

Sull-E Newsletter



A Message from Kathy Smith

Below you will find information from the Board of Supervisors' meeting that took place on Tuesday, March 24, 2020. The full [meeting agenda and board package](#) are available online. You can also watch a [video](#) of the meeting online on the county's website.

Sincerely,



Action Items

ACTION - 1

Adoption of a Written Policy Governing Participation by Electronic Communication of Board Members in Public Meetings

Chairman McKay made a motion to adopt a written policy allowing for and governing participation by electronic communication means. The motion carried by unanimous vote.

Background:

The Virginia Freedom of Information Act (FOIA) generally prohibits meetings of public bodies, including the Board of Supervisors, from being conducted through telephonic, video, electronic, or other electronic communication means where the members of the public body are not physically assembled to discuss or transact public business. Va. Code § 2.2-3707(B).

However, a 2018 amendment to FOIA authorized public bodies to adopt a written policy allowing for and governing participation by electronic communication in limited circumstances. Va. Code § 2.2-3708.2(C). The Board has not yet adopted a policy authorizing its members to participate in the Board's public meetings by electronic communication.

...continued on page 2

After the Board adopts a written policy, individual Board members may remotely participate in meetings under limited circumstances. Those circumstances include:

- A quorum of the public body is physically assembled at a primary meeting location; Va. Code § 2.2-3708.2(C)(2);
- The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary location; Va. Code § 2.2-3708.2(C)(3); and
- The member of the public body requesting remote participation is unable to attend the meeting either due to (1) a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or (2) a personal matter that is identified with specificity. Va. Code § 2.2-3708.2(A)(1). Remote participation due to a personal matter is limited each calendar year to two meetings. Id. "Personal matter" is not defined in the statute.

Adopting a written policy is recommended at this time, due to the Governor and County's recent State of Emergency declarations regarding the spread of COVID-19. The Governor is encouraging Virginians who are over age 65 to self-quarantine. The Governor is also discouraging public gatherings of more than ten people.

ACTION - 2

Adoption of an Emergency Uncodified Ordinance to Establish Methods to Assure Continuity in Fairfax County Government and Conduct of Board of Supervisors Meetings During the Novel Coronavirus 2019 (COVID-19) Emergency

Chairman McKay made a motion to adopt the emergency ordinance. The motion carried by unanimous vote.

Background:

The Virginia Freedom of Information Act (VFOIA), Virginia Code §§ 2.2-3700 to -3714, allows for fully electronic meetings to discuss the emergency itself. VFOIA makes no provision for addressing business related to the continuity of the County government if a quorum cannot be physically assembled.

Under the current circumstances, the Board of Supervisors should have all available tools at its disposal to best position it to address matters relating to the ongoing continuity of County government during the COVID-19 pandemic. Virginia Code Section 15.2-1413 expressly authorizes the adoption of the attached ordinance, which provide a method for the Board of Supervisors to be able to address such matters in the event it is unsafe to assemble a physical quorum.

The ordinance establishes that the Board of Supervisors will follow FOIA's usual procedures (including the provisions of its electronic meeting policy) whenever possible. If, in the Chairman's judgment, it is unsafe to assemble a physical quorum, a fully electronic meeting may be held in accordance with FOIA's existing provisions to address the emergency itself. If the Chairman determines that any meeting is being conducted for the purpose of assuring continuity in Fairfax County government and the usual procedures cannot be implemented safely or practically, then the ordinance provides a method for conducting an electronic meeting to address matters related to the continuity of the County Government. For any matter that requires a public hearing, the Board would allow the receipt of public comment by written or electronic communication rather than in-person testimony.

The proposed ordinance will become effective upon adoption, but it may only be enforced for 60 days from the date of adoption unless it is readopted by the Board before then.

...continued on page 3

The ordinance contains an enactment clause directing the Clerk for the Board of Supervisors to advertise a public hearing within the 60-day period, at which time the Board will consider readopting the emergency ordinance or a similar ordinance that assures continuity in Fairfax County Government during the COVID-19 pandemic.

ACTION - 8

Approval of Rate Adjustments to Fairfax Center Area, Centreville Area, Tysons, TysonsWide, Tysons Grid of Streets, and Reston Road Funds (Braddock, Dranesville, Hunter Mill, Providence, Springfield, and Sully Districts)

Supervisor Alcorn made a motion to approve the rate schedule, including a 2.5 percent adjustment of the existing contribution rates in all fund areas with the new rate effective April 1, 2020. The motion carried by unanimous vote.

Background:

One of the principles of the Comprehensive Plan for each of the road fund areas is that development above the baseline level established in the plan may be approved, if the developer mitigates the impact of such increased density or intensity by contributing to a fund for the provision of off-site road improvements. All road funds function in this manner.

The rate increase of 2.5 percent is necessary to keep pace with inflationary construction cost increases. The 2.5 percent is taken from the CPI-U as required by the Code of Virginia.

Centreville Area Road Fund -

- Non-residential: Current rate \$6.80; Inflationary Increase 1.025; Proposed Rate 2020 \$6.97
- Residential: Current rate \$2,687.10; Inflationary Increase 1.025; Proposed Rate 2020 \$2,754.28

ACTION - 9

Approval of Resolutions to Extend the Deadline to File Personal Property Taxes and Real Estate Taxes

Supervisor Gross made a motion to approve the County Executive's recommendation to:

- Extend the deadline to file returns for Personal Property Taxes by both individuals and businesses to June 1, 2020.
- Extend the deadline to pay the first half of Real Estate taxes to August 28, 2020.

The motion carried by unanimous vote.

. . .continued on page 4

Background:

As a result of the potential spread of COVID-19, a communicable disease of public health threat, the Governor of Virginia declared a state of emergency on March 12, 2020, and directed local governments to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to prevent conditions as much as possible. On March 17, 2020, the Board met in an emergency session to approve a local Declaration of Emergency considering the COVID-19 pandemic. In response to Board direction and input from the community, staff has been looking for ways to assist County businesses and residents. The two proposed resolutions reflect steps that provide relief to those who may need it.

Administrative Items

Supervisor Gross made a motion to approve Administrative Items 1-5. With Administrative Item 6 being voted on separately. The motion carried by unanimous vote.

ADMINISTRATIVE - 3

Streets into the Secondary System (Providence and Sully Districts)

The Board approved the County Executive's recommendation that the streets listed below be added to the State Secondary System:

- **Subdivision:** Engle Homes, Beazer Homes (Sully Manor); **District:** Sully; **Street:** Johnson Avenue

Background:

Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing to Amend the Current Appropriation Level in the FY 2020 Revised Budget Plan

The Board authorized county staff to publish the advertisement of proposed public hearings on April 14, 2020 at 4:00 p.m. and April 15 and 16, 2020 at 3:00 p.m.

Background:

As the FY 2020 Third Quarter Review includes proposed adjustments in appropriation greater than one percent of total expenditures, a public hearing is required prior to Board action. In addition, the Code of Virginia requires that a synopsis of proposed changes be included in the advertisement.

The School Board funding adjustments included in the advertisement are based on staff's Third Quarter recommendations to the School Board, which were presented to the School Board on March 5, 2020, with action to be taken by the School Board on March 19, 2020. with action to be taken by the School Board at a later date. The Third Quarter budget review was originally scheduled for March 19, 2020, but was postponed due to the coronavirus outbreak.

...continued on page 5

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance to Establish an Admissions Tax

Supervisor Gross made a motion to authorize the advertisement of a public hearing on the proposed amendment to Chapter 4, Taxation and Finance, to establish Article 29 - Admissions Tax. The motion carried by a vote of nine to one, with Supervisor Herrity voting "NAY."

Background:

Board action is requested on March 24, 2020 in order to provide time to advertise a public hearing for April 14, 2020, at 3:00 p.m. Adoption of the ordinance will be deferred to April 28, 2020, and will take effect on October 1, 2020.

Virginia Code § 58.1-3818 authorizes Fairfax County to levy a tax, not to exceed 10%, on the amount of charge for admissions to any event. The Code of Virginia requires localities to prescribe by ordinance the terms, conditions, and amount of the admissions tax to be charged. The ordinance may classify between events conducted for charitable and non-charitable purposes.

The proposed ordinance seeks to levy a four percent Admissions Tax on every noncharitable event taking place within the County to be effective October 1, 2020. This new tax will provide additional resources to support the priority outcome areas of the Countywide Strategic Plan, including Cultural and Recreational Opportunities.

Public Hearings

Public Hearing on RZ 2019-SU-009 (Elm Street Communities, Inc.) to Rezone from I-3, AN and WS to PDH-8, AN and WS to Permit Residential Development with an Overall Density of 7.88 Dwelling Units per Acre Including Density Associated with Affordable Housing and Approval of the Conceptual Development Plan, Located on Approximately 19.92 Acres of Land (Sully District) (Concurrent with PCA 78-S-063-09, PCA 85-S-06106 and PCA 86-S-039)

and

Public Hearing on PCA 78-S-063-09 (Elm Street Communities, Inc.) to Amend the Proffers for RZ 78-S-063, Previously Approved for Light Intensity Industrial Uses, to Permit Deletion of Land Area and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.435, Located on Approximately 11.07 Acres of Land Zoned I-3, WS and AN (Sully District) (Concurrent with RZ 2019-SU-009, PCA 85S-061-06 and PCA 86-S-039)

and

Public Hearing on PCA 85-S-061-06 (Elm Street Communities, Inc.) to Amend the Proffers for RZ 85-S-061, Previously Approved for Light Intensity Industrial Uses, to Permit Deletion of Land Area and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.435, Located on Approximately 0.53 Acres of Land Zoned I-3, WS and AN (Sully District) (Concurrent with RZ 2019-SU-009, PCA 78-S063-09 and PCA 86-S-039)

and

Public Hearing on PCA 86-S-039 (Elm Street Communities, Inc.) to Amend the Proffers for RZ 86-S-039, Previously Approved for Light Intensity Industrial Uses, to Permit Deletion of Land Area and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.435, Located on Approximately 6.18 Acres of Land Zoned I-3, WS and AN (Sully District) (Concurrent with RZ 2019-SU-009, PCA 78-S-063-09 and PCA 85-S-061-06)

...continued on page 6

Supervisor Kathy Smith made a motion to defer the public hearing for RZ 2019-SU-009, PCA 78-S-063-09, PCA 85-S-061-06, and PCA 86-S-039 to a date certain of April 14, 2020 at 2:00 p.m. The motion carried by unanimous vote.

Background:

The applicant, Elm Street Communities, Inc., is proposing three PCAs to delete land area from Westfields rezoning and rezone to the PDH-8 District to permit development of 157 single family attached dwelling units. This property is located east of Parkstone Drive and south of Conference Center Drive, immediately south of 14800 and 14850 Conference Center Drive. County staff recommends:

- Approval of RZ 2019-SU-009 and the associated Conceptual Development Plan (CDP), subject to the [proffers](#) included in Attachment 1 of the Staff Report.
- Approval of PCA 78-S-063-09 to remove the subject property from RZ 78-S-063.
- Approval of PCA 85-S-061-06 to remove the subject property from RZ 85-S-061.
- Approval of PCA 86-S-039 to remove the subject property from RZ 86-S-039.
- Approval of the following modifications in association with RZ/FDP 2019-SU-009:
 - Modification of Par. 2 of Sect. 6-207 of the Fairfax County Zoning Ordinance to modify the minimum 200 square foot privacy yard for each single-family attached dwelling as shown on the CDP/FDP.
 - Modification of Par. 2 of Sect. 11-302 of the Fairfax County Zoning Ordinance to permit private streets in the proposed development to exceed the maximum 600-foot length limitation as shown on the CDP/FDP.

The Staff Report is available to review [online](#). The Planning Commission voted 8-0-1 (Commissioner Strandlie abstained from the vote and Commissioners Clarke, Cortina, and Niedzielski-Eichner were absent from the meeting) to approve FDP 2019-SU-009, subject to the development conditions dated December 31, 2019, as amended, and subject to the Board's approval of the concurrent applications. The Planning Commission's Verbatim Excerpt is available to review [online](#).
