

## **HEALTH CARE ADVISORY BOARD**

Meeting Summary

May 11, 2020

### **MEMBERS PARTICIPATING REMOTELY**

Marlene Blum, Chairman  
Rose Chu, Vice Chairman  
William Finerfrock, Vice Chairman  
Ann Zuvekas  
Ellyn Crawford  
Philippe Beauchene  
Tim Yarboro, MD  
Dr. Michael Trahos, DO  
Maia Cecire  
Rosanne Rodilloso  
Shikha Dixit

### **STAFF**

Sherryn Craig

### **MEMBERS ABSENT**

None

### **GUESTS**

Dominic Bonaiuto, Director for Central Region Government and Community Relations, Inova Health System  
Gloria Addo-Ayensu, MD, MPH, Health Director, Health Department  
Jessica Werder, Deputy Director of Public Health Operations, Health Department  
Patricia Rohrer, Long Term Care Program Manager, Health Department  
Diana White, League of Women Voters  
Leslie Johnson, Zoning Administrator, Department of Planning and Development  
Sara Morgan, Land Use Planner, Department of Planning and Development

### **Call to Order**

The meeting was called to order by Marlene Blum at 7:33 pm.

### *Audibility of Members' Voices*

Chairman Marlene Blum conducted a roll call asking each participating member to state his/her name and the location from which he/she was participating.

Braddock District, Ann Zuvekas, Falls Church, VA  
Dranesville District, Rosanne Rodillo, McLean, VA  
Hunter Mill District, Ellyn Crawford, Reston, VA  
Lee District, Maia Cecire, Alexandria, VA  
Mason District, Rose Chu, Falls Church, VA  
Mount Vernon District, Shikha Dixit, Lorton, VA  
Providence District, Marlene Blum, Vienna, VA  
Springfield District, Bill Finerfrock, Springfield, VA  
Sully District, Phil Beauchene, Chantilly, VA  
At Large, Tim Yarboro, MD, Reston, VA  
At Large, Dr. Michael Trahos, DO, Falls Church, VA

Chairman Blum passed the virtual gavel to Vice Chairman Rose Chu. Ms. Blum moved that each member's voice was adequately heard by each other member of the board, and specifically that each voice was clear, audible, and at an appropriate volume for all other members. Dr. Trahos, DO seconded the motion. The motion passed unanimously.

#### *Need for an Electronic Meeting*

Having established that each member's voice could be heard by every other member, Ms. Blum established (1) the nature of the emergency compelling the emergency procedures, (2) the electronic format for the meeting, and (3) public access to the meeting. Ms. Blum moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the Board 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 Board and the physical presence of the public, cannot be implemented safely or practically. Ms. Blum moved that the Board would conduct the meeting electronically through a dedicated telephone line, and that the public could access this meeting by calling 1-877-411-9748 and use the Participant Code – 2909363. Ann Zuvekas seconded the motion. The motion passed unanimously.

#### *Continuity in Government*

To dispense with FOIA's Usual Procedures to Assure Continuity in Government, Ms. Blum moved that all of the matters addressed on today's agenda must address the State of Emergency itself, are necessary for continuity in Fairfax County government, and/or are statutorily required or necessary to continue operations and the discharge of the HCAB's lawful purposes, duties, and responsibilities. Ann Zuvekas seconded the motion. The motion passed unanimously.

## **April 30, 2020 Meeting Summary**

The meeting minutes from April 30, 2020 were approved as submitted.

### **Proposed Adult Day Care Center Amendment**

Sara Morgan, Land Use Planner and Leslie Johnson, Zoning Administrator, Department of Planning and Development (DPD) presented a "strawman" of the adult day care center amendment.

Before presenting the amendment, Ms. Morgan explained the use of certain terminology.

The term Zoning District refers to a land use distinction between residential, commercial, industrial or planned areas. Every property in the County is zoned to a specific Zoning District which includes a list of land uses that are permitted within the district.

A by-right use is a land use that is permitted in a Zoning District without needing entitlement approval. A special exception use is a land use that requires entitlement approval from the Board of Supervisors (BOS). These uses require a public hearing before the Planning Commission, which makes a recommendation to the BOS, after which the BOS holds a public hearing before determining if the proposal is approved for the property.

In December 2018, DPD put forward a Zoning Ordinance Amendment related to Continuing Care and Older Adults. Through that amendment the provisions for adult day care centers (ADCCs) were established.

Prior to that amendment, ADCCs were not explicitly listed in the Zoning Ordinance. DPD interpreted those facilities to be most similar to child care centers. Through the 2018 amendment, ADCCs were established as a special exception use which was different to how child care centers were permitted in certain zoning districts. This was influenced by the desire to bring adult day care center applications before the Health Care Advisory Board for review during the entitlement process.

Since amending the ordinance, it has been brought to the Board of Supervisors' attention that there have been unintended consequences to this policy change. The Board received feedback that providers of adult day care services are disadvantaged when trying to lease space that can accommodate the use, when other uses with similar land use impacts are allowed by right, like child care centers. This is due to the

special exception requirement as well as the provision requiring outdoor recreation space.

The special exception process can be a 9- to 12-month process and does not guarantee approval. The Adult Day Care providers have noted that some landlords are not willing to hold a space for them during this review/approval period when they have an occupant who is deemed a by-right use.

With respect to outdoor recreation areas, some Adult Day Care Centers are required by the state licensure agency to provide this space. The Virginia Department of Social Services (VDSS) has such a requirement while the Virginia Department of Behavioral Health and Developmental Services (VDBHDS) has no such requirement. The 2018 amendment primarily focused on centers licensed by VDSS as the amendment primarily focused on older adults. Providers of day services for intellectually and developmentally disabled individuals were not involved in the amendment process at that time.

In January 2020, the BOS directed DPD staff to appropriately align adult day care center requirements with the current requirements for child care centers. While the Board's directive in January focused primarily on allowing ADCCs by right use in the Industrial Districts, the BOS also directed staff to align the requirements for ADCCs to be consistent with child care centers. As part of the Zoning Ordinance Modernization project, child care centers are currently being drafted as a by-right use in the Industrial Districts as well as the Commercial Districts, with certain use limitations.

Therefore, staff is proposing to amend the Zoning Ordinance and permit adult day care centers by right in the Commercial and Industrial Districts. Additionally, staff proposes to continue to require an outdoor recreation area when required by the appropriate state licensing agency.

The provision that requires adult day care centers to present their request to the HCAB is also proposed to be amended as there is no longer a public hearing mechanism for the review as a by-right use. The DPD is proposing that the HCAB complete its review/recommendation prior to the issuance of a Non-Residential Use Permit. Concerns would then be directed to the appropriate state licensing agency.

The DPD is planning to go before the BOS for authorization of the amendment in July, convene a public hearing before the Planning Commission in September followed by a public hearing before the BOS in October.

During discussion, several HCAB members disagreed with DPD's proposal to permit ADCCs by right in commercial and industrial districts but by Special Exception in residential areas. The health and safety of residents accessing adult day services in an industrial park or a strip mall is no less important than the health and safety of residents seeking services from a neighborhood-based provider. Staff qualifications, medication administration, physical and cognitive program delivery are critical to the quality of care. Therefore, the standards and criteria applied to one setting should apply to all.

Second, directing HCAB concerns to the appropriate state licensure agency for by right ADCCs is not feasible. The HCAB does not have standing with the VDSS or the VDBHDS. Moreover, the HCAB is chartered to advise the BOS, not the Commonwealth.

However, it was noted that if the provision for outdoor activities area were removed from the County Special Exception requirements for ADCCs, there would be no difficulty in including adult day care centers licensed by VDBHDS in the Special Exception process, with review and recommendations by the HCAB and the Planning Commission.

While the DPD shared that prospective ADCC providers regulated by VDBHDS have expressed concerns to the BOS, DPD stated that similar feedback has not been received by ADCC providers regulated by VDSS.

Ellyn Crawford moved that the HCAB send a memo to the BOS outlining the concerns raised from DPD's proposed draft. Dr. Trahos, DO and Ann Zuvekas seconded the motion. The motion passed unanimously.

### **Other Business –**

Marlene Blum announced Ann Zuvekas' decision to retire from the HCAB at the conclusion of her current appointment in June or until the Braddock Supervisor finds a replacement. The HCAB will honor Ms. Zuvekas as well as the recently retired Deputy Director for Health Services, Rosalyn Foroobar, at its next meeting.

Additionally, the Health Department will provide an update on the recently adopted FY 2021 County Budget, including its plan to direct reserved funding to address future stages/waves of the pandemic.

There being no further business, the meeting adjourned at 8:44 pm.