

Minutes of the Fairfax County Consumer Protection Commission

January 17, 2023

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

Attendance:

Commissioners: Fee, Freedenthal, Hargraves,
Kharat, Kratovil, Roark, Rosier, Springer, Svab

Absent:

Commissioners: Belkowitz, Gulakowski, Kirk,
O'Savio

Staff:

Rebecca L. Makely, 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 7:31 PM by Chairperson Fee.

Minutes

The minutes for the December 20, 2022, meetings were approved unanimously, 9-0-0.

Report of the Chairperson

Chairperson Fee with Commissioner Gulakowski attended the virtual Howard County Consumer Protection Commission meeting. It is a newly created Commission and the Commission inquired about the responsibilities of the Fairfax County Consumer Protection Commission (CPC).

Report of the Director

Director Makely informed the Commission the 2023 General Assembly Legislation began on Friday, January 11, 2023.

Director Makely stated the County Executive will prepare the FY 2024 Budget to be presented to the Board of Supervisors (BOS) on February 21, 2023. The BOS will host town meetings throughout the county. Budget hearings will be held in April along with a joint meeting with Fairfax County Public School Board. The budget will be approved May 9, 2023.

Commissioner Matters

Commissioner Rosier inquired about a Tax Seminar by Fairfax County and notification being informed of upcoming events. Director Makely will provide links to the Fairfax County Public Meetings Calendar.

Commissioner Svab asked if the CPC meeting agendas were posted online. Director Makely stated each month the packet is posted seven days in advance on the CPC webpage. Commissioner Svab inquired if the meeting time could be changed to 5:00 p.m. and was informed a discussion and motion would be needed.

Commissioner Kratovil asked about the legislative bills reviewed.

Commissioner Springer mentioned several deaths on Blake Lane in the last four or five months. Commissioner Springer said after the accidents, there were lots of police presence and changes were made to signage, but no one has been around in quite a while. Also, he mentioned the lack of police accident reports which makes it difficult for insurance companies. Staff will provide resource information.

Commissioner Freedenthal mentioned that chronic wasting disease tested positive in adult male deer in Fairfax County. Fairfax County has tested over 750 deer since 2019 with just one positive result. Commissioner Freedenthal stated Supervisor Lusk was having a Franconia Open House at the Franconia Government Center on January 28, 2023, from 11 a.m. to 1:00 p.m. Commissioner Freedenthal said there is a new animal shelter in Lorton to be completed in September 2023.

Commissioner Kharat had no matters to bring before the Commission.

Commissioner Roark had no matters to bring before the Commission.

Commissioner Hargraves mentioned a Nike purchase made by a family member. Merchandise ended up being a replica and Commissioner Hargraves is seeking a refund.

Chairperson Fee mentioned a news article where Fairfax County Police arrested an acupuncturist for sexual assault.

Old Business

- **Proposed changes to Chapter 28.1**

Chairperson Fee made the motion to amend Chapter 28.1. Commissioner Hargraves seconded the motion.

The following changes were made:

Section 28.1-1-3. Definitions.

Disqualifying offenses means offenses which disqualify an applicant from obtaining a permit pursuant to this Chapter or, if the offender already holds a permit, ~~which may constitute grounds for mandate~~ revocation of the permit. Commissioner Hargraves made the motion to accept the change. Commissioner Rosier seconded the motion. The motion passed unanimously, 9-0-0.

Erogenous areas means the genitals and the nipples and areolae. Commissioner Rosier made a motion to place a period after genitals and remove the remaining verbiage. Commissioner Hargraves seconded the motion. The motion failed, 1-8-0.

Section 28.1-2-2. Permit application, duty to update.

- (d) The names and addresses of all massage establishments where the applicant has been employed as a massage therapist within the past three years. Commissioner Rosier made the motion to change the past three years to one year. Commissioner Hargraves seconded the motion. The motion failed, 1-7-1.

Section 28.1-3-2. Permit application, duty to update.

- (b) *Streamlined application process.* If any individual required by Subsection (a) to disclose information holds a massage therapist permit issued under this Chapter, that individual may supply, in lieu of the information required by Subsections (a)(4), (a)(5) and (a)(6), ~~his or her applicant's~~ name and permit number and either a statement that no changes have occurred since ~~he or she the applicant~~ completed the application for the massage therapist permit or a list of any such changes. Chairperson Fee accepted the friendly amendment without objection.

Section 28.1-4-2. Requirements for massage establishments.

- (b) Nondisposable tools of the trade shall be disinfected after use upon one (1) client. Chairperson Fee accepted the friendly amendment without objection.

Section 28.1-4-3. Cleanliness of therapists.

Every massage therapist shall cleanse ~~his or her their~~ hands thoroughly with soap and hot running water immediately before administering each massage. (09-00-28.1) Chairperson Fee accepted the friendly amendment without objection.

Section 28.1-4-5. Massaging clients while ~~the~~ therapist is ill prohibited. Chairperson Fee accepted the friendly amendment without objection.

Section 28.1-4-6. Massaging, touching, exposing erogenous areas.

- (a) It is unlawful for any person, in a massage establishment or during the course of an out-call massage transaction, to touch, with any part of ~~his or her their~~ body or with any object, another person's clothed or unclothed erogenous area. Chairperson Fee accepted the friendly amendment without objection.
- (b) It is unlawful for any person, in a massage establishment or during the course of an out-call massage transaction, to fail to conceal ~~his or her their~~ erogenous areas with a fully opaque covering while in the presence of others. Chairperson Fee accepted the friendly amendment without objection.
- (c) It is unlawful for any person owning, operating, or managing a massage establishment or out-call massage business to knowingly cause or allow, in or about such massage establishment or as part of an out-call massage business, any agent, employee or any other person under ~~his their~~ control or supervision to perform any act prohibited by this section. (09-00-28.1) Chairperson Fee accepted the friendly amendment without objection.

Section 28.1-5-2. Right of entry to enforce Chapter.

The Director, the Director of Health, the ~~e~~Chief of ~~p~~Police, the ~~z~~Zoning ~~a~~Administrator and the

Building Official, or their duly authorized agents, are hereby authorized to enter, examine and survey, during business hours, any premises in the County for which a massage establishment permit has been issued pursuant to this Chapter for the purpose of inspection and to enforce the provisions of this Chapter. The Director of Health shall inspect each massage establishment at least one (1) time per year to determine whether it is being operated in compliance with this Chapter. This section shall not restrict or limit the right of entry vested in any law enforcement agency. (09-00-28.1). Chairperson Fee accepted the friendly amendment without objection.

Section 28.1-5-3. Revocation or suspension of permits.

If the Director believes that grounds for revocation of a permit exist, the Director shall give the permittee written notice enumerating the grounds and declaring the Director's intent to hold a hearing at a specified date and time to determine whether revocation is warranted. The notice shall be mailed, by certified mail, to the permittee's last known address, at least ten (10) days prior to the date set for the hearing. At the hearing, the permittee may be represented by counsel, may cross-examine witnesses and may present evidence in **his their** favor. If the Director finds that any ground for revocation in fact exists, the Director shall revoke the permit. The Director shall issue a written notice of **his their** findings and decision within ten (10) work days of the hearing. The applicant may appeal the Director's decision as provided for in Article 6 of this Chapter. The Director's decision remains in effect during the pendency of the appeal. Commissioner Hargraves made the motion to replace his with their. Commissioner Freedenthal seconded the motion. The motion passed, 6-3-0.

Section 28.1-6-1. Appeals from decisions of the Director; procedure.

- (b) Any appeal will be filed with the Department by the appellant or by the legal representative of the appellant. Appeals will be in writing, and appeals will include a brief statement of the reasons thereof. Appeals must be filed within **forty-five (45)** calendar days of receipt of the notice of denial, suspension or revocation, and appeals will be signed by the appellant or the legal representative of the appellant.
- (c) Upon receipt of any notice of appeal, the Commission will set a time and place for such hearing and will give the appellant or legal representative and the Director reasonable notice thereof. All hearings on appeals will be scheduled and determined as promptly as practicable and in no event more than **sixty (60)** calendar days from the date the notice of appeal is filed. Chairperson Fee accepted the friendly amendments without objection.

Commissioner Freedenthal moved to accept all changes to Chapter 28.1. Commissioner Hargraves seconded the motion. The motion passed unanimously, 9-0-0.

New Business

1. 2023 Items of Interest. Commission did not discuss.

Chairperson Fee informed the Commission he submitted his resignation from the CPC, effective January 18, 2023, after serving 27 years.

Chairperson Fee made the motion to adjourn the meeting without objection. The meeting adjourned at 9:18 PM.