

**FAIRLAWN SEWER AUTHORITY**  
**REMOTE PARTICIPATION POLICY**

**1.0 Purpose and Need**

- a. Except as provided in this policy, the Pulaski County Sewerage Authority, d/b/a the Fairlawn Sewer Authority (the "Authority") does not and shall not conduct any meeting wherein public business is discussed or transacted through telephonic, video, electronic, or other electronic communication means where the Board Members are not physically assembled. In accordance with the Virginia Freedom of Information Act, § 2.2-3701 *et seq.* of the Code of Virginia of 1950, as amended (the "FOIA"). The Authority desires to adopt this policy to describe the conditions under which (1) individual Board Members may participate remotely in public meetings and (2) virtual public meetings, with no quorum of the membership being physically assembled, may be conducted.
- b. This policy is intended to apply to Authority meetings, committee, subcommittee or other Authority established public meetings (collectively referred to as "FSA Public Meetings"). As permitted under VA Code §2.2-3708.3(D), the Authority adopts this policy on behalf of its committees, subcommittees, and any other entity however designated of the Authority that performs delegated functions of the Authority or advises the Authority. This policy shall apply to any committee, subcommittee, or other designated entity's use of individual remote participation and all-virtual public meetings and shall be interpreted to give it such effect.
- c. This policy shall apply to the entire membership of the Authority and without regard to the identity of the Board Member requesting remote participation or the matters that will be considered or voted on at the FSA Public Meeting.
- d. The policy shall not prohibit or restrict any individual member of the Authority who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the Authority.

**2.0 Definitions**

- a. **Caregiver**- means an adult who provides care for a person with a disability as defined in Va. Code § [51.5-40.1](#) and is related by blood, marriage, or adoption to, or is the legally appointed guardian of, the person with a disability for whom they are caring.
- b. **Personal matter** – Examples include but are not limited to personal, family or business matters that prevent attendance at the meeting location; severe

weather conditions or unexpected traffic or travel conditions that prevent travel to the meeting location.

- c. ***Physical disability or other medical condition of Board Member*** – Examples include but are not limited to illness or injury resulting in temporary hospitalization or confinement to home, contagious illness, or any temporary or permanent physical disability that prevents travel to the meeting location by the Board Member.
- d. ***Medical condition of a family member of a Board Member*** – is limited to those situations in which the family member's medical condition requires the Board Member to provide care for the family member and thus prevents the Board Member from physically attending the meeting.
- e. ***Quorum*** – Three members of the Authority physically assembled in one location shall constitute a quorum for an Authority Meeting. For purposes of determining whether a quorum is physically assembled, a Board Member who uses remote participation counts toward the quorum as if they were physically present *if the Board Member is (i) a Caregiver , or (ii) a person with a disability as defined in Va. Code § [51.5-40.1](#).*

**3.0 Guiding Principles for Individual Board Members to Participate Remotely in FSA Public Meetings when a Quorum is Physically Present**

- a. Board Members shall make reasonable efforts to physically attend every meeting of the Authority. However, the Authority desires to adopt this policy to allow for Board Members to participate remotely in those circumstances recognized under Va. Code § 2.2-3708.3(B) when physical attendance is not reasonably possible.
- b. When a Board Member participates remotely in an FSA Public Meeting, the Board Member shall avoid using a mobile device while driving.

**3.1 Procedures for an Individual Board Member to Participate Remotely in an FSA Public Meeting**

- a. In order to permit a Board Member to participate in an FSA Public Meeting by electronic means, a quorum must be physically assembled at the noticed meeting location. Arrangements also must be made for the voice of the remote participant to be heard by all persons at the noticed meeting location.
- b. In advance of a properly noticed FSA Public Meeting, a Board Member who is unable to attend shall notify the Chair of the Authority or the Committee one of the following reasons the Board Member cannot attend:

- i. the Board Member has a physical disability or medical condition that prevents the Board Member from physically attending the meeting;
  - ii. the Board Member is a person with a disability as defined in Va. Code § [51.5-40.1](#) and the disability prevents the member's physical attendance;
  - iii. a family member of the Board Member has a medical condition that requires the Board Member to provide care for the family member and prevents the Board Member from attending the meeting;
  - iv. the Board Member is a Caregiver who must provide care for a person with a disability at the time the FSA Public Meeting is being held;
  - v. the Board Member's principal residence is located more than 60 miles from the meeting location identified in the required notice for the meeting and the Board Member accordingly desires to participate remotely; or
  - vi. the Board Member has a personal matter which prevents the Board Member from attending the meeting. The Board Member shall identify with specificity the nature of the personal reason the Board Member cannot attend. Remote participation due to a personal matter is limited to two meetings per Board Member per calendar year, or 25 percent of the meetings held per calendar year, rounded up to the next whole number, whichever is greater.
- c. The specific reason that the Board Member is unable to attend the meeting and the remote location from which the Board Member participates will be recorded in the meeting minutes. The remote location does not need to be open to the public and it may be identified in the minutes by a general description.
- d. Individual participation from a remote location must be approved by majority vote of a quorum of the Board Members physically assembled at the noticed meeting location. If the FSA membership votes to disapprove of a Board Member's participation from a remote location because such participation would violate this policy, such disapproval will be recorded in the minutes with specificity.

#### **4.0 Guiding Principles for All-Virtual FSA Public Meetings**

- a. The Authority desires that whenever possible all FSA Public Meetings should be conducted in person in accordance with FOIA and all laws and regulations governing open public meetings. However, the Authority recognizes that certain circumstances may arise where it is in the best interest of the Authority that an all-virtual meeting be held. This policy recognizes in accordance with Va. Code § 2.2-3708.2 when all virtual meetings may be held due to a declared emergency. Additionally, the Authority has determined that it would be in its the best interest to adopt a policy pursuant to Va. Code § 2.2-3708.3(D) to allow for all-virtual FSA Public Meetings in accordance with Va. Code § 2.2-3708.3(C).

4.1 **Procedures for All-Virtual FSA Public Meetings When There is a Declared Emergency**

- a. The Authority may meet by electronic communication means without a quorum physically assembled at one location when the Governor has declared a state of emergency in accordance with Va. Code § 44-146.17, or the locality in which the Authority is located has declared a local state of emergency pursuant to Va. Code § 44-146.21, provided:
  - 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 provide for the continuity of operations of the Authority or the discharge of its lawful purposes, duties, and responsibilities.
- b. If it holds a meeting pursuant to this section, the Authority shall:
  - i. Give public notice using the best available method given the nature of the emergency contemporaneously with the notice provided Board Members;
  - ii. Make arrangements for public access to the meeting through electronic communications means, including videoconferencing if already used by the Authority; and
  - iii. Provide the public with the opportunity to comment at those meetings when public comment is customarily received.
- c. For any meeting conducted pursuant to this section, 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 of the meeting.

4.2 **Procedures for All-Virtual Authority or Committee Meetings When There is No Declared Emergency**

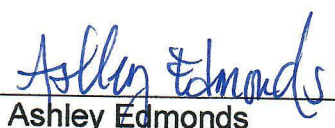

- a. In order to hold an all-virtual FSA Public Meeting when there is no declared emergency, the following procedures must be followed:
  - i. The required meeting notice for the FSA Public Meeting will indicate that the meeting will be an all-virtual meeting and contain a statement notifying the public that this all-virtual meeting method shall not be changed unless FSA provides a new meeting notice in accordance with the provisions of Va. Code § [2.2-3707](#);
  - ii. Public access to the all-virtual public meeting is provided via electronic communication means;

- iii. The electronic communication means used allows the public to hear respectively all Board Members participating in the all-virtual public meeting and, when audio-visual technology is available, to see Board Members as well. When audio-visual technology is available, a Board Member shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails;
- iv. A phone number or other live contact information is provided to alert the Authority if the audio or video transmission of the meeting provided by FSA fails. FSA must monitor such designated means of communication during the meeting, and the FSA Public Meeting, as appropriate, shall take a recess until public access is restored if the transmission fails for the public;
- v. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to the Board Members for the FSA Public Meeting is made available to the public in electronic format at the same time that such materials are provided to the Board Members;
- vi. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
- vii. No more than two members of the Authority are together in any one remote location unless that remote location is open to the public to physically access it;
- viii. If a closed session is held during an all-virtual public FSA Public Meeting, transmission of the meeting to the public resumes before the Board Members vote to certify the closed meeting as required by subsection D of Va. Code § 2.2-3712;
- ix. Limitation on virtual FSA Public Meetings. The Authority shall not convene all-virtual meetings in excess of 50% of the total number of Authority meetings held per calendar year, nor shall the Authority hold an all-virtual meeting consecutively with another all-virtual FSA Authority Meeting. No committee of the Authority shall convene all-virtual meetings in excess of the limitations stated in this subsection.
- x. Minutes of all-virtual FSA Public Meetings held by electronic communication means are taken as required by Va. Code § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If the participation of a Board Member from a remote location pursuant to this subsection is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

## 5.0 **Responsibility and Authority**

In accordance with Va. Code § 2.2-3708.3(D) this policy must be reviewed and adopted annually. Accordingly, the FSA shall review this policy annually for consideration and readoption .

Approved:    
Dennis Setliff  
Authority Chair  
Date

Attest:    
Ashley Edmonds  
Authority Secretary  
Date