

Minutes of the Fairfax County Consumer Protection Commission

September 20, 2022

7:30 PM
Government Center
12000 Government Center Parkway
Fairfax, VA 22035
Chairperson Fee, presiding

Attendance: Commissioners: Belkowitz, Fee, Gulakowski, Kharat, Kirk, Kratovil, O'Savio, Roark, Springer, Svab

Remote Attendance: Commissioners: Freedenthal, Hargraves

Absent: Commissioners: Rosier

Staff: Rebecca L. Makely, Acting Director
Cable and Consumer Services
Susan C. Jones, Consumer Specialist III
Consumer Affairs Branch
Carl Newcomb, Consumer Specialist III
Regulation and Licensing Branch
John W. Burton, Assistant County Attorney
Office of the County Attorney

The meeting was called to order at 7:32 PM by Chairperson Fee.

Chairperson Fee notified the Commission that Commissioners Freedenthal and Hargraves requested to participate in the meeting remotely.

Vice Chairperson Gulakowski made the motion to approve Commissioner Freedenthal's attendance remotely due to a medical condition. Commissioner Freedenthal participated remotely from Alexandria, Virginia Commissioner Kirk seconded the motion. The motion was approved unanimously, 10-0-0.

Chairperson Fee made the motion that Commissioner Freedenthal's voice can be heard by all Commissioners. Vice Chairperson Gulakowski seconded the motion. The motion was approved unanimously, 10-0-0.

Vice Chairperson Gulakowski made the motion to approve Commissioner Hargraves' attendance remotely due a personal matter involving a work trip to New York to attend climate week. This is Commissioner Hargraves first remote participation due to a personal matter. Commissioner Springer seconded the motion. The motion was approved unanimously, 11-0-0.

Chairperson Fee made the motion that Commissioner Hargraves' voice can be heard by all Commissioners. Vice Chairperson Gulakowski seconded the motion. The motion was approved unanimously, 11-0-0.

Minutes

The minutes for the July 19, 2022, meeting were unanimously approved, without objection.

Report of the Chairperson

Chairperson Fee introduced new Commissioners Kharat and O'Savio.

Report of the Director

Acting Director Rebecca Makely mentioned the Board of Supervisors (BOS) are back from summer recess. First board meeting was last week and today was committee meetings.

Acting Director Makely spoke on the \$2 Emergency Taxicab Fuel Surcharge that went into effect on June 29, 2022, until December 29, 2022. At that time, the average gas price was \$5.05. Current gas price is \$3.75. The BOS can rescind the surcharge. Acting Director Makely inquired about the Commission's position now that the price of gas has decreased.

A discussion ensued and the Commission declined to pursue any changes to the Emergency Taxicab Fuel Surcharge.

Commissioner Matters

Commissioner Gulakowski had no matters to bring before the Commission.

Commissioner Belkowitz had no matters to bring before the Commission.

Commissioner Kirk had no matters to bring before the Commission.

Commissioner Kratovil had no matters to bring before the Commission.

Commissioner Springer had no matters to bring before the Commission.

Commissioner Roark had no matters to bring before the Commission.

Commissioner Svab had no matters to bring before the Commission.

Chairperson Fee had no matters to bring before the Commission.

Commissioner Freedenthal inquired about issues with American Disposal Services (ADS).

Acting Director Makely stated Supervisor Walkinshaw brought the matter before the BOS about American Disposal and Fairfax County code Chapter 109.1. Supervisor Walkinshaw moved that the Board direct the County Executive and County Attorney to:

1. Brief the Board by memo on efforts underway to address the complaints from residents that ADS has consistently failed to meet its commitment to customers and the County Solid Waste Ordinance.
2. Brief the BOS in closed session or by memo the County's existing authorities with respect to applicable consumer protection statutes and any other legal options the County has to aid residents in their efforts to receive services for which they are paying.

3. Prepare a presentation for an upcoming meeting of the legislative committee outlining the Code of Virginia restrictions on local government's ability to move to a different system of solid waste collections.

Commissioner Freedenthal mentioned the article on Fairfax County running out of trash bins. Acting Director Makely acknowledged the article and stated Fairfax County Solid Waste Management confirmed the bins are on backorder.

Commissioner Hargraves mentioned his issue with damaged luggage while on travel.

Commissioner Kharat introduced himself and spoke about his background.

Commissioner O'Savio introduced himself and provided information on his background.

Each Commissioner introduced themselves and provided brief background information. Acting Director Makely introduced staff.

Old Business

There was no old business before the Commission.

New Business

1. Remote Participation Policy. Acting Director Makely reviewed the highlights of the changes to the Remote Participation Policy. The Commission will vote on the updates at the next meeting.

2. Chapter 28.1. Acting Director Makely reminded the Commission about the discussion from January/February 2022 surrounding Chapter 28.1 Massage Therapy, Establishments and Services that is regulated by the Fairfax County Regulation and Licensing Branch. Commission had discussed proposed amendments as it related to the appeals language. This discussion stemmed from a massage appeal that was heard by the Commission two years in a row. The Commission realized other appeals processes had more thorough appeal language than Chapter 28.1. The Commission was provided a copy of Chapter 28.1 for review in February and April 2022. Commissioner Kratovil made comments on proposed changes to the code. Acting Director Makely did mention that the County's taskforce has no recommendations on changes to Chapter 28.1. Changes to the code is a two-part process where the CPC authorizes a public hearing and then holds the public hearing. The proposed changes would be brought before the BOS for authorization to hold a public hearing and then the BOS would hold the public hearing.

A discussion ensued on identifying and clarifying the various procedures, standardizing the language, finding a logical due process for appeals, and CPC authority.

Commissioner Kratovil spoke briefly on his findings in Chapter 28.1 under the appeals process. He stated Chapter 28.1 was missing procedural clarity that was relevant in other codes. He wants to map out exactly what the CPC can or cannot do as it relates to appeals.

Acting Director Makely suggested Assistant County Attorney Burton make a consolidated chart that shows what areas in the codes cannot be changed, but also show what due process is allowed by the Commission and flag the area for possible discussion and change.

A discussion ensued on the language in the code, may versus shall, discretion by the Commission, timeframe for the document, possible working group, and whether the marked-up code is ready for a motion.

Commissioner Kratovil mentioned whether the code also needs to be codified to include authorization on the education of consumers.

A discussion ensued on the authority provided to Consumer Affairs for outreach, limiting the scope of the topics, and the broader authority under the Virginia Consumer Protection Act versus a change to County code.

Commissioner Kirk made the motion for staff to provide a preliminary draft chart of the appeal language process at the next Commission meeting. Vice Chairperson Gulakowski seconded the motion. The motion passed unanimously, 11-0-0.

Acting Director Makely will provide the chart in the meeting packet email to the Commission.

Commissioner Kirk made the motion to adjourn the meeting. Vice Chairperson Gulakowski seconded the motion. The motion passed unanimously, 11-0-0.

The meeting adjourned at 9:00 PM.