



Takoma Park City Council Meeting – July 29, 2020 Agenda Item 10

Voting Session

Modifying Resolution 2020-12 Suspending Quasi-Judicial Proceedings

Recommended Council Action

Consider and vote on the resolution.

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.

After the July 22nd work session Councilmember Dyballa suggested minor revisions to the Resolution. They have been incorporated.

Council Priority

Engaged, Responsive and Service-Oriented Government

Environmental Considerations

None.

Fiscal Considerations

None.

Racial Equity Considerations

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 **IN CERTAIN CIRCUMSTANCES** PROVIDED**
11 **~~CITY STAFF AND MEMBERS OF THE BOARDS, COMMISSIONS,~~**
12 **~~AND COMMITTEES ARE ABLE TO FACILITE SAID~~**
13 **~~PROCEEDINGS DESPITE THE ONGOING PUBLIC HEALTH~~**
14 **~~CRISIS AND CONTINUING THE STAY OF ALL UNDERLYING~~**
15 **~~MATTERS WHICH CANNOT BE PROCESSED TIMELY OR~~**
16 **~~THROUGH THE USE OF VIRTUAL TECHNOLOGY UNTIL~~**
17 **~~THIRTY DAYS AFTER THE EXPIRATION OF THE STATE OF~~**
18 **~~EMERGENCY DECLARED BY GOVERNOR LAWRENCE J.~~**
19 **~~HOGAN, JR., DUE TO THE COVID-19 PANDEMIC.~~**
20

21 **WHEREAS,** On March 5, 2020, Governor Lawrence J. Hogan, Jr. of Maryland proclaimed a
22 state of emergency and a catastrophic health emergency due to the outbreak of
23 disease, hereinafter referred to as “COVID-19,” caused by the novel coronavirus;
24 and
25

26 **WHEREAS,** On March 11, 2020, the City Council adopted an uncodified emergency Ordinance
27 authorizing the City Manager to act in response to the emergency created by the
28 novel coronavirus by taking all appropriate and reasonable measures to assure the
29 efficient operation of the City’s government and to protect the public’s health,
30 safety, and welfare; and
31

32 **WHEREAS,** On March 17, 2020, the Chief Judge of the Court of Appeals of Maryland issued
33 an Administrative Order restricting all courts in the Maryland Judiciary, court
34 offices, administrative offices, units of the Judiciary, and the Offices of the Clerks
35 of the Circuit Courts and the clerks’ offices of the District Court, to emergency
36 operations and closed with limited exceptions; and
37

38 **WHEREAS,** On April 8, 2020, the Chief Judge of the Court of Appeals of Maryland continued
39 restrictions and closures of Maryland’s Courts through May 1, 2020; and
40

41 **WHEREAS,** On May 4, 2020, the Chief Judge of the Court of Appeals of Maryland continued
42 restrictions and closures of Maryland’s Courts through June 5, 2020; and
43

44 **WHEREAS,** On May 22, 2020, the Chief Judge of the Court of Appeals of Maryland announced
45 a phased reopening of Maryland’s Courts beginning June 5, 2020; and
46

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, and
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 virtual 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 virtual quasi-judicial proceedings or otherwise provided by this
45 Resolution, all quasi-judicial proceedings before the City’s Boards, Commissions,

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