody hereby orders the following actions:

- 3.1 Implementation by City agencies of the City's Emergency Operations Plan.
- 3.2 Authorization for City department directors to waive any local requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by City agencies shall be posted on the City's website.
- 3.3 Curfew:
 - a. The City of Fredericksburg shall be under a curfew between the hours of 8 p.m. and 6 a.m. beginning June 1, 2020 and ending June 3, 2020. Unless extended by further emergency order, the curfew shall end at 6 a.m., June 3, 2020. While the curfew is in place no person shall be present on any street, road, alley, avenue, park, or other public place in the City of Fredericksburg with the following exceptions:
 - i. Persons traveling to and from home, work, or places of worship;
 - ii. Hospital personnel;
 - iii. Members of the press;
 - iv. State and City of Fredericksburg employees and volunteers;
 - v. Military personnel including but not limited to national guard troops;
 - vi. Private emergency medical transport workers;
 - vii. Persons seeking emergency services; and
 - viii. Other emergency workers.
 - b. Nothing in this Order shall be construed to prohibit or restrict travel to a hospital in the event of a medical emergency, nor shall such travel be considered in violation of this Order.

4. Special Events:

- a. Organizers of special events, as defined in City Code §66-47, including special events for expressive activities, demonstrations, and spontaneous events as defined in that section are urged to apply for a special event permit as provided in City Code §66-48.
- b. As provided in City Code §66-52, review of applications for these events shall be expedited by City staff, and shall take no more than 24 hours.

Under City Code §26-34, and City Code §1-14, violation of this Order is a Class 1 misdemeanor.



Timothy J. Baroody, City Manager

Date: June 1, 2020

James P. [unclear]