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HERNDON TOWN COUNCIL
Tuesday
March 12, 2019

The Town Council met in public session on Tuesday, March 12, 2019, at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Mayor Lisa C. Merkel; Vice Mayor Sheila A. Olem; and Councilmembers Cesar del Aguila; Pradip Dhakal; Signe Friedrichs; and Bill McKenna. Councilmember Jennifer Baker was absent.

Others present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Chief Maggie DeBoard, Herndon Police; Elizabeth Gilleran, Director of Community Development; Tammy Chastain and John Irish, Deputy Directors of Public Works; and Margie C. Tacci, Deputy Town Clerk.

Mayor Merkel called the meeting to order at 7:00 p.m., with all members present with the exception of Councilmember Baker, and with Mayor Merkel presiding.

Mayor Merkel led the audience in the Pledge of Allegiance to the Flag of the United States of America.

ANNOUNCEMENT

Mayor Merkel announced that Councilmember Baker was out of town and would not be present.

APPROVAL OF MINUTES

Vote on February 26, 2019
Public Hearing Minutes

On motion of Councilmember McKenna, seconded by Vice Mayor Olem, and carried by a vote of 6-0, the minutes of the February 26, 2019 public hearing were approved. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs,

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McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

**Amendment to the (ACCEPTED)
Motion:**

Councilmember Friedrichs asked that the motion be amended to revise page 4 of the February 26 minutes, under "Comments from the Town Council," to clarify that Melissa Jonas, Planning Commission Chair, serves as Co-Chair of the Fairfax County Task Force on Affordable Housing, and that Councilmember Friedrichs had attended the task force meeting as a visitor. This was accepted by the Maker and Second.

**Motion (APPROVED)
as Amended:**

By a vote of 6-0, the February 26, 2019 public hearing minutes were approved, as amended. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

3. COMMENTS FROM THE TOWN MANAGER

William H. Ashton II, Town Manager, stated that citizens will receive a letter from the Deputy Director of Public Works about changes to the refuse and recycling routes, and how the town would be doing outreach. He stated that this is the first step of the comprehensive plan to conduct public outreach about changes to the routes. He stated that this is the first time trash routes have been changed in 25 years.

The Town Manager stated that the town was still in conversation with Comstock Partners, LLC about the downtown redevelopment. The town was working to address comments to the site plan. The town also had meeting earlier that day to address environmental challenges at the site.

4. COMMENTS FROM THE TOWN COUNCIL

Councilmember Dhakal: Stated that he attended the Shape of the Region conference about the business case for Economic Mobility, organized by the Community Foundation for Northern Virginia, in partnership with Northern Virginia Regional Commission, Northern Virginia Technology Council, and Northern Virginia Chamber of Commerce. He stated that it was a great conference and there were great speakers. He stated that there should be a focus on STEM education.

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Councilmember Dhakal stated he received an email from a resident about the vacancy tax. He stated that a lot of places including the City of Fairfax implement the tax. He asked council to give attention to the matter.

Councilmember del Aguila: Stated that the Community Roundtable meeting was held on Saturday, March 2. He stated that it was a successful event and thanked staff for their efforts to coordinate the event. He stated that he is looking forward to the next one, and would like to reach a broader, more diverse audience.

Councilmember del Aguila stated that at the March 5 work session, the council discussed a code of conduct.

Councilmember del Aguila echoed Councilmember Dhakal's comments about the vacancy tax. He stated that enforcing the town's ordinances would be a way to guide businesses into taking care of the buildings.

Councilmember del Aguila encouraged citizens to send their ideas about the town's budget to the Council and Town Manager.

Councilmember del Aguila stated that there is a PBAC meeting on Thursday, March 14, at 7pm. He encouraged those interested to attend.

Councilmember Friedrichs: Stated that at the Community Roundtable meeting, few people wanted to discuss the budget. She stated that comments were mostly on the physical appearance of the town. She stated that she would bring her comments the Town Manager. She stated that several citizens told her they moved here because the Vision Plan states that the town is an arts community.

Councilmember Friedrichs stated that Patricia Adams, painter, expects to open her studio in Junction Square by the end of the month.

Councilmember Friedrichs stated that she heard an advertisement for NextStop Theatre on WAMU radio station, and PBS was filming a feature at ArtSpace. She stated that she is impressed and proud of the arts in the town.

Councilmember McKenna: Stated that the Fairfax County Bus Services survey had closed, however he encouraged citizens to continue to comment.

Vice Mayor Olem: Stated that she went to the opening of the "Looming Connections" exhibit by Alyssa Imes at ArtSpace.

Vice Mayor Olem stated that she received the letter from DPW about refuse schedule changes. She stated that she posted it on her Facebook for others to see.

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Mayor Merkel: Stated that the neighboring 67th House District represented by Karrie Delaney would be hosting their first Entrepreneurial Fair. She read the description of the event. She stated that event information was available on Facebook, or for those interested to email her.

Mayor Merkel stated that on Monday, March 18, the Dulles Regional Chamber of Commerce would be hosting Metro Monday, and Vice Mayor Olem would be speaking at the event.

Mayor Merkel echoed her colleague's comments about budget season. She encouraged citizens to comment.

5. COMMENTS FROM THE AUDIENCE

The following individuals came forward to provide comments:

- Jo Ormesher, President and CEO, ArtsHerndon, presented a two-minute video on the efforts of ArtsHerndon over the past year. She stated that ArtsHerndon attracts more than 50,000 visitors per year, and it brings economic benefits to the town. She thanked the town for its support.
- Ann Vayda, 631 Oak Street, provided comments about the grants. She stated that she believes in private charity and that she does not support town taxes funding grants. She stated that "if you campaigned on the promise of giving away public money, you should explain your change of heart to your constituents who voted for you on that basis." She provided comments on the code of conduct. She stated that over her years of employment, she has been governed by a code of conduct. She stated that by shirking your responsibility of imposing a code of conduct on yourselves is compromising the standards your constituents hold themselves to, but you're compromising your negotiations on all levels. She stated that the Council cannot tax vacancies if the Council cannot behave themselves. She urged the council to proceed with establishing a code of conduct.

The Mayor stated for the record that there is a code of conduct in place and the Council is working to revise and update it.

- Arthur Nachman, 866 Vine Street, responded to the request for comments on the budget. He asked the Council to raise property taxes. He stated his concerns for the town's deficit and items that need to be funded. He stated that he does not want to live in a "second-rate community." He stated that regarding the meals tax, the town does not have a sophisticated method of collection. He stated that raising the meals tax is a waste of time. He stated that the property tax is easier and collected by Fairfax County so the town

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does not need to get a separate appraisal. It is also enforceable. He stated that the town needs more money, and that "a nickel would do it." He asked the council to consider this.

- C. Melissa Jonas, 124 Fortnightly Boulevard, stated that as the Co-Chair of the Affordable Housing Resource Panel and as the Vice-Chair of the Housing Authority for Fairfax County, she gave a presentation to Chair Bulova of the Fairfax County Board of Supervisors. She stated that the Affordable Housing Resource Panel was appointed by the Board to address housing. She discussed two of the five pillars established. On preservation of affordable housing, she stated that the panel recommended to the Board that they reaffirm the commitment of no net loss of existing market affordable units, to be achieved through public financing and land use policy. She stated that the panel recommended the Board prioritize the funding of a half-penny, which is all that is left of the former penny fund. She stated that "in terms of preservation, we've done that at Parkwood and Huntington Gardens." She stated that the current value is at \$12.5 million dollars per year for the county. She stated that the town could use the panel's land use recommendation as guidance. She stated that the panel recommended to the Board should direct the county staff to develop a "package of innovative land use policies to further facilitate the development of affordable housing beyond the stated goal of 5,000 units over the next 15 years." She stated the panel discussed modernization of land use policy.
- Patrick Hermus, 902 North Gunnell Court, provided comments on the code of conduct. He stated that there is a perception that the town does not have a code of conduct because it is not on the website. He suggested that the town post the document. He provided comments on the budget. He stated that he agreed with Arthur Nachman's comments about the meals tax. He encouraged the town to look at other revenues.

Mayor Merkel stated that the code of conduct is in the town code, which is on the website.

Lesa Yeatts, Town Attorney, stated that the code of conduct is under Section 2-5 of the town code.

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PUBLIC HEARING

6. Ordinance 19-O-05, to grant a first franchise amendment to Fiberlight of Virginia, LLC.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the February 22 and March 1, 2019 issues.

Mayor Merkel opened the public hearing and announced that the town would follow the bid process. The proposed ordinance would require a roll call vote pursuant to the state code.

Mayor Merkel stated that the town had received one bid from Fiberlight of Virginia, LLC, which is entered into the record and on file in the Town Clerk's office.

She asked Tammy Chastain, Deputy Director of Public Works, whether staff had received additional bids.

Hearing none, Mayor Merkel closed the bidding process.

Tammy Chastain, Deputy Director of Public Works, presented the staff report, which is on file in the Town Clerk's office. This is the first amendment to the franchise agreement between Fiberlight of Virginia, LLC and the Town of Herndon, Virginia dated May 11, 2016, and will permit an increase to the number of conduits from four to 10 and will allow a portion of the current route to be adjusted.

The increase to the number of conduits is proposed on a portion of the route covering approximately 12,810 linear feet (as reflected in "orange" on Exhibit A). The adjusted route includes crossing Elden Street further north than the current crossing, and crossing Monroe Street further south than the current crossing, as reflected in Exhibit A. The total linear feet under the May 11, 2016 agreement remains unchanged. Exhibit A dated March 12, 2019 replaces any previous exhibit(s). Exhibit A is attached to the staff report and on file in the Town Clerk's office.

Staff recommends approval of the proposed ordinance, as presented.

In response to queries from Councilmember Friedrichs, Ms. Chastain stated that disruptions from the construction will be kept to a minimum. The construction would be in the right-of-way.

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Following the public hearing (there were no comments from the audience), Vice Mayor Olem moved approval of Ordinance 19-O-5, as presented. Councilmember McKenna seconded the motion.

There were brief comments from Council.

The question was called on the motion, which carried by a ROLL CALL vote of 6-0. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

Ordinance 19-O-05 to grant a first franchise amendment to Fiberlight of Virginia, LLC, increasing the allowance of the number of conduit and allowing for a route adjustment.

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

1. The Town Council approves this First Amendment to the Franchise Agreement dated May 11, 2016.
2. This instrument increases the allowance of number of conduit from four to ten conduits on a portion of the route covering approximately 12,810 linear feet. (As reflected in "orange" on Exhibit A)
3. This instrument permits a route adjustment crossing Elden Street further north than the current crossing, as reflected on Exhibit A. The linear feet of the route is unchanged. (As reflected in Exhibit A)
4. This instrument permits a route adjustment crossing Monroe Street further south than the current crossing, as reflected on Exhibit A. The linear feet of the route is unchanged. (As reflected in Exhibit A)
5. Exhibit A dated March 12, 2019, attached hereto, replaces any previous exhibit(s).
6. In all other respects, the original franchise remains in effect.
7. The Mayor is authorized to sign and deliver the franchise and any ancillary instruments necessary to effectuate the franchise.
8. This ordinance shall be in effect on and after the date of its adoption.

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[Note: Attached for reference is the signed first franchise amendment and Exhibit A dated March 12, 2019.]

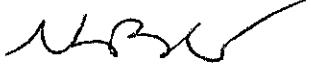
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FIRST FRANCHISE AMENDMENT

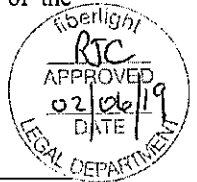
THIS FIRST AMENDMENT dated for identification this 12th day of March 2019 is hereby made to the Franchise Agreement (the "Agreement") dated May 11, 2016, by and between TOWN OF HERNDON, a Virginia municipal corporation (the "Town") and FIBERLIGHT OF VIRGINIA, LLC. ("Franchisee"), as follows

1. Subject to all the terms and conditions contained in the Agreement, the route covered by the Agreement is hereby amended to reflect a route adjustment. The amended route is depicted in "orange" on the attached Exhibit A.
2. Allowance of number of conduit is amended from four to ten conduits only on the portion of the route depicted in "orange" on the attached Exhibit A covering approximately 12,810 linear feet.
3. Exhibit A dated March 12, 2019, attached hereto, replaces any previous exhibit(s).
4. Except as specifically amended or modified herein, the terms and conditions of the Agreement will remain in full force and effect through the term.

FIBERLIGHT OF VIRGINIA LLC

By: 

Kevin B. Coyne
Member



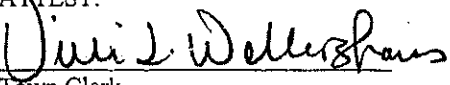
TOWN OF HERNDON, VIRGINIA

By: 

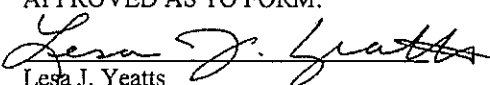
Lisa C. Merkel
Mayor



ATTEST:


Town Clerk

APPROVED AS TO FORM:


Lesa J. Yeatts
Town Attorney

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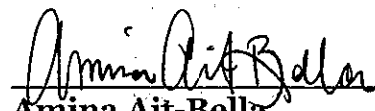
ADJOURNMENT

There being no further business, the meeting adjourned at 7:37 p.m.



Lisa C. Merkel
Mayor





Amina Ait-Bella
Legislative Assistant

Minutes approved by Town Council: April 23, 2019.