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**HERNDON TOWN COUNCIL**  
**Work Session**  
**Tuesday, April 5, 2022**

At a regular meeting of the Town Council of the Town of Herndon, Virginia, held in the Herndon Police Department Community Room, 397 Herndon Parkway, Herndon, Virginia, on Tuesday, April 5, at 7:00 p.m., there were present:

- Mayor Sheila A. Olem, presiding;
- Vice Mayor Cesar del Aguila;
- Councilmember Pradip Dhakal;
- Councilmember Signe Friedrichs;
- Councilmember Jasbinder Singh; and
- Councilmember Naila Alam.
- Councilmember Sean M. Regan was absent.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Captain Steven Pihonak, Herndon Police; Scott Robinson, Director of Public Works; Robert Tang, Director of Finance; Page Kalapasev, Director of Information Technology; Anne Curtis, Chief Communications Officer; Mike Mueller, Acting Director of Golf; Maria Lee, Budget Manager; Dave Bracamonte, Systems Manager; and Margie Tacci, Deputy Town Clerk.

**CALL TO ORDER**

**1. Roll Call & Determination of Quorum**

Mayor Olem called the public hearing to order at 7:00 p.m. and asked the Chief Deputy Town Clerk to call the roll for attendance. She asked each member of

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Council to indicate they were present. Following the roll call for attendance, Mayor Olem confirmed there was a quorum present, with Councilmember Regan absent that evening.

Mayor Olem asked Council to observe meeting decorum by showing their hand to be recognized by the chair for comments. She reminded those participating to follow the town's Meeting Guidelines that were used for all government meetings to maintain good order, which included: refraining from participation unless and until recognized by the chair; being respectful in comments; refraining from threatening or intimidating language; profane, vulgar, obscene, or threatening remarks were not permitted; and attacks on the character, motive, or other harmful remarks against individual members of Council, staff, or the public would not be tolerated.

### **COMMENTS & DISCLOSURES**

Mayor Olem asked the Deputy Town Clerk if there were any comments or disclosures for the record. The Deputy Clerk stated that comments were provided to Council and entered into the record on Public Hearing item #2, Ordinance 22-O-06, to amend Chapter 74, Water and Sewer; Public Hearing item #4, Ordinance 22-O-08, to amend Chapter 30 (FINANCE AND TAXATION), Article II (Real and Personal Property), to align the interest rate with Fairfax County; Public Hearing item #5, Ordinance 22-O-09, compensation for Town of Herndon mayor and council members; and the proposed FY 2023 budget items.

The Clerk did not receive disclosures from Council on any item listed on the agenda that evening.

### **PUBLIC HEARINGS & GENERAL**

Mayor Olem stated the next seven public hearing and two general items related to the FY 2023 proposed budget. There would be two public hearings scheduled on the proposed budget, April 12 and April 26, with work sessions that evening and on April 19, 2022. Mayor Olem listed the public hearings and general items that were included on the agenda.

At next week's meeting, the Council would hold public hearings and take separate action on the first five public hearing items; hold concurrent public hearings, followed by separate action on the fiscal planning resolution and the appropriation ordinance; and take separate action on the two general items. For each of the items, Mayor Olem said that she would ask for a motion to continue them to the Council's April 26 meeting. The public hearings would remain open.

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## **AMEND THE AGENDA**

### **Request to Amend the Agenda**

Following Mayor Olem's outline of the public hearing and general items, Vice Mayor del Aguila stated that he "would like to" add agenda item #11, discussion on "Outdoor Seating."

Mayor Olem indicated Vice Mayor del Aguila could bring that up during his roundtable comments. Vice Mayor del Aguila replied that he would rather it be an agenda item.

Mayor Olem stated staff could provide an update on the property owners and discuss the information they have, but she indicated that the property owners needed to bring the matter forward.

Vice Mayor del Aguila stated that Mayor Olem was "out of order." He suggested to add agenda item #11 as a discussion item. He said, "please add it, I do have support of the majority of Council."

There was brief discussion amongst Mayor Olem and Vice Mayor del Aguila about when this item should be discussed.

Mayor Olem stated the process was to add items to the agenda in advance of the meeting, so the public was aware. Vice Mayor del Aguila believed that was not Roberts Rules of Order.

Mayor Olem asked the members of Council if they would like to add item #11, Outdoor Seating, to the agenda.

Councilmember Friedrichs indicated it did not matter to her; however, she stated that Council had discussed it multiple times and her understanding was that staff was moving forward with it.

Councilmembers Singh, Dhakal, and Alam asked to have the item added to the agenda.

Mayor Olem asked that item #11, Outdoor Seating, be added to the agenda, and that the agenda be so amended. As a reminder, she stated Council could mention topics for discussion during their Roundtable comments.

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## **PUBLIC HEARINGS & GENERAL ITEMS**

2. **Ordinance 22-O-06, to amend Chapter 74 (UTILITIES), Article II (Sewers & Sewage Disposal), Division 5 (Sanitary Sewer System Rates & Charges), Section 74-262; and Article III (Water), Division 2 (Service), Section 74-326 (Schedule of Charges), to increase the service and usage charges for sanitary sewer and water, effective for meter readings taken on or after July 1, 2022;**
3. **Ordinance 22-O-07, to amend Chapter 30 (FINANCE AND TAXATION), Article VII (Business, Professional, Occupational License), Section 30-211 (Definitions), and Section 30-246 (Enumeration), and to add Section 30-266 (Personal, Business Services, and all other business occupations not specifically listed) to recognize the massage therapist occupation as a business and to classify massage therapist for BPOL tax purposes;**
4. **Ordinance 22-O-08, to amend Chapter 30 (FINANCE AND TAXATION), Article II (Real and Personal Property), Section 30-39 (Date real property taxes due and payable; penalties and interest) to reduce the rate of interest on any unpaid tax from ten to one percent and to change the interest rate to accrue upon failure to pay any installment when due;**
5. **Ordinance 22-O-09, to establish the compensation to be paid to the Town of Herndon mayor and council members, as provided under Section § 15.2-1414.7 of the Code of Virginia. No increase in salary shall take effect during the incumbents' term in office;**
6. **Ordinance 22-O-10, to Levy Taxes on Real Estate and Manufactured Homes, and Other Subjects for the Fiscal Year 2023 Budget;**
7. **Resolution 22-G-27, to Adopt a Fiscal Planning Resolution for the Fiscal Year 2023 Budget for the Town of Herndon;**
8. **Ordinance 22-O-11, to Appropriate Funds to implement the Fiscal Year 2023 Budget for the Town of Herndon, establishing the Pay Plan, and reserving on-going and Capital Funding for this Fiscal Year;**

## **GENERAL**

9. **Resolution 22-G-28, to amend the Chestnut Grove Cemetery Fee Schedule; and**

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**10. Resolution 22-G-29, to amend the Herndon Centennial Golf Course Fee Schedule.**

**FY 2023 Proposed Budget**

Mayor Olem recognized the Town Manager for the budget presentation.

The Town Manager stated that the proposed FY 2023 Budget was released to the public on April 1, pursuant to state law. He stated there was a budget book online, along with an interactive budget tool on the town's website. There were several actions the Council needed to take related to the proposed budget. The budget items included Council proposals, code amendments, and the annual budgetary items. He then recognized the Director of Finance, who began the presentation of a PowerPoint dated April 5, 2022, which is on file in the Town Clerk's office.

**Water and Sewer Rates**

The Director of Finance reviewed the FY 23 budget public hearings, starting with the first item, which was a proposal to increase the water and sewer fees. There would be an approximately 17.5 percent increase in quarterly service charges and 3.25 percent increase for volumetric rates for water. For the sewer charges, there would be a new charge for quarterly sewer service, which would start at \$7.40 for FY 23. The base rate for sewer would increase by approximately 14 percent. The proposed rates would increase revenues for the Water and Sewer Fund by approximately \$1.58 million.

There was brief discussion amongst Council and staff on the proposed water and sewer rates.

There was a brief question and answer session between Vice Mayor del Aguila, the Director of Finance, and the Town Manager about the gap between revenues and expenditures in the Water and Sewer Fund.

In response to queries from Vice Mayor del Aguila, the Director of Finance stated he expected costs to equal revenue in FY 2027. The Town Manager indicated that staff intended to watch that trend closely.

Vice Mayor del Aguila wanted the public to be prepared for the anticipated rate changes.

Responding to Council's discussion, the Town Manager discussed the reasons behind the higher operating costs for water and sewer services.

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There was a brief question and answer session between Councilmember Dhakal, the Director of Finance, and the Town Manager about the proposed rates. The Town Manager explained that staff proposed a plan to pay for operational capital.

There was a brief question and answer session between Councilmember Singh, the Director of Finance, and the Town Manager about the proposed charges.

The Town Manager highlighted the differences between the service charges and volumetric rates. Every customer would pay the service charge, while the volumetric rate would depend on usage. The Town Manager outlined the factors that were contributing to rising costs and discussed the town's prior water and sewer studies.

There was a brief question and answer session between Councilmember Friedrichs, the Director of Finance, and the Town Manager about the rates.

Responding to Councilmember Friedrichs, the Director of Finance outlined the service charges for water and sewer.

The Director of Finance and Town Manager clarified that the peak rates were a way to encourage water conservation.

In response to queries from Councilmember Alam about a resident with an unexpected high water bill, the Director of Finance asked that resident to reach out to him or the Water Service Manager, who could check for leaks.

Mayor Olem mentioned how evaporation from watering one's lawn in the middle of the day and other actions could affect usage.

Councilmember Singh provided comments on the proposed peak rates, and the Town Manager clarified that the peak rates would be used to encourage conservation at times when water usage was at its highest.

Responding to queries from Mayor Olem, the Director of Finance explained the rates that were part of the water bill.

Councilmember Friedrichs asked that the town issue a press release before the proposed water and sewer rates went into effect. Several Councilmembers agreed. Councilmember Dhakal also requested that staff educate the residents about the peak rates. He suggested that anyone who received an excessive water bill contact the town so they could look into it.

Vice Mayor del Aguila also requested to have the press release Councilmember Friedrichs asked for translated into other languages, and to issue another press release once the rates increased.

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Councilmember Dhakal asked about removing the peak charges for the three months after the summer.

Councilmember Friedrichs stated that if a household did not use more than 3,000 gallons during the latter months, they would not have the peak charge.

Mayor Olem discussed the demand for water in the fall. She thought there was an industry standard that applied to the timing of the peak rates.

There was a brief question and answer session between Councilmember Singh, the Director of Finance, and the Town Manager about the proposed charges and the peak rates.

Responding to the discussion, the Town Manager explained that the peak rate was only charged for water and not sewer.

Vice Mayor del Aguila asked if it made sense to move the peak charges up a quarter to the April/May timeframe. The Town Manager stated he could ask staff about that change. He asked the Town Attorney if that would require additional advertising.

The Town Attorney stated Council could make the change in the ordinance and she would make sure that there were not additional legal requirements.

There was brief discussion amongst Council and staff about the peak rate timing.

There was a brief question and answer session between Councilmember Dhakal, the Director of Finance, and Town Attorney about water usage and peak rates.

Councilmember Dhakal provided personal comments about his water bill, and the Director of Finance stated that before sending out water bills, if staff noticed something out of the norm, they would reach out to the citizen and advise them that they might have a leak. The Town Manager confirmed that process.

There was discussion amongst Council about water usage.

Councilmember Dhakal stated he would reach out to staff and that he was providing his bill as an example.

In response to queries from Councilmember Friedrichs about needing to rewrite the rates if they made changes, the Director of Finance did not think any of the suggested changes would affect the proposed rates. The Town Manager would provide Council the data on how revenues might be impacted.

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### **Massage Therapists, BPOL Changes**

The Director of Finance reviewed the current language and proposed changes to Chapter 30 (Finance and Taxation). The changes would add a category for massage therapists for Business License Tax purposes and delete old terminology and rates. The category for Massage Parlor and \$1,000 fee would be removed.

Staff recommends approving all changes in Chapter 30 (Finance and Taxation), to include Massage Occupation definitions, an occupation category for massage therapists, and removing references to "Massage Parlor" for FY 2023.

There was brief discussion amongst Council and staff.

Councilmember Dhakal had reached out to Meg Donnelly, one of the massage therapists in town, who was happy with the proposed changes. He briefly discussed the proposed business license fee structure for massage therapists with the Director of Finance.

There was a brief question and answer session between Councilmember Singh and the Director of Finance about the proposed ordinance changes.

There was a brief question and answer session between Vice Mayor del Aguila and the Director of Finance about the proposed changes to the language.

Mayor Olem stated she received several calls from massage therapists who had gone through the process to repeal their business license charges for the current fiscal year. They had been pleased with their experience with staff.

### **Aligning the town's interest rate with Fairfax County**

The Director of Finance continued his PowerPoint with reviewing the fourth public hearing on the budget. Earlier that year, the town and county signed a Memorandum of Understanding (MOU) so the county could assess, bill, and collect real property taxes for the town. The proposed change to Chapter 30 would revise the interest rates on delinquent taxes to match what the county charges. Staff recommends approval of the proposed changes.

There was brief discussion amongst Council and staff.

### **Council Compensation**

The Town Manager continued the PowerPoint and stated that the Council compensation has not been adjusted since 1986. Following discussion at the March 15 work session, staff proposed to increase the annual compensation for the Mayor and Town Council to \$16,000 and \$15,000, respectively. The fiscal

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impact would increase from \$30,000 per year to \$106,000 per year. These changes would take affect for the next Town Council in January 2023.

There was brief discussion amongst Council and staff on this item.

In response to queries from Councilmember Dhakal about adding a cost-of-living adjustment (COLA) to the salaries, the Town Manager stated that he did not think it was possible under the Constitution of Virginia to bind future budgets to that kind of increase. This Council could not tell the next Council they had to increase the salaries by a certain amount.

There was a brief question and answer session between Councilmember Singh and the Town Manager about adding a COLA to the ordinance.

In response to queries from Mayor Olem, the Town Attorney stated the Town Manager was going to look into Councilmember Singh's questions about a COLA increase for future Councils.

Vice Mayor del Aguila did not think they could impose anything on future Councils, and he did not think they should. However, he liked the idea of proposing an increase over time, so there was an idea of what to expect.

Councilmember Dhakal stated he brought this forward and had not been aware of all the issues. If the Code of Virginia did not allow increases in the way he had proposed, that was fine with him. He appreciated staff for being willing to do the research and provide more information.

Councilmember Singh stated he brought this idea forward as an initiative. He emphasized his request for additional information on the COLA.

The Town Manager stated he was planning to research the topic, but his biggest concern was that if the automatic COLA increase were possible, Council would have to produce the number that it was tied to. The second thing was, the ordinance would then have to come out of the budget package and be readvertised, since it was committing additional money over what was advertised.

In response to queries from Mayor Olem about salaries for the other town boards, the Director of Finance confirmed that the town boards were not included in the proposed changes. Mayor Olem thought it would be a good idea to keep their salaries in mind for the future.

There was further brief discussion amongst Council.

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**Items #5-#8  
Tax Levy Ordinance  
Fiscal Planning Resolution  
Appropriation Ordinance**

The Town Manager recognized the Budget Manager, who was present that evening, and stated she was the primary staff contact for the new ClearGov budget software and website.

The Town Manager continued the PowerPoint and stated these were the main budget items that staff presented each budget year. He was going to present these items concurrently at the work session, and the Council would hold separate public hearings and votes at their public hearings. He stated he would focus on presenting this to the public at next week's meeting.

The Town Manager reviewed the budget priorities and guidance provided by the Council earlier this year; budget pressures; and provided a budget overview, which included changes from the prior year by fund (including General, Enterprise, and Capital Projects). He stated the total budget would be an approximately three percent increase across all funds from last year, the drivers of which were the Golf Course, Capital Projects, and General Fund.

The Town Manager went through each of the funds' (General Fund, Water and Sewer, Cemetery, Golf Course, Downtown Parking, and Capital Projects) recommended budgets to illustrate where the changes came from in both expenditures and revenues. He began with the General Fund and then repeated the process with the other funds.

The Town Manager highlighted the real estate property tax fluctuations from the previous year, both residential and commercial, and stated that the other local tax rates were not proposed to change. The expected slight increase in real estate tax revenue was due to higher property assessments, which would help offset some of the tax revenues that have not recovered from the pandemic.

Personnel recommendations included authorizing all 268 positions. The Town Manager shared that health insurance costs were up 9.3 percent and pay for performance adjustments would average three percent. Staff was not asking for a market rate adjustment at that time, since the Council just approved one, but staff may ask for one later in the year. He briefly discussed operations and maintenance (O&M) costs and stated that this year, they were looking to make the money the town gets for HCTV (through PEG fees) as purely a pass through rather than as part of the community donations process. Also included in O&M costs was \$100,000 for the Town Council Strategic Planning Initiatives.

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The Town Manager reviewed the proposed Capital Projects, including vehicle replacement; IT upgrades; improvements to town buildings; Center Street culvert safety; and using ARPA funds to address items that were deferred due to the pandemic. He moved to the Enterprise Funds, and he reviewed the status of the Water and Sewer; Golf Course; and Chestnut Grove Cemetery Funds. He emphasized that the Enterprise Funds were self-supporting.

**General Budget Discussion**

There was brief discussion amongst Council and staff.

There was a brief question and answer session between the Town Manager and Vice Mayor del Aguila regarding personnel; employee leave policy – carrying over unused PTO; water and sewer rates; and real estate tax rates.

In response to queries from Vice Mayor del Aguila, the Town Manager stated that in the past few years, staff's "use it or lose it" hours were reduced to 300. The "comp time" policy had changed to encourage employees to use that type of leave first before annual leave. He confirmed that he would review the real estate and other tax rates at next week's public hearing.

Vice Mayor del Aguila recommended several changes to the Town Manager's PowerPoint presentation that he thought would be clearer for the public, such as additional historical data and other information he thought would be useful.

There was a brief question and answer session between the Director of Finance, Town Manager, and Councilmember Dhakal about personnel, expenditures, General Fund, Enterprise Funds, and the Undesignated Fund Balance. Councilmember Dhakal echoed Vice Mayor del Aguila's suggestions about looking at personnel and carry-over leave balances.

Councilmember Singh provided comments about the how the economy impacted town residents and businesses. He discussed concerns over the real estate tax assessments from the county, along with future costs and inflation.

There was a brief question and answer period between the Town Manager, Director of Finance, and Councilmember Friedrichs about personnel; insurance costs; local taxes; and Parks and Recreation programs.

Councilmember Friedrichs suggested that raising employee's salaries directly might be more impactful than programs like the housing allowance. She asked for more information about increased costs to employees.

In response to queries from Councilmember Friedrichs, the Town Manager stated that personnel costs were expected to rise by approximately 11 percent over the

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previous year, and he reviewed the subcategories which were included in the PowerPoint. For example, included was a three percent average pay-for-performance increase; 12 percent increase in healthcare; and nine percent increase in retirement. Staff was going to look at salaries from a market-based perspective. The Town Manager stated that he made a commitment that salaries for unskilled labor would be a minimum \$20 per hour.

The Town Manager stated staff was working on retaining employees and would brief Council on what administrative measures they planned to take.

In response to queries from Councilmember Friedrichs, the Director of Finance stated he would find out how much the grocery tax revenue contributed to the town's sales tax revenue. He indicated that if the state removed the car tax, it would not impact the town's revenues as much if the grocery tax was removed.

In response to queries from Councilmember Friedrichs, the Town Manager stated he would provide information about after-school programs at the Herndon Community Center. He reviewed how the town obtained demographics information.

Councilmember Friedrichs thought there should be more programs for teenagers. Councilmember Singh also supported more after-school programs.

In response to queries from Councilmember Friedrichs, the Town Manager asked how much she would propose to increase community donations, which would be considered later in the year. He stated that \$80,000 was the amount allotted last year. Councilmember Friedrichs would get the number she would like to see to the Town Manager.

There was a brief question and answer period between the Town Manager and Mayor Olem about personnel and the level of service that citizens expect.

In response to queries from Mayor Olem, the Town Manager stated that personnel made up 72.9 percent of the proposed budget.

Piggybacking on Mayor Olem's comments, Councilmember Friedrichs stated she heard a rumor that some may want to change the town's structure and she talked about how that would negatively impact residents.

Mayor Olem emphasized the importance of quality services and discussed several Parks and Recreation programs she thought were especially valuable.

Councilmember Dhakal supported Councilmember Friedrichs' comments about funding activities for children and teens, especially during the summer.

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There was a brief question and answer session between the Town Manager and Vice Mayor del Aguila.

In response to queries from Vice Mayor del Aguila, the Town Manager confirmed staff conducts exit interviews, and if needed, the Director of Human Resources would discuss the interviews with him.

Vice Mayor del Aguila referenced Councilmember Singh's comments about residents leaving the town. He thought, if possible, it may be valuable to ask the individuals why they were leaving.

The Town Manager responded by saying that they did not do that, and he was not sure how they could get that data, although he agreed that it could be valuable.

Councilmember Friedrichs suggested that realtors or a realtors' association may have that information.

In response to queries from Vice Mayor del Aguila, the Town Manager stated the town does not give employees a commuter allowance, although the Department of Public Works (DPW) had looked at encouraging carpools with employees.

Vice Mayor del Aguila said he would like to discuss a commuter allowance at the next Town Council Strategic Planning Initiatives meeting.

Councilmember Friedrichs asked how the town was addressing environmental concerns and sustainability. In response, the Town Manager stated they were looking at hybrid vehicles as replacements for police cars and there was a CIP project for retrofitting buildings to be more energy efficient.

The Director of Public Works stated there was a project slated for energy improvements to begin with a study in FY 23, with potential implementation in FY 24.

In response to queries from Councilmember Friedrichs, the Director of Public Works stated that solar panels could be considered, and there was a state grant program that might allow the town to install solar panels at a reasonable cost. He stated that staff could consider ways to capture rainwater.

The Town Manager provided some examples of energy improvements that had already been implemented, like energy efficient lighting and smart switches.

Responding to Councilmember Friedrichs' comments, Mayor Olem stated that some organizations were promoting sustainability, like the NVRC, which had promoted solar panels. She provided examples where solar power was being used.

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Councilmember Friedrichs mentioned this because she had been frustrated about trucks idling outside of peoples' homes. She brought that issue up to the county, who had not been aware of existing ordinances governing that practice. She was glad to know the town was conserving water and looking at energy, and she wanted to the town to follow through with it.

Councilmember Dhakal stated there were some great ideas offered that evening, like from Councilmember Friedrichs and Vice Mayor del Aguila. He asked if the Council could have actionable items from their discussion.

In response to the Council's discussion, the Town Manager provided a recap of the requests to staff made that evening, which included:

1. Moving the peak rates from June to November;
2. Data on peak water usage;
3. Does state code allow a COLA trigger for Council salaries;
4. If the Council cannot trigger a COLA, how could it be addressed;
5. Update on Parks and Recreation scholarships;
6. Overview of Parks and Recreation and teen programs;
7. Commuter allowance (suggested for the next Town Council Strategic Planning Initiatives meeting); and
8. Community donations potential increase.

There was further brief discussion amongst the Council and staff.

**ClearGov Budget Website**

The Director of Finance briefly reviewed ClearGov, which was a new website program for FY 23. The ClearGov link would be posted on the town's website and would provide easy to use information for citizens. He demonstrated how to navigate the site.

There was brief discussion amongst Council and staff about ClearGov.

Several members of Council expressed appreciation for the new tools and the level of detail that ClearGov provided.

Councilmember Alam asked if the website would be translated into other languages, and the Director of Finance replied that it was currently only in English, but staff could look into translation.

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There was a brief question and answer session between the Director of Finance and Vice Mayor del Aguila.

Vice Mayor del Aguila asked staff to ensure the website was "508 compliant" and the Town Manager stated he believed it was, but he would verify. Vice Mayor del Aguila agreed with Councilmember Alam's request about providing the information in other languages.

The Town Manager thanked the Budget Manager for all her efforts in getting ClearGov up and running for this year's budget.

Councilmember Dhakal asked about the some of the details provided on ClearGov, and following a demonstration, he offered his appreciation to staff.

The Town Manager stated that as soon as the Council approved the budget, staff would make any necessary changes that would populate in ClearGov.

Following Council's brief discussion, Councilmember Dhakal asked staff to post more historical data on ClearGov.

**General Items #9-10**  
**Chestnut Grove Cemetery Fee Schedule**  
**Herndon Centennial Golf Course Fee Schedule**

The Director of Finance concluded the PowerPoint and reviewed the proposed changes to the fee schedules at Chestnut Grove Cemetery and the Herndon Centennial Golf Course. The changes were recently discussed by Council and would support capital projects and help cover O&M costs. Staff recommended approval of both General items, as presented.

There were brief comments from Council.

## **DISCUSSION**

### **11. Outdoor Seating**

Mayor Olem recognized Vice Mayor del Aguila, who had asked that this item be added to the agenda.

Vice Mayor del Aguila thought there was a "disconnect in terms of the businesses that have applied and what's being communicated." He had been hearing comments that the town had given up the idea of using parking spaces for outdoor dining.

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Replying to queries from Vice Mayor del Aguila, the Town Manager discussed how staff had been looking at on-street parking spaces and in the parking lot as locations for outdoor dining. They were concerned about having enough parking space turn over on Lynn Street. He shared that staff saw an opportunity to remove the raised planters at some of the businesses on Lynn Street that would increase ADA clearance on the sidewalk. Using the sidewalk for outdoor dining would be more acceptable to property owners who talked with staff. He stated that staff had not yet talked with the business owners, but they planned to talk with them.

Vice Mayor del Aguila stated that the areas for dining the Town Manager suggested might create an ABC issue if the tables were not directly in front of the business. He strongly suggested the Town Manager go and speak with the business owner about using the sidewalk.

The Town Manager stated the town has a right-of-way easement, which is a travel easement, and does not own two of the parking spots. The town was using the right-of-way for parking, which was a part of travel. The town had worked this out with the property owner, who would have a say in how the spaces they owned would be used. The Town Manager would need to get the landlord and business together for a discussion.

Responding to queries from Vice Mayor del Aguila about the use of parking spaces, the Town Manager stated it was his understanding that the request was to get outdoor dining in the town in however possible, which he thought included the sidewalk.

In response to queries from Councilmember Friedrichs about who owned the parking spaces, the Town Manager stated that the space on Lynn Street were not part of the shared parking program, they were public parking in the right-of-way. The town owns some of the land and some is privately owned. The town obtained an easement from the property owner on Lynn Street for transportation purposes, as discussed earlier. He would like to have the landowner on board, because he did think they should use the spaces for a use that the landowner did not agree with.

The Town Manager reviewed the spots that were part of the parking program, which included the James Lot, the large parking lot, and the surface lot outside of the Herndon Municipal Center.

In response to queries from Vice Mayor del Aguila about the bike rack the Green Lizard has in a parking space on the weekends, the Town Manager stated the town owns the space that the business leases for the bike rack. He stated the Green Lizard has four spaces, two of which are not owned by the town.

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Vice Mayor del Aguila asked the Town Manager to talk with the business owner because he thought there was disconnect.

Councilmember Singh asked for clarification on what the town was considering for outdoor dining.

Mayor Olem stated that she owns a commercial building, and the tenant needed her to sign off on most actions related to the building.

The Town Manager displayed an internet photograph to show the location of the parking spaces on Lynn Street that were being discussed.

In response to queries from Councilmember Singh, the Town Manager reviewed how the location of the plat determined the ownership of the parking spaces.

The Town Manager indicated staff was working on an ordinance change to allow outdoor dining, with constraints, so one business would not use the entire block. Staff was working out issues related to the zoning review process and restroom requirements for extra seating. Staff would have the draft legislation to the Council by the end of the month, which would be modeled after the City of Alexandria's outdoor dining regulations. The Town Manager would provide all this information in the staff report for this item.

Responding to the discussion, Councilmember Friedrichs pointed out that staff did not know this topic would be discussed that evening, which was why they did not provide anything in writing.

Councilmember Singh thought it would be helpful to know how other towns or cities were approaching outdoor dining, and the Town Manager indicated staff was specifically looking at localities in Virginia as examples. He emphasized that during the pandemic many zoning requirements were suspended, which was why these issues did not come up during that time.

Vice Mayor del Aguila asked that this be on every work session agenda until it was resolved. The Town Manager replied that staff would have the ordinance for review at the next Town Council work session.

Responding to queries from Vice Mayor del Aguila, the Town Manager reviewed other possible locations for outdoor dining in the downtown. He mentioned that they should consider the impact on zoning and how businesses would have to provide insurance and physical barriers for safety. He did not want to get involved with ABC laws.

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The Town Manager stated that the Economic Development Manager had spoken with downtown businesses about outdoor dining parameters. The Town Manager planned to follow-up with him about these interactions.

Mayor Olem thought that the business owners and property owners being discussed that evening were aware of the potential issues.

Responding to queries from Councilmember Singh, the Town Manager stated the Council could adopt seasonal outdoor dining, but there would need to be protections in place for the patrons. Staff was trying to address what the businesses wanted to achieve versus what they were limited to under the building and zoning codes.

Councilmember Singh expressed concern over taking away parking spaces, and Vice Mayor del Aguila thought that they should keep in mind that a lot of people wanted outdoor dining.

Councilmember Singh provided comments about the public nature of the parking spaces.

There was further brief discussion amongst Council and staff on this topic.

The Town Manager stated the ordinance that staff was drafting would propose standards with some limitations, would address the zoning and building codes, and include safety protections and a liability insurance requirement. He emphasized the differences between the current environment and what occurred during the pandemic.

There were further brief comments from Council.

## **ROUNDTABLE**

1. **Councilmember Alam:** Stated that she briefly left the meeting because it was the month of Ramadan, and she could not eat until sunset.
2. **Vice Mayor del Aguila:** No comments.
3. **Councilmember Dhakal:** No comments.
4. **Councilmember Friedrichs:** Thanked the staff for organizing last week's Town Council Strategic Planning Initiatives Meeting.

Councilmember Friedrichs gave kudos to DPW for their work on the traffic light at the Herndon Parkway and Worchester Street intersection. She read a comment

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into the record from a citizen that lived in the area, who also thanked the Herndon Police Department (HPD) for doing an excellent job with community policing.

Councilmember Friedrichs stated the Governor extended the ability to takeout cocktails that was put in place during the pandemic. She asked if there were ABC implications for this and outdoor dining. The Town Manager stated there were not any implications, it allowed one to order cocktails with takeout food.

5. **Councilmember Singh:** Discussed traffic on Third Street, where he observed a vehicle speeding through the area in the afternoon. He asked HPD to monitor the area during the afternoons.
6. **Mayor Olem:** Congratulated HPD Officer Diaz, who received a Certificate of Valor at the 44<sup>th</sup> Fairfax County Valor Awards the past week. Officer Diaz was off duty and helped save a life after a car accident. The Town Manager provided comments about the incident and several members of Council offered kudos.

Mayor Olem shared that she attended the Korean American Women's Association of the USA, Inc. 2022 National Convention and Next Generation Leadership Conference that past Saturday, right outside the town. She was seated next to Congresswoman Kim from California. She enjoyed meeting many people and was impressed with the organization.

### **COMMENTS FROM THE TOWN MANAGER**

The Town Manager provided updates on several street improvement projects in town. There was a new stoplight at the Elden-Monroe Street intersection, where the old light had been removed. They were waiting for the Virginia Department of Transportation (VDOT) to deactivate the old box, which would be removed from the intersection. The lights would be on a timed switch until the transition was complete.

The Town Manager stated that the Streetscape Improvements were almost finished. The Center and Elden Streets project was lagging behind a bit because they were waiting on utility installation. He thought the project should be completed that summer.

The Town Manager discussed stormwater management on Van Buren Street, and he stated the bus bays project should be completed soon with the shelters being installed. He gave kudos to DPW for working on all the projects that were going on in town.

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Mayor Olem stated that the sidewalk by Aslin Brewery in the downtown looked great. She was glad to see the progress on the Van Buren Street and Herndon Parkway intersection and with the bus bays project.

### **ADJOURNMENT**

On motion of Councilmember Friedrichs, seconded by Councilmember Dhakal, and carried by unanimous roll call vote, the meeting of the April 5, 2022 work session was adjourned at 10:01 p.m. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Regan was absent.



**Sheila A. Olem  
Mayor**



**Amanda M. Kertz  
Chief Deputy Town Clerk**

**Minutes approved by Town Council: July 12, 2022.**