# TOWN COUNCIL
# REGULAR MEETING AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170

Tuesday, October 8, 2024 | 7:00 PM

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1. **Call to Order**

2. **Pledge of Allegiance to the Flag of the United States of America**

3. **Presentations/Reports/Comments**

   a. Town Manager Report

   b. Councilmember Comments

4. **Comments from the Audience**
   *Members of the public may, for one 3-minute period, provide public comments, requests, consent or general item comments, and comments on matters not included on the agenda.*

5. **Public Hearings**

   a. Resolution 24-G-62 to approve a Right-of-Way Encroachment Agreement with Fairfield 555 Herndon, LLC, owner of real property described as Fairfax County Tax Map No. 0164 10 0002C, to allow certain improvements within Town of Herndon right-of-way proposed in the major site plan for 555 Herndon Parkway – Multi-family with Retail (MJP23-04)

6. **Consent**

   a. Resolution 24-G-63 to authorize the town manager to submit a grant application to the Virginia Department of Transportation for funding under the Virginia Highway Safety Improvement Program (VHSIP) for the replacement of traffic signal heads and installation of high visibility signal backplates.

   b. Resolution 24-G-64 to award Contract #B-25-02, Fuel Tanks Replacement Project

c. July 16, 2024, Town Council Meeting Minutes

## 7. Adjournment

Interpretación en Español está disponible en esta sesión.

# Town Council
# Regular Meeting
## Agenda Item 5.a.

**Agenda Item:** **Resolution 24-G-62 to approve a Right-of-Way Encroachment Agreement with Fairfield 555 Herndon, LLC, owner of real property described as Fairfax County Tax Map No. 0164 10 0002C, to allow certain improvements within Town of Herndon right-of-way proposed in the major site plan for 555 Herndon Parkway – Multi-family with Retail (MJP23-04)**

**Meeting Date:** October 8, 2024

**Category:** Public Hearings

**Prepared by:** John Irish, Acting Director of Public Works - Engineering, Lauri Sigler, Deputy Town Attorney

**Description:**
Before you is a Resolution to approve a Right-of-Way Encroachment Agreement (the "Agreement") with Fairfield 555 Herndon, LLC, to allow for the construction of certain improvements in Town of Herndon Right-of-Way in conjunction with the major site plan for 555 Herndon Parkway – Multi-family with Retail (MJP #23-04). Staff is requesting the Town Council approve the Resolution, as proposed.

**Background:**
Fairfield 555 Herndon, LLC (the "Owner"), is the owner of property in the Town of Herndon recorded in Deed Book 28037, at Page 1828 of land records of Fairfax County, Virginia at 555 Herndon Parkway, known as Tax Map No. 0164 10 0002C (the "Property"), has submitted a major site plan (MJP #23-04) for the construction of improvements that is currently under administrative review by town staff (the "Site Plan"). The Site Plan proposes the construction of a large multi-family building with retail space and includes a central plaza area that opens to Herndon Parkway containing public space with hardscaping and landscaping. The Site Plan shows the construction and installation of non-standard decorative pavers starting in the central plaza and fanning out over a portion of the Town's public ingress-egress pedestrian sidewalk area within the Town's right-of-way along Herndon Parkway shown on proposed Sheet L210 of the Site Plan included as an attachment (the "Improvements").

The Town Attorney drafted the Agreement that permits the installation of the Improvements within the Town's right-of-way and requires the Owner to maintain the Improvements in compliance with Town standards and any applicable standards set forth in the Americans with Disabilities Act to ensure continued safe unimpeded ingress and egress to the public. The Agreement also requires the Town to provide notice to the property owner prior to maintenance or repair of the non-standard decorative pavers

located in the right-of-way. The Owner is then required to remove its Improvements that will interfere with the Town's work, with the Town having no obligation to restore the Owner's Improvements. In the case of an emergency, the Town will provide notice that is reasonable under the circumstances and the Town has the authority to remove the Improvements if the Owner has not done so and seek reimbursement of the costs for such removal from the Owner. This Agreement must be signed by the parties and recorded in the Fairfax County land records prior to the approval of the Site Plan; however, staff recommends that the Mayor not sign the Agreement until after town staff determines that the Site Plan is in approvable form.

Staff in both the Department of Public Works and the Department of Community Development have reviewed the site plan and approved the terms in the proposed Agreement.

The Agreement between the Town and Fairfield 555 Herndon, LLC, which has been updated with minor non-substantive changes since the work session on October 1, 2024, and the proposed resolution approving the Agreement are attached for the Town Council's consideration.

The notices for public hearing were duly advertised in the *Fairfax County Times Newspapers* in the Friday, September 20 and September 27, 2024, editions.

**Budget Impact:**
N/A

**Recommendation:**
Staff recommends that the Town Council approve the draft resolution as proposed.

**Attachments:**
1. Resolution (Proposed)
2. Encroachment Agreement (Proposed)
3. Exhibit A (Attachment)
4. Legal Ad

**TOWN OF HERNDON, VIRGINIA**
**TOWN COUNCIL**

**RESOLUTION**

**OCTOBER 8, 2024**

**Resolution-** **to approve a Right-of-Way Encroachment Agreement with Fairfield 555 Herndon, LLC, owner of real property described as Fairfax County Tax Map No. 0164 10 0002C, to allow certain improvements within Town of Herndon right-of-way proposed in the major site plan for 555 Herndon Parkway – Multi-family with Retail (MJP23-04).**

Fairfield 555 Herndon, LLC (the "Owner") is the owner of property in the Town of Herndon recorded in Deed Book 28037, at Page 1828 of land records of Fairfax County, Virginia at 555 Herndon Parkway, known as Tax Map No. 0164 10 0002C (the "Property").

The Owner has submitted major site plan MJP 23-04 (the "Site Plan") for the construction of improvements that is currently under review by town staff. The Site Plan proposes the construction and installation of non-standard decorative pavers within the sidewalk in the Town's right-of-way along Herndon Parkway ("Improvements").

The Right-of-Way Encroachment Agreement grants the Owner permission to construct its Improvements within the right-of-way and sets the terms for the Town to provide notice to the Owner prior to maintenance or repair of work in the right-of-way and does not obligate the Town to reinstall the Improvements after said work.

The Right-of-Way Encroachment Agreement must be signed by all parties and recorded in the land records prior to the approval of the Site Plan.

**THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Herndon, Virginia that:

1. The Town Council authorizes the Mayor to sign on behalf of the Town, the Right-of-Way Encroachment Agreement with Fairfield 555 Herndon, LLC, substantially in the form and with the material terms of what was considered by the Town Council on October 8, 2024, with such changes as approved by the Town Attorney after such time as town staff determines that the Site Plan MJP 23-04 is in approvable form.

**24-G-62**

# RIGHT-OF-WAY ENCROACHMENT AGREEMENT

This Right-of-Way Encroachment Agreement ("Agreement") is made this ____ day of _____, 2024 by and between **FAIRFIELD 555 HERNDON LLC,** a Delaware limited liability company ("Owner"), Grantor and Grantee; and the **TOWN OF HERNDON, VIRGINIA** ("Town"), Grantee.

**W I T N E S S E T H :**

WHEREAS, by virtue of a deed recorded in Deed Book 28037, at Page 1828, among the land records of Fairfax County, Virginia, Owner owns certain real estate situate in the Town of Herndon, more particularly described as Fairfax County Tax Map No. 0164 10 0002C, as the same is duly dedicated, platted and recorded in Deed of Resubdivision and Deed of Easement in Deed Book 5838 at page 1680 among the land records of Fairfax County, Virginia ("Property"); and

WHEREAS, the Owner has submitted a major site plan for 555 Herndon Parkway – Multi-family with Retail (MJP23-04) (the "Site Plan") for the construction upon the Property of improvements that is currently under review by town staff that proposes the installation of non-standard decorative pavers in the public ingress-egress pedestrian sidewalk area within the Town's right-of-way along Herndon Parkway. The said non-standard decorative pavers hereinafter are referred to as "Improvements."

WHEREAS, Owner desires to install and maintain the Improvements in the public ingress-egress pedestrian sidewalk area within the Town's right-of-way along Herndon Parkway in the location and in conformance with the Site Plan and as generally shown on Exhibit A, attached hereto and made a part hereof, and Town desires to approve said Improvements within the Town's right-of-way along Herndon Parkway in the location and in conformance with the Site Plan and as generally shown on Exhibit A.

NOW THEREFORE, in consideration of the sum of Ten Dollars ($10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Town consents to Owner's request to install the Improvements within the right-of-way in conformance with and in the locations depicted on the Site Plan and Exhibit A and subject to the conditions set forth herein.

2. Owner shall be primarily responsible to maintain the Improvements in compliance with Town standards and any applicable standards set forth in the Americans with Disabilities Act to ensure continued safe unimpeded ingress and egress to the public.

3. Within fifteen (15) days following the date of receipt of Notice from the Town, Owner shall remove any specified Improvements erected in the right-of-way when necessary for the proper and efficient operation of the right-of-way and the Town's maintenance of its facilities adjacent to the Improvements. The Town shall have no obligation to reinstall any of the Improvements removed by Owner.

4. In the event of an emergency, the Town shall not be required to provide fifteen (15) days' Notice of the Improvements removal and will instead provide Notice that is reasonable under the circumstances with a description of the emergency and Owner shall remove any specified Improvements within the time requested by the Town.

5. If Owner fails to remove any Improvements requested to be removed in a timely manner, Town shall have the right to remove the Improvements and shall have no obligation to reinstall any removed Improvements and shall have no liability for damage to any removed Improvements. If Town, pursuant to this Agreement removes any Improvements, Owner shall reimburse the Town upon demand, within thirty (30) days of receipt of the demand for all costs incurred by the Town.

6. If any Improvements are removed, damaged, destroyed or otherwise in need of replacement, Owner shall have the right to restore, repair and/or replace such Improvements in substantially the same location in the right-of-way that such Improvements occupied prior to removal, destruction, damage or replacement.

7. The Owner, its assigns and successors in interest, shall indemnify and hold harmless the Town and its agents and employees for any and all damages, liabilities or losses incurred by or claimed against the Town by a third party arising from bodily injury to persons or damage to property resulting from the negligence or intentional misconduct of Owner in the installation, maintenance or removal of the Improvements by Owner. This paragraph shall not apply for damage arising out of bodily injury to persons or damage to property resulting solely from the negligence or intentional act of the Town or its agents or employees.

8. In the event a claim as described in Paragraph 7 is asserted against the Town, its agents or employees, the Town shall promptly notify Owner, and Owner shall defend at its own expense any suit based on such claim. If any judgment or claims against the Town, its agents, officers, or employees shall be allowed, the Owner shall pay on demand the judgment and all reasonable related Town costs and expenses.

9. All notices required or desired to be given under this Agreement ("Notice") shall be in writing and either (a) hand-delivered, (b) sent by certified mail, return receipt requested, (c) sent via FedEx or similar overnight service or (d) sent via

electronic mail (so long as Notice also is provided through either method (a), (b) or (c) as herein described). All Notices to Owner shall be addressed as follows:

OWNER: Fairfield 555 Herndon LLC
5355 Mira Sorrento Place, Suite 100
San Diego, CA 92121
Attn: Jenna Woods, Esq.
E-Mail: jwoods@ffres.com
Telephone No.: 858-626-8238

Copy To: Fairfield 555 Herndon LLC
3811 N. Fairfax Drive, Suite 750
Arlington, VA 22203
Attn: Trey Kirby
E-Mail: tkirby3@ffres.com
Telephone No.: 571-403-5260

Copy To: Wire Gill LLP
700 N. Fairfax Street, Suite 700
Alexandria, VA 22314
Attn: Kenneth Wire, Esquire
E-Mail: kwire@wiregill.com
Telephone No.: 202-431-3624
Telephone No.: 703-677-3129

or to any other address hereafter designated by Owner. Owner agrees to inform the Town prior to transfer of ownership of the Property to an unrelated successor owner and to provide the Town with the notice contact information of the successor owner.

10. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURES BEGINNING ON NEXT PAGE]

FAIRFIELD 555 HERNDON LLC
A Delaware limited liability company

By _____
Name _____
[Print]
Its: _____
[Print title]

COMMONWEALTH OF VIRGINIA
COUNTY OF _____, to wit:

I , the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that _____ as _____ of FAIRFIELD 555 HERNDON LLC, whose name is signed to the foregoing Agreement, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____,_____.

_____
Notary Public

My Commission Expires: _____
My Notary Registration Number: _____

TOWN OF HERNDON, VIRGINIA,
a Virginia municipal corporation

by _____
Sheila A. Olem
Mayor

ATTEST:

_____
Town Clerk

COMMONWEALTH OF VIRGINIA
COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Sheila A. Olem as Mayor of the TOWN OF HERNDON, VIRGINIA, a Virginia municipal corporation, whose name is signed to the foregoing Agreement, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____,_____.

_____
Notary Public

My Commission Expires: _____
My Notary Registration Number: _____

APPROVED AS TO FORM:

_____
Lesa J. Yeatts, Town Attorney

APPROVED:

_____
Richard P. Smith, P.E., Senior Civil Engineer

PROP. LOOP ROAD
SEGMENT 'A'
PROP. LOOP ROAD
SEGMENT 'B'
PROP. LOOP ROAD
SEGMENT 'C'
DULLES ACCESS RD
HERNDON PKWY

**Town of Herndon, Virginia**
**Notice of Public Hearing**

Notice is hereby given that the **Town Council** of the Town of Herndon, Virginia, will hold a public hearing on Tuesday, October 8, 2024, at 7:00 p.m. in the Herndon Council Chambers Building, located at 765 Lynn Street, Herndon on the following item:

> **Resolution, to approve a Right-of-Way Encroachment Agreement with Fairfield 555 Herndon, LLC**, owner of real property described as Fairfax County Tax Map No. 0164 10 0002C, to allow certain improvements within Town of Herndon right-of-way proposed in the major site plan for 555 Herndon Parkway – Multi-family with Retail (MJP23-04).

The public is encouraged to participate in the town's public hearing process. Individuals having an interest in the above item are invited to attend the public hearing and state their opinions and may also submit comments to town.clerk@herndon-va.gov. Information on this item is available for review by the public on the town's website at www.herndon-va.gov.

The Town of Herndon supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities, so that they may participate in services, programs, or activities, offered by the town. Please call (703) 435-6804 to arrange for any accommodation that may be necessary to allow for participation. Interpretación en Español está disponible en esta sesión.

Amanda Morrow Kertz, Acting Town Clerk

Note to Publisher:
Publish on September 20/September 27, 2024

# Town Council
# Regular Meeting
# Agenda Item 6.a.

**Agenda Item:** **Resolution 24-G-63 to authorize the town manager to submit a grant application to the Virginia Department of Transportation for funding under the Virginia Highway Safety Improvement Program (VHSIP) for the replacement of traffic signal heads and installation of high visibility signal backplates.**

**Meeting Date:** October 8, 2024

**Category:** Consent

**Prepared by:** John Irish, Acting Director of Public Works - Engineering, Mike Shindledecker Transportation Engineer

**Description:**
This is an authorization request for the town manager to submit a grant application under the Virginia Highway Safety Improvement Program for replacement of traffic signal heads and backplates.

**Background:**
This resolution provides authorization for the town manager to submit a grant application under the Virginia Highway Safety Improvement Program (VHSIP) under the Virginia Department of Transportation (VDOT). The purpose of this grant application is to fund replacement of all traffic signal heads (traffic lights) within the Town of Herndon and install high visibility signal backplates (HVSBs) to improve the conspicuity of traffic signals (not including signals that have been or are currently under construction). This safety improvement is one of six proven safety countermeasures funded through the VHSIP. This action also directly supports the goals of the Town's ongoing Transportation Safety Action Plan.

Funds would be used for professional services, project administration, equipment purchases, and mobilization funding to deploy new signal heads and install high visibility backplates. The first grant submittal deadline is October 31, 2024.

**Budget Impact:**
The total grant request is unknown at the time of this staff report, but is expected not to exceed $516,000. The grant program is 100% funded and does not require any local match. Expenditures are not required to exceed the grant funding amount if less than requested, and the Town is not responsible for providing the difference between awarded funds and estimated costs at time of implementation. Any funding shortfalls would be eligible to be re-entered for a future year funding request.

**Recommendation:**
The staff recommends that the Town Council approve the attached resolution to authorize submittal of a Virginia Highway Safety Improvement Program (VHSIP) grant application to the Virginia Department of Transportation.

**Attachments:**
1. Resolution (Proposed)

**TOWN OF HERNDON, VIRGINIA**
**TOWN COUNCIL**

**RESOLUTION**

**OCTOBER 8, 2024**

**Resolution-** **to authorize the town manager to submit a grant application to the Virginia Department of Transportation for funding under the Virginia Highway Safety Improvement Program (VHSIP) for the replacement of traffic signal heads and installation of high visibility signal backplates.**

**BE IT RESOLVED** by the Town Council of the Town of Herndon, Virginia that:

1. The town manager is authorized to submit a grant application to the Virginia Department of Transportation for funding assistance under the VHSIP to be directed toward the assessment and associated replacement of traffic signal heads and high visibility backplates at all traffic signal locations throughout town (up to 43 traffic signals as determined by assessment).

2. These funds will be used to improve visibility and clarity of traffic signals throughout town, improving safety with the intent to reduce and eliminate serious injury and fatal crashes affecting all roadway users. This action directly supports the town's ongoing Transportation Safety Action Plan.

**24-G-63**

# Town Council
# Regular Meeting
# Agenda Item 6.b.

**Agenda Item:** **Resolution 24-G-64 to award Contract #B-25-02, Fuel Tanks Replacement Project**

**Meeting Date:** October 8, 2024

**Category:** Consent

**Prepared by:** John Irish, Acting Director of Public Works - Engineering

**Description:**
This is a request to award Contract #B-25-02, Fuel Tanks Replacement Project.

**Background:**
Fuel Tanks Replacement Project is a project that is federally funded through the American Rescue Plan Act Fund (ARPA Fund). The project proposes closing and abandonment of two existing 10,000-gallon underground fuel tanks, and installation of two new 12,000-gallon above ground fuel tanks with fully operational systems at the Town Shop facility located at 1479 Sterling Road. The work shall also include the removal and replacement of the existing concrete fuel island, leaving the existing steel columns and canopy in place. The existing fuel dispensers are also to be removed and replaced with new dual hose fuel dispensers while the fuel management system is to be temporarily removed and reinstalled.

On August 27, 2024, Contract #B-25-02, Fuel Tanks Replacement Project, was advertised on eProcurement platform OpenGov and on the Commonwealth of Virginia eVA Procurement Portal. On September 26, 2024, a public bid opening was held, and the following bids were received:

| Contractor | Bid |
|---|---|
| JF Petroleum Group and JF Construction Services | $1,014,066.97 |
| Petroleum Services, Inc | $1,069,670.00 |
| BC&C, LLC | $1,115,450.00 |
| Total Environmental Concepts, Inc | $1,188,400.00 |
| Bright Construction Group | $2,258,650.00 |

The apparent lowest bidder, JF Petroleum Group and JF Construction Services, has been found to be responsive and responsible.

**Budget Impact:**
Funds to support this contract are available in the Project Account #100-0886-491320.

**Recommendation:**
Staff recommends that the Town Council:

1. Award Contract #B-25-02, Fuel Tanks Replacement Project, to JF Petroleum Group and JF Construction Services for $1,014,066.97.

2. Authorize the Town Manager or their designee to approve contract modifications that modify project scope, costs, and length of contract time in accordance with procurement policy and regulations.

**Attachments:**
1. Resolution (Proposed)

**TOWN OF HERNDON, VIRGINIA**
**TOWN COUNCIL**

**RESOLUTION**

**OCTOBER 8, 2024**

**Resolution- to award Contract #B-25-02, Fuel Tanks Replacement Project**

The town has solicited by posting the Invitation for Bid (IFB) for a qualified contractor in closing and abandonment of two existing underground fuel storage tanks located at 1479 Sterling Road and to install two above ground fuel tanks. The Fuel Tanks Replacement Project is federally funded through the American Rescue Plan Act Fund (ARPA Fund). The project was advertised on August 27, 2024 and five (5) bids were received and opened on September 26, 2024 at a public bid opening.

JF Petroleum Group and JF Construction Services submitted the lowest bid which was found to be responsive and responsible.

**THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Herndon, Virginia that:

1. Contract #B-25-02, Fuel Tanks Replacement Project, is awarded to JF Petroleum Group and JF Construction Services.

2. The Town Manager or their designee is authorized to approve contract modifications that modify project scope, costs, and length of contract time in accordance with procurement policy and regulations.

**24-G-64**

# Town Council
# Regular Meeting
# Agenda Item 6.c.

**Agenda Item:** **July 16, 2024, Town Council Meeting Minutes**

**Meeting Date:** October 8, 2024

**Category:** Consent

**Prepared by:** Amanda Kertz, Acting Town Clerk

**Description:**
This is a request to approve the July 16, 2024 Regular Meeting Minutes.

**Background:**
N/A

**Budget Impact:**
N/A

**Recommendation:**
Recommend approval as presented.

**Attachments:**
1. July 16, 2024 Draft Meeting Minutes

**HERNDON TOWN COUNCIL**
**Regular Meeting Minutes**
**Tuesday, July 16, 2024**

## 1. Call to Order

Mayor Olem called the July 16, 2024, Town Council regular meeting to order at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Mayor Sheila Olem; Vice Mayor Clark Hedrick; and Councilmembers Naila Alam, Cesar del Aguila, Pradip Dhakal, and Keven LeBlanc.

Councilmember Donielle M. Scherff was absent.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Kirstyn Barr Jovanovich, Acting Town Manager/Town Clerk; Chief Maggie DeBoard, Herndon Police Department; Lisa Gilleran, Director of Community Development; Marjorie Sloan, Director of Finance; Page Kalapasev, Director of Information Technology; Scott Robinson, Director of Public Works; Mike Mueller, Golf Course General Manager; Tammy Chastain and John Irish, Deputy Directors of Public Works; David Stromberg, Zoning Administrator; Richard Smith, Senior Civil Engineer; Mike Shindledecker, Transportation Engineer; Maria Lee, Budget Manager; and Amanda Kertz, Chief Deputy Town Clerk.

## 2. Pledge of Allegiance to the Flag of the United States of America

Mayor Olem welcomed Boy Scout Troop 1577 to come forward and lead the audience in the Pledge of Allegiance to the Flag of the United States of America.

### Determination of a Quorum

Mayor Olem determined there was a quorum of six Councilmembers present. Councilmember Scherff was absent. Mayor Olem reminded the Council of the meeting decorum.

## 3. Presentations/Reports/Comments

### a. Town Manager Report

Mayor Olem recognized Kirstyn Barr Jovanovich, Acting Town Manager/Town Manager, and she stated that she did not have any comments at that time.

**Mayor Announcements**

Mayor Olem stated that last Wednesday, William H. Ashton II submitted his resignation as Town Manager and has been appointed as the new County Administrator for Stafford County. His last day would be on September 10, and he was expected to return from a scheduled out-of-town trip later that evening. She stated that the Council was going to meet in closed session later that evening to discuss next steps. More information will be provided as the Town moves through this transition.

Mayor Olem stated that in a few weeks, the Town of Herndon will be recognizing the 41st annual 'National Night Out'. Communities throughout Herndon are joining with the Herndon Police Department to celebrate on Tuesday, August 6. Because of National Night Out, the next Town Council work session will be held on Wednesday, August 7, 2024.

Mayor Olem stated that the Council received several emails about the Herndon Parkway and Monroe Street intersection, and she asked Scott Robinson, Director of Public Works, to brief the public on the intersection.

Mr. Robinson stated that staff began receiving comments regarding safety concerns at this intersection about two or three weeks ago. First, staff made adjustments to the stoplight timing, but he indicated that the residents that live near the intersection still have concerns. He stated that staff is taking the following steps to address the concerns: (1) Herndon Police Department is going to increase their presence to monitor the intersection, (2) staff and the Town's transportation consultant will collect data on the intersection and review safety recommendations, and (3) Traffic Engineering Improvement Committee (TEIC) plans to review the report for this intersection at its September meeting.

**b. Councilmember Comments**

Councilmember Dhakal: welcomed the residents in attendance and Boy Scout Troop 1577 to the meeting that evening. He discussed events and meetings several recently he attended, including: (1) Friday Night Live (FNL) Sponsor Party on June 14, (2) Juneteenth celebration on June 15, (3) community picnic organized by a Herndon nonprofit on June 22, (4) recent Tuesday "Open Mic Night" at the Herndon Fortnightly Library, (5) productive discussion with the Town's branding consultant about rebranding, (6) July 4th fireworks celebration at Bready Park; offering kudos to the Parks and Recreation and Police Department staff, and (7) conversation with Bob Williams, Director of Parks and Recreation, about a pickleball tournament on September 11; stating that more information is forthcoming.

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Councilmember Dhakal thanked Mr. Robinson for the update he provided on the Herndon Parkway and Monroe Street intersection, indicating that he had planned to ask for an update as well.

Councilmember del Aguila: no comments.

Councilmember Alam: stated it was good to see many neighbors here this evening and encouraged everyone to stay hydrated during the hot weather.

Councilmember Alam asked, if possible, for the Council to consider providing water with cups at the Council Chambers.

Councilmember LeBlanc: welcomed those in attendance that evening. He discussed several events and meetings he recently attended, including: (1) Old Hunt Way July 4th Parade; thanking the Departments of Public Works, Parks and Recreation staff, and the Old Hunt Way neighborhood, (2) during a recent Committee for Dulles meeting, the focus was on expanding cargo support within Dulles; noting that there is another board meeting occurring that week; and (3) stated that he is attending the Virginia Municipal League (VML) Community and Economic Development Committee meeting; where he is working with other municipal officials throughout the state to look at legislation to consider related to those areas.

Vice Mayor Hedrick: echoed his colleagues' comments welcoming those here that evening. He stated that tomorrow he is attending a VML Laws Committee meeting to discuss items that will be before the General Assembly in the next term.

Mayor Olem: stated that she wanted to acknowledge the recent tragic assassination attempt of a previous president. She stated that it is heartbreaking to see that violence is continuing to go on in public space. She stated that Herndon is a wonderful, welcoming town, and that she hopes that type of vitriol will stay out of the Herndon community.

Echoing Councilmember LeBlanc and Vice Mayor Hedrick's comments on the upcoming VML committee meetings, Mayor Olem stated that she is a member of the VML Transportation Committee, which is also meeting this week to address transportation needs statewide.

Mayor Olem discussed several events she recently attended, including: (1) expressed kudos to Parks and Recreation Department for: (a) the Herndon Torch program, (b) 45th Herndon Olympics, where she attended the opening ceremonies and carried the Town flag, (2) Grand Opening of the Monument Garage by the Fairfax County Government Center, which is focused on multimodal transportation; stating that funding for that project came from the NVTA, (3) George Mason University's Small Business Development Center’s Lunch and

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Learn, where she spoke with the small business community, and (4) 106 convention for the American Legion for the Department of Virginia, where she welcomed the attendees.

**Comments and Disclosures for the Record**

Mayor Olem asked Amanda Kertz, Chief Deputy Town Clerk, if she received comments for the record or signed disclosure declarations from the Council.

Ms. Kertz stated that comments were provided to the Council and entered into the record on:

- General Item #6(b), request to consider a donation supporting the 2024 Stars and Stripes NOVA Committee Charity Golf Tournament; and

- General Item #6(c) request to consider a donation to the Global Beat Foundation, supporting the Pakistan Day Celebration.

Additionally, the following Members of Council entered Signed Transactional Disclosure Statements into the record:

- Vice Mayor Hedrick, and Councilmembers del Aguila, Dhakal, and LeBlanc on General Item #6(b), request to consider a donation to Stars and Stripes NOVA Committee Charity Golf Tournament; and

- Councilmembers Alam, del Aguila, and Dhakal on General Item #6(c), request to consider a donation to Global Beat Foundation, supporting the Pakistan Day Celebration.

The statements indicate that they are able to participate in the discussions fairly, objectively, and in the public interest. The signed disclosure statements have been entered into the record with the Town Clerk and Town Attorney. The Town Clerk did not receive additional public comments or disclosures on any other items listed on that meeting's agenda.

**4. <u>Comments from the Audience</u>**

Mayor Olem reviewed the process and asked those who wanted to provide Comments from the Audience to come forward.

The following individuals provided comments on the topics as listed below:

General item 6(b), Resolution 24-G-39 to award a donation to Stars and Stripes NOVA Committee in support of the 2024 Stars and Stripes NOVA Committee Charity Golf Tournament:

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- Susan Murray, 301 Bruce Court, Herndon.
- Matt Krider, 12913 Alton Square, Herndon: Deputy Chair of the Stars and Stripes NOVA Committee.
- Stevan Porter, 905 Vine Street, Herndon: expressed concern over what he saw as inconsistencies in the application of the cultural events funding policy.
- Philip Langer, 12913 Alton Square, Herndon: Chief of Staff, Stars and Stripes NOVA Committee.
- Jay Hadlock, 515 Alabama Drive Herndon: also requested information about where the initiative funding was located in the FY 2025 budget.
- Barbara Glakas, 935 Barton Oaks Place, Herndon: also expressed concern about Town Council spending.

Safety Concerns at the Herndon Parkway and Monroe Street Intersection:

- Tomoko Azuma, 1370 Dominion Ridge Lane: requested traffic-calming measures at the intersection; also cited safety concerns at the intersection of Herndon Parkway and Summerfield Drive.
- Robert Yost 1368 Dominion Ridge Lane, Herndon: requested data collection to occur when school was in session.
- Alison Jamison, 1353 Grant Street, Herndon: asked the Town to address speeding along the entire Herndon Parkway and to consider reducing the speed in some of the sections.
- Tara Stone Medina, 1289 Monroe Street, Herndon.
- Sarah Murphy, 603 Worchester Street, Herndon: suggested adding rumble stipes or flashing lights before the intersection to draw attention to the traffic light.

Various Subjects:

- Stephen Mundt 814 Locust Street, Herndon: expressed his concerns about: (1) Town elections becoming partisan, (2) spending on town-sponsored events and application of policy, (3) echoed safety concerns on Herndon Parkway; stating that speeding is a problem throughout the Town.

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- Mary Burger, 630 Wood Street, Herndon: expressed concerns about the caucus process she understood was being used by the Fairfax County Democrats to create a sample ballot.

- Barry Clendenin 520 Fillmore Street, Herndon: provided comments on: (1) the leadership of William H. Ashton II, Town Manager, and (2) expressed concern that Town elections are becoming partisan.

- Bessie Denton, 496 Virginia Avenue, Herndon: (1) expressed safety concerns about double-sided parking on April Way, and (2) expressed concern about political party affiliations, stating that she was not born with the right to vote.

There was a brief exchange between Councilmember del Aguila and Mayor Olem regarding a point of order called by Councilmember del Aguila about the three-minute time limit for speakers during this portion of the agenda.

**5. <u>Public Hearings</u>**

**a. Ordinance 24-O-21 to approve and authorize the mayor to sign a third lease amendment between the town and T-Mobile Northeast, LLC to renew the lease term at the Spring Knoll Drive water tower**

Certificates of Publication were filed from the Editor of the Fairfax County Times Newspapers, showing that notice of said public hearing items had been duly advertised in the Friday, June 28 and July 5, 2024 issues.

Mayor Olem opened the public hearing and recognized Tammy Chastain, Deputy Director of Public Works, for the staff report, stating that the proposed third lease amendment, dated June 11, 2024, allows for the renewal of the lease for three additional renewal terms of five years each, effective on July 1, 2024. Each term will renew automatically, with the same terms and conditions of the original lease, to include the three percent escalation of rent. Staff recommends approval of the proposed ordinance, as presented.

There were no comments from the Council or the applicant.

Seeing no comments from the audience, Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Councilmember LeBlanc moved to approve Ordinance 24-O-21 to approve and authorize the mayor to sign a third lease amendment between the town and T-Mobile Northeast, LLC to renew the lease term at the Spring Knoll Drive water tower, as presented.

Motion seconded by Councilmember Alam.

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The question was called on the motion, which carried by a 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

**b. Ordinance 24-O-22 to approve and authorize the mayor to sign a second franchise amendment between the Town and XO Virginia, LLC to extend the current term for an additional 10-years, update exhibit map, and amend notice information**

Certificates of Publication were filed from the Editor of the Fairfax County Times Newspapers, showing that notice of said public hearing items had been duly advertised in the Friday, June 28 and July 5, 2024 issues.

Mayor Olem opened the public hearing and recognized Tammy Chastain, Deputy Director of Public Works, presented the staff report, stated that the proposed second franchise amendment extends the agreement for an additional 10 years, expiring on July 14, 2034. Even though there are no route changes, she stated that the exhibit map was updated to be more legible, and addresses have been updated from the original agreement. Staff recommends approval of the proposed ordinance to approve and authorize a second franchise amendment, as presented.

There were no comments from the Council or the applicant.

Seeing no comments from the audience, Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Vice Mayor Hedrick moved to Ordinance 24-O-22 to approve and authorize the mayor to sign a second franchise amendment between the Town and XO Virginia, LLC to extend the current term for an additional 10-years, update exhibit map, and amend notice information, as presented.

Motion seconded by Councilmember Dhakal.

The question was called on the motion, which carried by a 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

**c. Ordinance 24-O-23 to amend the Fiscal Year (FY) 2025 Adopted Budget for the General Fund, Water and Sewer Fund, Chestnut Grove Cemetery Fund, Herndon Centennial Golf Fund, Capital Projects Fund, Storm Water Management Fund, and American Rescue Plan Act (ARPA) Fund; and**

Certificates of Publication were filed from the Editor of the Fairfax County Times Newspapers, showing that notice of said public hearing items had been duly advertised in the Friday, June 28 and July 5, 2024 issues.

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## 6. General

### a. Resolution 24-G-38 to authorize the Reserve of Fiscal Year (FY) 2024 funding for ongoing operations and maintenance, Capital Projects, ARPA Projects, and for Outstanding Encumbrances on June 30, 2024 for the FY 2025 Adopted Budget

Mayor Olem stated that the staff reports for the last public hearing and first general item will be presented concurrently, and that there will be a public hearing held on the ordinance, with separate action taken on the general item. She recognized Marjorie Sloan, Director of Finance, for the staff report.

Ms. Sloan stated that the annual procedure at fiscal year-end is to set aside specific amounts from the fund balance or net position for the outstanding encumbrances and reserves that existed the previous fiscal year as described in the Town Council's annual reserve resolution and annual budget ordinance. Due to timing, delays, and status, some of these activities or projects were not completed by the end of the fiscal year on June 30 and will need to be reauthorized and re-appropriated to continue. The proposed amendment will recognize the designated reserves and outstanding encumbrances at June 30 as FY 2025 budget appropriations. Ms. Sloan stated that there are no new amendment requests this year. Ms. Sloan reviewed allocations to the: (1) General Fund, totaling approximately $5.4 million, (2) Capital Reserves, including Enterprise and Stormwater Fund projects, totaling approximately $4.9 million, and (4) slightly over $5.0 million in the ARPA Fund. Ms. Sloan reviewed the encumbrances that must be carried over to this fiscal year, totaling about $7.6 million.

Ms. Sloan stated that the Town Council authorized and appropriated monies for specific activities anticipated to occur during Fiscal Year (FY) 2024. Staff recommends approval of the resolution authorizing the reserve of the FY 2024 Funds and the amendment to the FY 2025 budget to appropriate those funds into this fiscal year. Staff recommends approval of the proposed resolution as presented.

There were no comments from Council.

Public Hearing on Ordinance 24-O-23
Amend Adopted FY 2025 Budget

The public hearing was held, and the following individual provided testimony:

- Steve Mundt, 814 Locust Street, Herndon: provided comments on the Golf Course Enterprise Fund.

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Seeing no further comments, Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Councilmember LeBlanc moved to Approve Ordinance 24-O-23 to amend the Fiscal Year (FY) 2025 Adopted Budget for the General Fund, Water and Sewer Fund, Chestnut Grove Cemetery Fund, Herndon Centennial Golf Fund, Capital Projects Fund, Storm Water Management Fund, and American Rescue Plan Act (ARPA) Fund, as presented.

Motion seconded by Vice Mayor Hedrick.

There were brief comments from Council.

The question was called on the motion, which carried by a 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

Vote on General Item Resolution 24-G-38
Authorize FY 2024 Reserves

Vice Mayor Hedrick moved to approve Resolution 24-G-38 to authorize the Reserve of Fiscal Year (FY) 2024 funding for ongoing operations and maintenance, Capital Projects, ARPA Projects, and for Outstanding Encumbrances on June 30, 2024 for the FY 2025 Adopted Budget, as presented.

Motion seconded by Councilmember LeBlanc.

There were brief comments from Council.

The question was called on the motion, which carried by a 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

**b. Request to consider Resolution 24-G-39 to award a donation to Stars and Stripes NOVA Committee in support of the 2024 Stars and Stripes NOVA Committee Charity Golf Tournament**

Marjorie Sloan, Director of Finance, presented the staff report, stating that at the direction of the Town Council, this item is a request to consider a cash donation to the Stars and Stripes NOVA Committee in support of their May 24 charity golf tournament held at the Herndon Centennial Golf Course. The Stars and Stripes NOVA Committee requested a cash donation of $3,848 to offset the greens fees incurred during the golf tournament.

During the May 21 work session, it was requested that the Town Council consider providing the committee with a cash donation. Staff contacted the organization and

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received a donation application from them. She summarized the support staff had provided during the event, the discount rates that were provided, and the indirect revenue impacts from the use of the golf course. The staff does not have a recommendation, since community donation disbursements are at the discretion of the Council.

There was discussion among the Council and staff on how the revenue impacts from the event were calculated.

Councilmember del Aguila moved to approve Resolution 24-G-39 to award a donation to Stars and Stripes NOVA Committee in support of the 2024 Stars and Stripes NOVA Committee Charity Golf Tournament, as presented.

Motion seconded by Councilmember Alam.

There was discussion on the motion to approve the resolution, to include: (1) bringing new groups to the Town for events, (2) in-kind services provided to the Stars and Stripes NOVA Committee during the golf tournament and the fees that were charged, (3) concern about consistent application of the events policy to all organizations, particularly those with events at the golf course, (4) other organizations that receive in-kind services, (5) concern over a member of Council speaking over a citizen during Comments from the Audience, and (6) fiscal impacts.

Councilmember LeBlanc provided additional information on his disclosure for this item, stating that he made personal donation of $500 to this charity and volunteering 40 plus hours of his time to help the group organize the event.

Councilmember Dhakal provided additional information on his disclosure for this item, stating that he attended the charity golf tournament and that he had previously met the members of the Stars and Stripes NOVA Committee.

Vice Mayor Hedrick provided additional information on his disclosure for this item, stating that he has contributed both time and money to the organization.

The question was called on the motion, which failed by a 3-3 roll call vote. The vote was: Councilmembers Alam, del Aguila, and Dhakal voting "Aye." Councilmember LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "No." Councilmember Scherff was absent.

**c. Request to consider Resolution 24-G-40 to approve a donation to the Global Beat Foundation in support of the Pakistan Day Celebration event**

Marjorie Sloan, Director of Finance, presented the staff report, stating that the FY 2025 adopted budget includes donation funding for Pakistan and Juneteenth events that occur during FY 2025. Staff received an application from the Global

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Beat Foundation for a cash donation of $5,000 in support of a Pakistan Celebration event, and she stated that Town Council action is required to grant the donation. Ms. Sloan stated that there were several follow-up messages from the organization about the event, where it was indicated that the event date may change. She stated that because the date may not be accurate, she suggested that the Council continue the item until the date is finalized.

There was discussion among the Council and staff on this item, including: (1) event budget, (2) potential request for a fee waiver at the Herndon Community Center, (3) consideration of awarding the funds without a confirmed date, and (4) consideration of making the funding valid for a date range or contingent on holding the event.

Following input from the Town Attorney, Councilmember del Aguila moved to approve Resolution 24-G-40, a donation to the Global Beat Foundation, in the amount of $5,000 in support of the Pakistan Day Celebration event, amended to occur in September 2024, or by the end of the fourth quarter of calendar year 2024.

Motion seconded by Councilmember Dhakal.

There was discussion on the motion to approve the amended resolution, to include: (1) considering in-kind versus a cash donation for the event, (2) considering the repeal of the donation policy, (3) fiscal impacts, and (4) supporting inclusion and diversity through events.

The question was called on the motion, which failed by a 3-3 vote. The vote was: Councilmembers Alam, del Aguila, and Dhakal voting "Aye." Councilmember LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "No." Councilmember Scherff was absent.

**d. Resolution 24-G-41 to amend the Community Cultural Festivals Policy Statement to increase the limit for funding requests to fifteen thousand dollars ($15,000)**

Kirstyn Barr Jovanovich, Acting Town Manager/Town Clerk, presented the staff report, stating that during the roundtable portion of the July 9 Town Council work session, the Town Council discussed the allowable amount for donation requests under the Community Cultural Festivals Policy Statement. By consensus, the Council requested staff to prepare an amendment to the policy statement to increase the donation limit from ten thousand dollars ($10,000) to fifteen thousand dollars ($15,000). Since these changes are policy-based and not process-based, the requested amendment has been incorporated into the attached revised Policy Statement for the Council's consideration and action. She stated that for FY 2025, there are currently five events in the process that would qualify for donation under the program. Based on the budgeted amounts, and with the donation being raised,

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there will be approximately $7850 available under the policy for the remainder of the fiscal year.

Councilmember del Aguila moved to approve Resolution 24-G-41 to amend the Community Cultural Festivals Policy Statement to increase the limit for funding requests to fifteen thousand dollars ($15,000), as presented.

Motion seconded by Councilmember LeBlanc.

There were brief comments from Council.

The question was called on the motion, which carried by a 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

**7. <u>Consent</u>**

**a. Resolution 24-G-42 to adopt new *Standards for Traffic Calming and Crosswalks* and repeal the *Neighborhood Traffic Calming Guide* previously adopted by Resolution 11-G-45**

**b. Ordinance 24-O-24 to amend Chapter 1 (GENERAL PROVISIONS), Sec. 1-16 (Standards for public improvements) to include new subsection (a)(4) *Standards for Traffic Calming and Crosswalks***

**c. Resolution 24-G-43 to affirm corrections to the Proffer Statement and Generalized Development Plan of Zoning Map Amendment ZMA #22-02, 13100 and 13150 Worldgate Drive and amend Ordinance 24-O-06**

**d. Resolution 24-G-44 to approve the town's participation in the proposed settlement of opioid-related claims against Kroger and its related corporate entities, and to direct the Town Manager and/or Town Attorney to execute the documents necessary to effectuate participation in the settlement**

**e. Ordinance 24-O-25 to amend Chapter 42 (MOTOR VEHICLES AND TRAFFIC), Article I (In General), Sec. 42-1 (Definitions) to correct numbering**

**f. Resolution 24-G-45 to appoint members to the Herndon Youth Advisory Committee**

**g. May 7, 2024 Town Council Work Session Minutes**

**h. May 14, 2024 Town Council Regular Meeting Minutes**

**i. May 21, 2024 Town Council Work Session Minutes**

**j. May 28, 2024 Town Council Regular Meeting Minutes**

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On motion of Councilmember LeBlanc, seconded by Councilmember Dhakal, the Consent Agenda items were approved and carried by a 6-0 roll call vote, as presented, without comment. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting " Aye."

**8. <u>Closed Meeting</u>**

**a. A closed meeting as provided under Section 2.2-3711(A)(1) of the Code of Virginia pertaining to discussions of the resignation of the Town Manager**

Mayor Olem stated that the Council needed to go into a closed meeting and that the appropriate meeting notices were provided in accordance with state law. The closed meeting was held in the Hoover Conference Room in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia.

Councilmember Dhakal moved that the Council convene in a closed meeting to discuss the following as permitted by Code of Virginia Section 2.2-3711(A)(1) pertaining to discussions of the resignation of the Town Manager. Councilmember Alam seconded the motion, which carried by 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

At 9:25 p.m. Mayor Olem called a brief recess, and at 9:40 p.m., the closed meeting reconvened in the Hoover Conference Room, all members present, with Mayor Olem presiding.

Councilmember LeBlanc moved to come out of the closed meeting. Motion seconded by Vice Mayor Hedrick, and carried by a 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

The Council came out of closed meeting at 10:11 p.m.

Vice Mayor Hedrick moved to certify that, to the best of each member's knowledge, in the closed meeting just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed meeting and (2) lawfully permitted to be discussed in a closed meeting under the provisions of the Virginia Freedom of Information Act as cited in that motion. Motion seconded by Councilmember Dhakal, and carried by a 6-0 roll call vote. The vote was: Councilmembers Alam, del Aguila, Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmember Scherff was absent.

Aye: 6
Nay: 0
Absent: 1

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## 9. Adjournment

There being no further business, Mayor Olem adjourned the July 16, 2024 Town Council Regular Meeting at 10:12 p.m.

[Note: Approved resolutions and ordinances are filed in the Town Clerk's office.]

**Amanda E.M. Kertz**
**Acting Town Clerk**

Minutes approved by Town Council : _____

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