

## **Minutes of the Fairfax County Consumer Protection Commission**

May 18, 2021

7:30 PM  
Zoom Video Meeting  
Chairman Fee presiding

Attendance:

Commissioners: Belkowitz, Callender, Fee,  
Gulakowski, Hargraves, Hine, Kratovil, Roark

Absent:

Commissioners: Kirk, Rosier

Staff:

Michael S. Liberman, Director  
Cable and Consumer Services  
(Fairfax)  
Rebecca L. Makely, Director  
Consumer Services Division  
(Aldie)  
John W. Burton, Assistant County Attorney  
Office of the County Attorney  
(Suite 549)  
Susan C. Jones, Branch Chief  
Consumer Affairs Branch  
(Springfield)

The electronic meeting was called to order at 7:30 PM by Chairman Fee.

### **Quorum, Location, and Audibility of Members' Voices**

Chairman Fee conducted a Roll Call to verify that a quorum of members were participating; and that each member's voice was clear, audible, and at appropriate volume for all of the other members; and the location from which each member was participating. The roll call was as follows:

Chairman Fee, Burke  
Commissioner Belkowitz, Fairfax Station  
Commissioner Callender, Great Falls  
Commissioner Gulakowski, Burke  
Commissioner Hargraves, Kingstown  
Commissioner Hine, Fairfax  
Commissioner Kratovil, Mount Vernon  
Commissioner Roark, Lorton

Chairman Fee passed the virtual gavel to Vice Chairman Gulakowski. A motion was made by Chairman Fee that each member's voice was adequately heard by each member of the Consumer Protection Commission (Commission.) This motion was seconded by Commissioner Callender. This motion passed 8-0.

### **Need for an Electronic Meeting**

A motion was made by Chairman Fee that the State of Emergency caused by the COVID-19 pandemic made it unsafe for the Commission to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of the Commission and the physical presence of the public, could not be implemented safely or practically. Chairman Fee further moved that the Commission conduct the meeting electronically through a dedicated audio-conferencing line, and that the public can access the meeting by calling 1-888-270-9936 and entering access code 584548. The motion was seconded by Commissioner Hargraves. The motion passed 8-0.

### **Need to Dispense with FOIA's Usual Procedures to Assure Continuity in Government/Continue Operations**

A motion was made by Chairman Fee that all matters addressed on the agenda addressed the Emergency itself, were necessary for continuity in Fairfax County government, and/or were statutorily required or necessary to continue operations and the discharge of the Commission's lawful purposes, duties, and responsibilities. This motion was seconded by Commissioner Kratovil. This motion passed 8-0.

### **Minutes**

The minutes for the April 20, 2021, meeting were approved without objection.

### **Report of the Chairman**

Chairman Fee sent well wishes to Secretary Commissioner Rosier. Chairman Fee thanked former Commissioner Javed for his service on the Commission.

Rebecca Makely, Director, Consumer Services Division stated she reached out to Commissioner Javed via email. Commissioner Javed indicated he had sent his resignation letter to his Board member several months ago. Staff filed Commissioner Javed's resignation letter with the Clerk's office.

### **Report of the Director**

Director Liberman stated the Board of Supervisors (BOS) approved the FY 2022 budget. Fairfax County full-time employees will receive a \$1,000 bonus in the third quarter of FY 2021 and a one percent increase in FY 2022.

### **Commission Matters**

Commissioner Belkowitz asked how the County was paying for the COVID-19 vaccines. He stated he went through the County Web site to register and went to a Giant store to receive his shot and was asked to provide his insurance card. The claim was processed with the insurance. Commissioner Belkowitz's wife went through the same registration process but got the shot at the Government Center and was not asked to provide her insurance card. Staff will check into this issue and report back to the Commission.

Commissioner Callender had no matters to bring before the Commission.

Commissioner Gulakowski had no matters to bring before the Commission.

Commissioner Hargraves stated he was also asked to provide his insurance card when he received his vaccination. Commissioner Hargraves indicated an ongoing issue with Republic Trash Services (Republic.) In December 2020, Republic removed his car cover that was drying on his driveway. He contacted Republic about the removal and filed a claim. He contacted Republic several times to inquire on the status of his claim and was told by Republic the matter was being reviewed. Commissioner Hargraves filed a complaint with Consumer Affairs and received a call from Republic that his claim was now submitted to Republic's insurance company. Republic will follow up with Commissioner Hargraves.

Commissioner Hine had no matters to bring before the Commission.

Commissioner Kratovil did research and analysis on the appeal process and will share his findings later in the meeting.

Commissioner Roark had no matters to bring before the Commission.

Chairman Fee commended Verizon on their monthly bill. It is now clear and easy to comprehend.

### **Old Business**

There was no old business.

### **New Business**

**1. Aging Services 101 Presentation by Karen Hannigan, Licensed Clinical Social Worker and Supervisor.** Ms. Hannigan provided an overview of the services and resources provided by Fairfax County Department of Family Services, specifically, the Aging, Disability, and Caregiver Resource Intake Unit.

A discussion ensued about services for parents with kids, police de-escalation, mobile crisis, Adult Protective Services, guardianship, and aging at home.

**2. One Fairfax Policy Announcement.** Rebecca Makely, Director, Consumer Services stated the Board of Supervisors instituted a policy requiring all Boards, Authorities, and Commission (BAC) members to do the following items: Read the County's One Fairfax Policy, watch the One Fairfax 30-minute video, and submit an online One Fairfax Acknowledgment form. The online form must be submitted by June 30, 2021. The Commission will watch the One Fairfax video at the June meeting.

A discussion ensued on in-person meetings. Governor Northam provided updated guidance on May 14, 2021 and based on the announcement the county anticipates he will lift capacity and distancing restrictions as of May 28, 2021. Guidance received from the County Attorney's office on changes in the legislation about Virginia Freedom of Information Act (VFOIA), remote participation, and electronic meetings that will go into effect July 1, 2021. If Virginia is no longer in a declared State of Emergency and there is no further local declaration of State of Emergency, meetings after July 1, 2021, would meet fully in-person. Legislation has expanded remote participation options under VFOIA that requires a quorum at a physical location but

could allow for BAC members to attend the meeting remotely for a personal or medical reason. Currently, BAC members are only allowed to participate remotely twice a year. BACs must adopt a remote participation policy and County Attorneys Office will draft templates for BACs to use.

**3. Addressing Authority Gaps and Improving Processes and Procedures.** Commissioner Kratovil provided a PowerPoint presentation on the Power and Duties under Fairfax County Code, case study of the April 2021 Appeal Hearing, Fairfax County Code comparisons, Chapter 31, Section 31-2-14 Appeals, and summary and proposed steps.

A discussion ensued on researching County Code during the appeal, explanation of a De Novo appeal, lack of guidance and clear understating of the law to prepare for the appeal, use of appropriate standards, handbook, individual decisions or legal research, input from the County Attorney's office, automatic approval of the Director's decision, and filing in court after an appeal decision is made.

Options discussed: statement of explanation of a De Novo appeal, a meeting with the County Attorney's office to discuss the different options of appeals, explanation on what the Commission can or cannot do through review of the Code provisions and have the County Attorney's office and/or a committee of members of the Commission to draft various procedural rights dealing with appeals.

A request was made to have more guidance from the County Attorney's office. Director Liberman suggested the Commission review the information provided by Commissioner Kratovil and have a discussion at the June meeting.

Chairman Fee made a motion to adjourn. Commissioner Hargraves and Callender seconded the motion. The motion passed unanimously. The meeting adjourned at 9:15 PM.