



## **Takoma Park City Council Meeting –July 22, 2020 Agenda Item 12**

### **Work Session**

Modifying Resolution 2020-12 Suspending Quasi-Judicial Proceedings

### **Recommended Council Action**

Consider Resolution for approval on July 29, 2020

### **Context with Key Issues**

Resolution 2020-12 was adopted by the City Council to suspend quasi-judicial proceedings before City of Takoma Park Boards, Commissions and Committees due to the state of emergency declared by Governor Hogan concerning the COVID-19 pandemic and the related placement of restrictions on and closures of court proceedings in the State of Maryland.

With some restrictions on court proceedings being lifted – at least for the time being – and with greater experience on holding virtual meetings being gained since March, it is reasonable to allow certain quasi-judicial proceedings to be held by Takoma Park Boards, Commissions and Committees. However, there may still be situations where the restrictions or closures related to the health emergency would limit access to records, processes or appeals, particularly if the health emergency worsens again in Maryland. A resolution modifying Resolution 2020-12 is recommended to authorize the City Manager to provide for a phase-in schedule of quasi-judicial proceedings so that such proceedings could be held, but such schedule could be altered if emergency conditions change. The City Manager would be directed to communicate the status of quasi-judicial proceedings to all affected parties.

### **Council Priority**

Engaged, Responsive and Service-Oriented Government

### **Environmental Impact of Action**

None.

### **Fiscal Impact of Action**

None.

### **Racial Equity Impact of Action**

None.

### **Attachments and Links**

- Draft Resolution
- Resolution 2020-12

1 Introduced by: \_\_\_\_\_  
2

3 **CITY OF TAKOMA PARK, MARYLAND**

4  
5 **RESOLUTION 2020-\_\_\_**  
6

7 **AUTHORIZING THE CONTINUATION OF QUASI-JUDICIAL**  
8 **PROCEEDINGS BY THE CITY’S BOARDS, COMMISSIONS, AND**  
9 **COMMITTEES THROUGH THE USE OF VIRTUAL**  
10 **TECHNOLOGY PROVIDED CITY STAFF AND MEMBERS OF**  
11 **THE BOARDS, COMMISSIONS, AND COMMITTEES ARE ABLE**  
12 **TO FACILITE SAID PROCEEDINGS DESPITE THE ONGOING**  
13 **PUBLIC HEALTH CRISIS AND CONTINUING THE STAY OF ALL**  
14 **UNDERLYING MATTERS WHICH CANNOT BE PROCESSED**  
15 **TIMELY OR THROUGH THE USE OF VIRTUAL TECHNOLOGY**  
16 **UNTIL THIRTY DAYS AFTER THE EXPIRATION OF THE**  
17 **STATE OF EMERGENCY DECLARED BY GOVERNOR**  
18 **LAWRENCE J. HOGAN, JR., DUE TO THE COVID-19 PANDEMIC,**  
19

20 **WHEREAS,** On March 5, 2020, Governor Lawrence J. Hogan, Jr. of Maryland proclaimed a  
21 state of emergency and a catastrophic health emergency due to the outbreak of  
22 disease, hereinafter referred to as “COVID–19,” caused by the novel coronavirus;  
23 and  
24

25 **WHEREAS,** On March 11, 2020, the City Council adopted an uncodified emergency Ordinance  
26 authorizing the City Manager to act in response to the emergency created by the  
27 novel coronavirus by taking all appropriate and reasonable measures to assure the  
28 efficient operation of the City’s government and to protect the public’s health,  
29 safety, and welfare; and  
30

31 **WHEREAS,** On March 17, 2020, the Chief Judge of the Court of Appeals of Maryland issued  
32 an Administrative Order restricting all courts in the Maryland Judiciary, court  
33 offices, administrative offices, units of the Judiciary, and the Offices of the Clerks  
34 of the Circuit Courts and the clerks’ offices of the District Court, to emergency  
35 operations and closed with limited exceptions; and  
36

37 **WHEREAS,** On April 8, 2020, the Chief Judge of the Court of Appeals of Maryland continued  
38 restrictions and closures of Maryland’s Courts through May 1, 2020; and  
39

40 **WHEREAS,** On May 4, 2020, the Chief Judge of the Court of Appeals of Maryland continued  
41 restrictions and closures of Maryland’s Courts through June 5, 2020; and  
42

43 **WHEREAS,** On May 22, 2020, the Chief Judge of the Court of Appeals of Maryland announced  
44 a phased reopening of Maryland’s Courts beginning June 5, 2020; and  
45

1 **WHEREAS,** On June 3, 2020, the Chief Judge of the Court of Appeals of Maryland amended  
2 her May 22nd Administrative Order regarding a phased reopening of Maryland’s  
3 Courts beginning June 5, 2020; and  
4

5 **WHEREAS,** The phased reopening of Maryland’s Courts consists of five phases with Phase III  
6 commencing on July 20, 2020, and said Phase permitting Courts to hold a broader  
7 range of matters, with limited in-person services, while continuing social-  
8 distancing and while taking appropriate steps consistent with current guidance from  
9 the CDC, MDH or both; and

10 **WHEREAS,** Some of the City’s Boards, Commissions, and Committees, conduct quasi-judicial  
11 proceedings, which are subject to judicial review by Maryland’s Courts and those  
12 proceedings have been stayed pursuant to City of Takoma Park Resolution 2020-  
13 12; and  
14

15 **WHEREAS,** City quasi-judicial proceedings generally require staff support, legal support,  
16 access to records, which are generally located in City facilities, and are designed to  
17 afford due process to those involved; and  
18

19 **WHEREAS,** Social distancing protocols activated in response to COVID-19 impact the ability  
20 of the City’s Boards, Commissions, and Committees, to conduct quasi-judicial  
21 proceedings, presents logistical challenges, and requires technological training for  
22 staff and members; and  
23

24 **WHEREAS,** The Council desires to allow the City Manager to phase-in quasi-judicial  
25 proceedings if possible while accounting for the need to conduct necessary  
26 technological training and access necessary records, and balancing the same with  
27 the additional logistical challenges presented by City staff operating remotely  
28 during a global pandemic; and  
29

30 **WHEREAS,** The Council desires to allow a phase-in to begin and continue so long as it is viable  
31 given pandemic related considerations and within the ability of City staff to manage  
32 the additional workload while operating remotely; and  
33

34 **WHEREAS,** The Council desires to permit the City Manager to suspend the phase-in of quasi-  
35 judicial proceedings in the event pandemic related conditions warrant such a  
36 suspension and/or the City’s ability to proceed with quasi-judicial proceedings is  
37 adversely affected by pandemic related operations.  
38

39 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**  
40 **TAKOMA PARK THAT,** Resolution 2020-12 suspending quasi-judicial proceedings before the  
41 City’s Boards, Commissions and Committees is hereby modified as follows:  
42

43 **Section 1.** Except as established pursuant the City Manager’s phase-in schedule for the  
44 resumption of quasi-judicial proceedings or otherwise provided by this Resolution,  
45 all quasi-judicial proceedings before the City’s Boards, Commissions, and

1 Committees, shall remain suspended and the underlying matters stayed until thirty  
2 (30) days after Maryland’s COVID – 19 state of emergency has been terminated.  
3 The City Manager shall take all reasonable and appropriate steps necessary to  
4 implement this Resolution.  
5

6 **Section 2.** Except as otherwise provided by the City Manager’s phase-in schedule or  
7 suspension of the same, during the effective period of this Resolution a City Board,  
8 Commission, or Committee, may proceed with a quasi-judicial proceeding only if  
9 it is determined by the City Manager to be an emergency relating to the public’s  
10 health, safety, or welfare.  
11

12 **Section 3.** While this Resolution is in effect, the City Manager shall have the authority to  
13 suspend, modify, or rescind the implementation of the phase-in schedule for the  
14 resumption of quasi-judicial proceedings due to pandemic related considerations  
15 and/or the City’s ability to proceed with quasi-judicial proceedings is adversely  
16 affected by pandemic related operations provided the City Manager reports the  
17 same to the City Council in accordance with Uncodified Emergency Ordinance  
18 2020-04.  
19

20 **Section 4.** The City Manager is directed to ensure any and all necessary communications are  
21 made with any party to a matter pending before any City Board, Commission, or  
22 Committee, and with the Governor’s Office and any other State Agency regarding  
23 this Resolution.  
24

25 **Section 5.** Nothing herein shall be construed as limiting the City Manager’s authority to act  
26 pursuant to Uncodified Emergency Ordinance 2020-04, which was enacted on  
27 March 11, 2020.  
28

29 **Section 6.** The Mayor and Council may rescind, modify, or extend this Resolution by a  
30 majority vote of those present.  
31

32 **THIS RESOLUTION, WHICH IS EFFECTIVE IMMEDIATELY, IS ADOPTED BY THE**  
33 **COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS \_\_\_\_\_ DAY OF**  
34 **JULY, 2020, BY ROLL-CALL VOTE AS FOLLOWS:**  
35

36 AYE:  
37 NAY:  
38 ABSTAIN:

1 Introduced by: Councilmember Kovar

2  
3 **CITY OF TAKOMA PARK, MARYLAND**

4  
5 **RESOLUTION 2020-12**

6  
7 **SUSPENDING QUASI-JUDICIAL PROCEEDINGS BY THE CITY'S BOARDS,**  
8 **COMMISSIONS, AND COMMITTEES, AND STAYING ALL UNDERLYING**  
9 **MATTERS UNTIL THIRTY DAYS AFTER THE EXPIRATION OF THE STATE OF**  
10 **EMERGENCY DECLARED BY GOVERNOR LAWRENCE J. HOGAN, JR., DUE TO**  
11 **THE COVID-19 PANDEMIC**

12  
13 **WHEREAS,** on March 5, 2020, Governor Lawrence J. Hogan, Jr. of Maryland proclaimed a state  
14 of emergency and a catastrophic health emergency due to the outbreak of disease,  
15 hereinafter referred to as "COVID-19," caused by the novel coronavirus; and

16  
17 **WHEREAS,** on March 11, 2020, the City Council adopted an uncodified emergency Ordinance  
18 authorizing the City Manager to act in response to the emergency created by the  
19 novel coronavirus by taking all appropriate and reasonable measures to assure the  
20 efficient operation of the City's government and to protect the public's health,  
21 safety, and welfare; and

22  
23 **WHEREAS,** on March 17, 2020, the Chief Judge of the Court of Appeals of Maryland issued an  
24 Administrative Order restricting all courts in the Maryland Judiciary, court offices,  
25 administrative offices, units of the Judiciary, and the Offices of the Clerks of the  
26 Circuit Courts and the clerks' offices of the District Court, to emergency operations  
27 and closed with limited exceptions; and

28  
29 **WHEREAS,** on March 30, 2020, Governor Hogan issued Executive Order, No. 20-03-30-01,  
30 directing all persons living in the State of Maryland to stay in their homes or places  
31 of residence with certain exceptions for essential businesses and essential activities;  
32 and

33  
34 **WHEREAS,** on April 8, 2020, the Chief Judge of the Court of Appeals of Maryland continued  
35 restrictions and closures of Maryland's Courts through May 1, 2020; and

36  
37 **WHEREAS,** some of the City's Boards, Commissions, and Committees, conduct quasi-judicial  
38 proceedings, which are subject to judicial review by Maryland's Courts; and

39  
40 **WHEREAS,** social distancing protocols activated in response to Covid -19 will adversely impact  
41 the ability of the City's Boards, Commissions, and Committees, to conduct quasi-  
42 judicial proceedings.

43  
44 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**  
45 **TAKOMA PARK THAT** the operations of the City's Boards, Commissions and Committees are  
46 hereby suspended due to the novel coronavirus as follows:

1  
2 **Section 1.** All quasi-judicial proceedings before the City’s Boards, Commissions, and  
3 Committees, are hereby suspended and the underlying matters stayed until thirty  
4 (30) days after Maryland’s Covid – 19 state of emergency has been terminated. The  
5 City Manager shall take all reasonable and appropriate steps necessary to  
6 implement this Resolution.  
7

8 **Section 2.** During the effective period of this Resolution a City Board, Commission, or  
9 Committee, may proceed with a quasi-judicial proceeding only if it is determined  
10 by the City Manager to be an emergency relating to the public’s health, safety, or  
11 welfare.  
12

13 **Section 3.** The City Manager is directed to ensure any and all necessary communications are  
14 made with any party to a matter pending before any City Board, Commission, or  
15 Committee, and with the Governor’s Office and any other State Agency regarding  
16 this Resolution.  
17

18 **Section 4.** Nothing herein shall be construed as limiting the City Manager’s authority to act  
19 pursuant to Uncodified Emergency Ordinance 2020-04, which was enacted on  
20 March 11, 2020.  
21

22 **Section 5.** The Mayor and Council may rescind, modify, or extend this Resolution by a  
23 majority vote of those present.  
24

25 **THIS RESOLUTION, WHICH IS EFFECTIVE IMMEDIATELY, IS ADOPTED BY THE**  
26 **COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS 15TH DAY OF**  
27 **APRIL, 2020, BY ROLL-CALL VOTE AS FOLLOWS:**  
28

29 **AYE:** Stewart, Kovar, Dyballa, Kostiuik, Seamens, Smith, Searcy  
30 **NAY:** None  
31 **ABSTAIN:** None  
32 **ABSENT:** None  
33  
34

35 **Attest:**

36  
37 **Jessie Carpenter, CMC**  
38 **City Clerk**