

Minutes of the Fairfax County Consumer Protection Commission

February 18, 2014

7:30 PM Conference 4/5
Government Center
12000 Government Center Pkwy.
Fairfax, Virginia 22035
Chairman Fee, presiding

Attendance:

Commissioners: Belkowitz, Chung, Durant,
Hargraves, Fee, Kazmi, Kirk, Luse, Rosier

Absent:

Commissioners: Hine, Martz, Nguyen, Roark,

Staff:

Michael S. Liberman, Director
Department of Cable and Consumer
Services
John W. Burton, Assistant County Attorney
Susan C. Jones, Branch Chief,
Consumer Affairs
Henri Stein McCartney, Chief
Regulations and Licensing Branch
Carl Newcomb, Consumer Specialist II
Regulations and Licensing Branch

The meeting was called to order at 7:46 PM by Chairman Fee.

Minutes

The minutes of the November 19, 2013 and December 17, 2013 meeting were approved with a correction to Commissioner Kazmi's name.

Report of the Chairman

Chairman Fee attended and spoke at the Board of Supervisors Public Hearing on February 11, 2014, on the Taxicab Certificates and Allocation of 78 certificates.

Chairman Fee stated that the article on Robocalls given by staff in a previous packet was helpful and he worked with his telephone provider to stop persistent callers.

Report of the Director

Director Liberman deferred matters until the March meeting.

Commission Matters

Commissioner Chung had no matters to bring before the commission.

Commissioner Rosier had no matters to bring before the commission.

Commissioner Kirk had no matters to bring before the commission.

Commissioner Belkowitz stated that he continues to get deceptive calls to his home. Staff will provide article on Robocalls.

Commissioner Hargraves had no matters to bring before the commission.

Commissioner Durant had no matters to bring before the commission.

Commissioner Luse had no matters to bring before the commission.

Old Business

There was no old business to discuss.

New Business

1. Towing Rates Staff Report. Henri Stein McCartney, Chief, Regulation and Licensing Branch, presented a staff report on the revision to Fairfax County Code Chapter 82-5-32(G). The proposed change would set the hookup and initial fee for vehicles with a GVWR of 7,500 or less at \$135, equivalent to the hookup and initial tow fee allowable by Virginia Code §46.2-1233.1 which was amended in 2013.

Commissioner Kirk made the motion to accept staff's recommendation to set the hookup and initial fee for vehicles with a GVWR of 7,500 or less at \$135, equivalent to the hookup and initial tow fee allowable by Virginia Code §46.2-1233.1 which was amended in 2013.

Chairman Fee seconded the motion.

A discussion ensued on why staff was recommending increase in tow fees, but not in taxicab rates; and tower workers, salaries and benefits.

The motion passed 7 to 2.

2. Election of Officers. Commissioner Belkowitz, Chair, Nominee Committee, stated the following was the selection of candidates for 2014 Consumer Protection Commission:

Chair: Chairman Fee and Commissioner Luse

Vice Chair: Commissioner Nguyen

Secretary: Commissioner Durant

No additional nominations were made from the floor.

Chairman Fee made the motion to elect the Vice Chair and Secretary by acclamation. Vote was unanimous.

Chairman Fee and Commissioner Luse made brief speeches on the position of Chair.

The vote was 5 to 4 in favor of Chairman Fee.

3. Nan Su Paek Appeal. Chairman Fee reviewed the Appeal Hearing Procedures.

Present: Nan Su Paek, owner of NSP Therapy and her attorney, Su Yong Min.

Ms. Min provided background information on her client, Ms. Paek, reason for the violation, Ms. Paek's pleading of no contest, impact on her livelihood, and failure to clearly understand the reason for the charges which led to the denial of both permits.

Henri Stein McCartney, Chief, Regulation and Licensing Branch, presented staff's position as required under Chapter 28.1 of the Fairfax County Code. When determining the issuance or denial of a massage therapist and massage establishment permits, staff follows Sections 28.1-2-3 (c) and 28.1-3-3 (c). Ms. Paek was convicted of a disqualifying offense, therefore the Director, as required by Fairfax County Code, denied the massage therapist and massage establishment permits.

Fairfax County Police Department presented their involvement in the conviction.

A discussion ensued on reasons for random inspections, "shall" in the county code cited by staff, prior convictions, levels of certifications required, number of employees, set-up of the establishment, whether code would allow the therapist license until the end of the year, timeline of services provided, appellant's clear understanding of the charges, commitment of the lease by the appellant, whether the denials can be decided separately, and the selling of the appellant's business if permits are denied.

Commissioner Durant made the motion to uphold the Director's decision to deny the massage therapist permit as cited in Section 28.1-2-3 (c) and to deny the massage establishment permit as cited in Section 28.1-3-3 (c) of the Fairfax County Code. Chairman Fee seconded the motion.

A discussion followed on whether the unlicensed therapist was a danger to Fairfax County residents, whether the Director made an error in regards to the code sections cited, whether discretion by the commission can be used, whether the appellant provided any evidence to support reversing the Director's decision to deny, spirit versus the letter of the law, allowing the appellant to keep her massage therapist license, but deny the massage therapist establishment permit, the purpose of an appeal that provides the opportunity to do something different, interpretation of the code, reversible error, and best interest of all parties.

Chairman Fee made the motion to uphold the Director's decision to deny the massage establishment permit as cited in Section 28.1-3-3 (c) of the Fairfax County Code. Commissioner Kazmi seconded the motion. Eight voted in favor of the motion, one commissioner voted against the motion. The motion passed in favor of denial of the massage establishment permit.

Chairman Fee made the motion to uphold the Director's decision to deny the massage therapist permit as cited in Section 28.1-2-3 (c) of the Fairfax County Code. Commissioner Hargraves seconded the motion. Four commissioners voted in favor of the motion, four commissioners voted against the motion. One commissioner abstained from voting. The motion failed so the Director's decision to deny the massage therapist permit stands.

The meeting ended at 9:58 PM.