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**HERNDON TOWN COUNCIL
Work Session
Tuesday, May 17, 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, May 17, at 5:36 p.m., there were present:

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

CALL TO ORDER

1. Roll Call & Determination of Quorum

Mayor Olem called the work session to order at 5:36 p.m. and stated that she would call the roll for attendance. Following the roll call, Mayor Olem confirmed there was a quorum present.

2. CLOSED MEETING

On motion of Councilmember Dhakal, seconded by Councilmember Friedrichs, and carried by unanimous roll call vote, the Herndon Town Council went into Closed Meeting at 5:37 p.m., under Section 2.2-3711(A)(1) of the Code of Virginia,

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pertaining to discussion of specific public employee relative to annual performance review. The Closed Meeting was held in the Herndon Police Department Community Room, 397 Herndon Parkway, Herndon, Virginia. The appropriate meeting notices were provided in accordance with state law.

Vote: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

On motion of Councilmember Friedrichs, seconded by Vice Mayor del Aguila, and carried by unanimous roll call vote, the Herndon Town Council reconvened in public session at 6:51 p.m.

Vote: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

On motion of Friedrichs, seconded by Councilmember Dhakal, and carried by unanimous roll call vote, the Herndon Town Council approved the following Certification of Closed Meeting.

Vote: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

Certification of Closed Meeting

WHEREAS, the Town Council of the Town of Herndon has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by this Town Council that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered by the Town Council.

VOTE:

Ayes – 7

Nays – 0

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ABSENT DURING VOTE: o
ABSENT DURING MEETING: o

RECESS

At 6:52 p.m., Mayor Olem called a brief recess; and at 7:04 p.m., the meeting reconvened in the Herndon Police Department Community Room, all members present, and with Mayor Olem presiding.

WORK SESSION

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Chief Maggie DeBoard, Herndon Police; Viki Wellershaus, Town Clerk; Scott Robinson, Director of Public Works; Page Kalapasev, Director of Information Technology; Lisa Gilleran, Director of Community Development; Mike Mueller, General Manager, Herndon Centennial Golf Course; Cindy Roeder, Director of Parks and Recreation; John Irish, Deputy Director of Public Works; Bryce Perry, Deputy Director of Community Development; David Stromberg, Zoning Administrator; Dave Bracamonte, Systems Manager; Jaleh Moslehi, Capital Projects Planner; Ahmad Zaki, Lead Planner; and Margie Tacci, Deputy Town Clerk.

ANNOUNCEMENT

Mayor Olem announced that Council had previously met in a closed meeting pursuant to state code requirements.

RECONVENE THE MEETING

Roll Call & Determination of Quorum

Mayor Olem asked the Deputy Town Clerk to call the roll for attendance. Following the roll call, Mayor Olem confirmed there was a quorum present.

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.

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COMMENTS & DISCLOSURES

Mayor Olem asked the Deputy Town Clerk if there were any comments or disclosures for the record. The Deputy Town Clerk stated that comments were provided to Council and entered into the record on General item #8, which is Resolution 22-G-38, to approve a temporary license agreement between the town and Jimmy's Old Town Tavern for use of public space in the alley for outdoor seating for an event.

Additionally, the Deputy Clerk stated that Vice Mayor del Aguila and Councilmember Regan filed Transactional Disclosure Declaration statements with the Town Clerk.

Vice Mayor del Aguila indicated that he met with the applicants and applicants' agent representing public hearing items #3 and #4, which are ZMA #21-01 and SE #22-01, in April of 2021, to discuss affordable housing.

Councilmember Regan indicated that he communicated with the group that owned 315 Elden Street in December of 2021. He did not know if the owners are the same. His communication was in the hours and days after the 698 Park Avenue apartment building fire, and he connected them with Cornerstones to see if they could provide discounted hotel rooms for displaced families. He did not profit from this arrangement in any way and felt that he could evaluate the 315 Elden Street applications without bias.

Both stated that they are able to participate in the discussions regarding these applications fairly, objectively, and in the public interest. The signed statements have been entered into the record and are on file with the Town Clerk and Town Attorney.

The Town Clerk received no additional public comments or statements from Council to enter into the record.

PUBLIC HEARINGS

3. **Ordinance 22-O-13, to consider Zoning Map Amendment ZMA #21-01, 315 Elden Street, from CS (Commercial Services) to PD-UR (Planned Development – Urban Residential) with proffered conditions, to allow the conversion of an existing hotel to multi-family residential with a workforce housing component; and**

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4. **Resolution 22-G-34, to consider Special Exception Application SE #22-01, 315 Elden Street, to allow for development in the FPO (Floodplain Overlay District), subject to approval of Zoning Map Amendment ZMA #21-01, which is being reviewed concurrently with this case.**

Mayor Olem specified that staff would present their reports on the first two items concurrently. She recognized the Zoning Administrator, who presented the staff reports and PowerPoint dated May 17, 2022, which are on file in the Town Clerk's office.

Approval of the proposed ordinance would authorize a zoning map amendment, ZMA #21-01, 315 Elden Street, to change the zoning from Commercial Services (CS) to Planned Development – Urban Residential (PD-UR), with proffered conditions. The applicant planned to convert an existing hotel (Marriott Residence Inn) to multi-family residential buildings with Workforce Dwelling Units (WDU) comprising 50 percent of the units.

The Zoning Administrator outlined the location, history of the property, proposed Generalized Development Plan (GDP), and provided a summary of the proposed proffers, emphasizing the commitment to work force housing. He also summarized how eligibility was determined for WDUs. His summary included a discussion of the amount and types of units, parking spaces, green space, and proposed pedestrian and bicycle improvements. The applicant was requesting a modification to the parking minimum, due to the limitations of the existing lot. The proffers also included elements related to transportation, with allotments for 72 new bicycle spaces and bus stop improvements, and contributions to off-site recreation facilities, schools, and emergency services. The Zoning Administrator stated that if adopted, the proffers would become part of the property's zoning.

The Zoning Administrator stated that the proposed rezoning was located on the flood plain, which was last updated in 2011. FEMA was expected to release a new flood plain study in 2023, and this property would not be located on it any longer. However, since Council was acting on the flood plain as it exists now, they would need to approve the special exception for the application to proceed. A flood study was not required as the applicant was not adding anything new.

Staff and the Planning Commission recommended approval of both items, with submitted proffers and GDP.

Mayor Olem reminded the Council to ask specific zoning questions at the work session, because if there were a lot of zoning changes proposed at next week's meeting, Council might have to continue the public hearing.

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

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Responding to Councilmember Singh, the Zoning Administrator reviewed the plan on this property that the Council approved six months ago.

There was a brief question and answer session between the Zoning Administrator and Councilmember Friedrichs about the traffic study and several proffers. Regarding schools, The Zoning Administrator stated that he could provide the memo from Fairfax County Public Schools (FCPS) about the schools and the estimated number of children who would attend. They also discussed how Fairfax County handled the proffer money for schools and several other items.

There was a brief question and answer session between the Zoning Administrator and Councilmember Regan regarding the flood plain maps, pedestrian improvements, and the lack of new construction at the site.

There was a brief question and answer session between the Zoning Administrator and Councilmember Dhakal regarding previous discussions on the property and WDU eligibility requirements.

There was a brief question and answer session between the Zoning Administrator and Vice Mayor del Aguila about the workforce housing proffer, expected opening date for the residences, and parking.

In response to queries from Councilmember Alam regarding the bus stop proffer, the Zoning Administrator stated at the first certificate of occupancy, the applicant would provide \$10,000 to the town to hold in escrow until the town was ready to make the improvements.

There was a brief question and answer session between the Zoning Administrator and Mayor Olem on visitor parking at the site and what FEMA required for the flood plain special exception.

There was a brief question and answer session between the Zoning Administrator and Councilmember Singh about the applicant's planned improvements, adopted flood plain map, and noise concerns. Regarding the noise, the Zoning Administrator stated a noise study was not proffered, and the applicant could clarify if they planned to replace windows at next week's meeting.

In response to queries from Councilmember Friedrichs, the Zoning Administrator went over how the applicant would address accessibility and ADA compliance.

In response to queries from Councilmember Dhakal, the Zoning Administrator stated he did not have an estimated start date at that time, but he noticed the applicant was writing that question down at the meeting.

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Mayor Olem reminded Council that if they had changes to make at next week's meeting, they would have to consult with the applicant, and then they might have to defer the public hearing.

5. **Resolution 22-G-35, to consider Comprehensive Plan Amendment, CPA #22-01, Pursuant to Section 15.2-2229 of the Code of Virginia, an amendment to the Town of Herndon 2030 Comprehensive Plan, adopted August 12, 2008, as amended through November 17, 2020.**

Mayor Olem recognized the Lead Planner, who presented the staff report and PowerPoint dated May 17, 2022, which are on file in the Town Clerk's office.

The proposed resolution would support the Sterling Road Complete Street Improvement Project; add language of intent regarding the development and future adoption of a town-wide Complete Streets Policy; incorporate by reference the previously adopted Herndon Bicycle Network Master Plan and Pedestrian Plan; and include some housekeeping edits to improve clarity.

The Lead Planner reviewed the background, purpose, details of the proposal, and the incorporation of the Bicycle Network Master Plan. He stated that the Pedestrian Plan was previously adopted like the Bicycle Plan, and the amendment was proposing to incorporate it into the Comprehensive Plan. The addition of the policies would help to align the plan to current practices.

Staff and the Planning Commission recommend approval of the proposed resolution.

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

In response to queries from Vice Mayor del Aguila, the Town Manager confirmed that the amendment was to the Comprehensive Plan. This could help the town's applications for external funding.

In response to queries from Councilmember Singh, the Town Manager discussed the Sterling Road project relative to the Comprehensive Plan and why the amendment was being proposed. The Lead Planner followed up by saying that the Comprehensive Plan was adopted in 2008 and suggested considering an update.

Councilmember Singh stated he would welcome the opportunity to discuss the Comprehensive Plan with staff.

Councilmember Friedrichs referenced comments Council had received on this item and how funding for bicycle and multimodal improvements would be helpful at this intersection.

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Councilmember Regan discussed the difficulty of solving the issue of cut through traffic and improving traffic flow.

Responding to queries from Mayor Olem, the Lead Planner stated that he was not aware of any Loudoun County projects that would improve walkability near Rock Hill Road. Mayor Olem thought that was something they might want to talk about with their colleagues in Loudoun County, to help citizens with connectivity between the two jurisdictions.

GENERAL

6. **Resolution 22-G-36, to authorize a VDOT Urban Project Administration Agreement between the Town and the Commonwealth of Virginia, Department of Transportation (VDOT) and to affirm commitment to fund the locality share associated with the VDOT-administered roadway project titled *Widen East Spring Street (UPC 105521)* project.**

Mayor Olem recognized the Deputy Director of Public Works, who presented the staff report dated May 17, 2022, which is on file in the Town Clerk's office.

The Deputy Director of Public Works stated that this project had been going on for some time. The town did not have an official agreement with the Virginia Department of Transportation (VDOT) in the past for this project, because VDOT did not think it was necessary. However, over time, the project's scope and cost have increased and the town had to seek additional funding sources, some of which included matching requirements. The proposed agreement was necessary so that funds allocated to the Widen East Spring Street project would continue in accordance with VDOT's Six-Year Improvement Program. Staff recommends approval of the proposed resolution, as presented.

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

In response to queries from Councilmember Friedrichs and Mayor Olem about funding, the Deputy Director of Public Works confirmed that the proposed resolution would give the town permission to sign the formal agreement with VDOT. He agreed that VDOT was originally going to fund the project, and stated that at its onset, VDOT provided an initial cost estimate. Over time, the costs had become considerably higher than anticipated.

Responding to the discussion, the Town Manager stated the town had moved money around to fund the project's construction. The agreement acknowledged to VDOT that the town intended to pay for the project.

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In response to queries from Councilmember Dhakal, the Town Manager stated that the town usually signs agreements like the one proposed, but they had not in a while. Many of the recent projects had been town administered, while VDOT administered the Spring Street and East Elden Street projects.

The Deputy Director of Public Works discussed costs with Councilmember Singh, stating that the agreement did not have a cost limit. If VDOT needed funds above what was written in the agreement, they would have to come back to the town and ask for it.

In response to queries from Vice Mayor del Aguila, the Deputy Director of Public Works agreed that VDOT was asking the town to address their exposure.

Following discussion and with the concurrence of Council, Mayor Olem asked staff to add this item to the Consent agenda for next week's meeting.

7. **Resolution 22-G-37, to endorse and to approve the submission of a funding application to the Virginia Department of Transportation (VDOT) for FY26-FY27 Smart Scale Funding to be directed towards the project titled 'Herndon Parkway Improvements at Worldgate Drive Extension.'**

Mayor Olem recognized the Capital Project Planner, who presented the staff report and PowerPoint dated May 17, 2022, which are on file in the Town Clerk's office.

The proposed resolution would authorize staff to submit a Smart-Scale project application to VDOT for funding in FY 2026 – FY 2027 for Herndon Parkway intersection improvements and the extension of Worldgate Drive. The Capital Project Planner reviewed the location, scope and purpose, and funding sources for the project. Last year, staff applied for regional funding through the Northern Virginia Transportation Authority (NVTA) for the intersection portion of this project.

The Capital Project Planner reviewed two proposed funding scenarios. If the town received the previously applied for NVTA regional funds, staff would submit the application for the Worldgate Drive extension only. However, if the town did not receive the NVTA funds, the application would include the entire project, which was the roadway and the intersection. The request would be up to \$11.6 million, depending on the funds received from NVTA.

Staff recommends approval of the proposed resolution, as presented.

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

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In response to queries from Councilmember Dhakal, the Capital Project Planner further reviewed the two potential funding scenarios. Staff would know if the town received the NVTa funding later that month.

In response to queries from Councilmember Singh about unfinished projects, the Capital Project Planner stated that it would be possible to put together a list of ongoing projects that had not been completed. She discussed the negative impact of the pandemic on the town's projects and highlighted how long it took to secure funding.

Responding to the Councilmember Regan's comments about the surrounding area, the Town Manager pointed out redevelopment plans in the Metro area and provided the expected completion dates for several projects. The Herndon Parkway intersection improvements and extension of Worldgate Drive project were meant to address traffic near the Metro area.

There was a brief question and answer session between Vice Mayor del Aguila and the Capital Project Planner about the funding scenarios.

There was a brief question and answer session between Mayor Olem, the Capital Project Planner, and the Town Manager about redevelopment in the nearby area.

Councilmember Singh provided his thoughts on the overall plan for the area where the project was located. He asked staff how significant this request was compared to what might happen in the future.

Councilmember Friedrichs stated staff was asking to apply for a grant to help fund the project being discussed.

Responding to Councilmember Singh, the Capital Project Planner replied that he had a valid question, but at that time, she could not begin to provide an answer.

Following discussion and with the concurrence of Council, Mayor Olem asked staff to add this item to the Consent agenda for next week's meeting.

8. Resolution 22-G-38, to approve a temporary license agreement to use a designated public space in the alley adjacent to Jimmy's Old Town Tavern for outdoor seating for an event.

Mayor Olem recognized the Town Attorney, who presented the staff report, which is on file in the Town Clerk's office.

The proposed resolution would authorize the Mayor to sign the necessary license agreement to permit Jimmy's Old Town Tavern to utilize the town's property for this one-day event. The license would allow them to use the town alley located

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between 689 and 681 Spring Street. The Town Attorney stated that the applicant was approved for a Temporary Use Permit from the Zoning Administrator.

Staff recommends approval of the proposed resolution, approving the temporary license agreement.

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

In response to queries from Mayor Olem about the event's history, the Town Attorney stated she did not know what had occurred before she started working for the town, but these agreements had been put in place for the past five or six years.

In response to queries from Vice Mayor del Aguila about the process, the Town Attorney stated that under the Code of Virginia, the town must approve the use of its property. During the pandemic, the Town Manager was able to approve agreements like this that were later ratified by Council. She thought that was quicker and it might be a possibility that could streamline the process.

In response to queries from Councilmember Friedrichs about noise complaints, the Town Attorney stated the town's noise ordinance set the standards for distance and time. With some exceptions, the noise ordinance generally allows enforcement before 7:00 a.m. and after 10:00 p.m.

In response to queries from Councilmember Singh about noise ordinance standards, the Town Attorney stated that about 15 years ago, the Supreme Court of Virginia ruled that the previous standard, which was noise that would disturb a reasonable person, was not valid. Localities began changing their laws to use distance and time limits, which was what the town used. She would send the information to Councilmember Singh, and he could follow-up with any questions.

Mayor Olem stated that she did not think this item was ready to go on the Consent agenda, and the Town Attorney agreed. She stated there were two things that were outstanding, so it could not go on the Consent agenda at that time.

CONSENT AGENDA

9. **Resolution 22-G-39, to reappoint Leslie Blaker-Glass to the Architectural Review/Historic District Review Boards;**
10. **Resolution 22-G-40, to appoint members to the Herndon Diversity, Equity, and Inclusion Committee; and**
11. **Resolution 22-G-41, to appoint members to the Pedestrian and Bicycle Advisory Committee.**

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Mayor Olem questioned if Council wanted to consider extending the terms of the Pedestrian and Bicycle Advisory Committee (PBAC) members to be the same as the Herndon Diversity, Equity, and Inclusion Committee (HDEIC). This would mean changing the PBAC member's terms to end in 2024, rather than at the end of the year (2022). She thought that ending the terms in 2022 was too soon, given that they had to wait this long to get started again.

Vice Mayor del Aguila, Chair of PBAC, thought it was a good idea to keep the end dates consistent between the two committees.

With the concurrence of Council, Mayor Olem asked if it would be an issue to change the end date for the PBAC terms to be consistent with HDEIC, and the Town Manager stated that staff would have the changes ready for next week's meeting.

DISCUSSION

12. Policy for Town Council Presentations.

Mayor Olem recognized the Town Clerk, who began the discussion on the Town Council presentation policy.

The Town Clerk stated that the existing presentation policy adopted in 2010 has become outdated, with too many categories and requirements, which have become burdensome over time. While physical presentations were not held during the pandemic, organizations and citizens still asked for recognitions. Staff adapted to this by offering proclamations, which reduced the administrative time spent researching and developing resolutions. When groups started meeting in person again, staff was asked whether the mayor or a councilmember could present a proclamation at their local event or annual meeting. Staff found this process worked well.

The Town Clerk stated that one concern she heard was that some months have more presentations than others, which could take up a significant amount of time. Some of the ideas to manage this were to offer a photo op just prior to the meeting; posting the proclamations on the town's website; and having the mayor read a list of recognitions rather than reading entire proclamations. Council could also comment about proclamations presented to groups during "Comments from the Council," while citizens could comment during "Comments from the Audience."

Staff was requested to look at returning to physical presentations at public hearings. That night, the Town Clerk was asking for Council's thoughts and parameters to consider updating the existing presentation policy and process.

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

Councilmember Friedrichs suggested selecting once Councilmember who was connected to the proclamation to comment on the subject at public hearings.

Vice Mayor del Aguila stated that personally, he loved recognizing the community. He agreed with Councilmember Friedrichs' suggestion.

Councilmember Dhakal expressed support for his colleagues' suggestions. He liked recognizing the community, but he wanted to look at being more efficient. He had several suggestions, including presenting one proclamation per public hearing; one representative from the organization making remarks; staff sending the organization the proclamation if they could not attend; and having Council attend events to present the proclamation when that was possible.

Councilmember Regan liked the idea of doing presentations before the meetings; spreading out the proclamations so they are not all in one month; and Council attending events to present proclamations.

Councilmember Alam thought presenting proclamations was a good idea.

Councilmember Singh provided personal comments about a time that he had invited citizens to be recognized at a Council meeting.

The Town Clerk stated she could remove some of the older language in the policy. She understood the Council liked how staff had been doing it and indicated that staff would continue to utilize proclamations.

Mayor Olem enjoyed the proclamations, but she stated that they often take up a lot of time at meetings, where citizens and applicants have to sit through the process. In years past, she recalled there were organizations being recognized that did not have anything to do with Herndon, and there were often many individuals attending that were not from the town. She did not think that was a good use of staff resources. On the other hand, she has taken proclamations to be presented to organizations at various events, like the one honoring the Rotary Citizen of the Year. She thought that organizations really appreciated receiving proclamations at their event.

The Town Clerk stated that before the proclamation goes to the mayor and council, there were guidelines the requesting organization had to meet. One of those was having a tie to the Herndon community. She planned to update the policy and bring it back for Council's review, so they could eventually adopt revisions to the policy.

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ROUNDTABLE

1. **Councilmember Dhakal**: Thanked the Town Manager for answering his questions at the last work session.
2. **Councilmember Regan**: No comments.
3. **Councilmember Alam**: No comments.
4. **Councilmember Friedrichs**: No comments.
5. **Councilmember Singh**: No comments.
6. **Vice Mayor del Aguila**: No comments.
7. **Mayor Olem**: Shared that she attended the Technology Arts Competition and Reception at ArtSpace Herndon that past Sunday. She was joined by Chairman McKay and Supervisor Walkinshaw of the Fairfax County Board of Supervisors, Senator Boysko, and children from all over the county. It was sponsored by Herndon's own Hawkeye360.

COMMENTS FROM THE TOWN MANAGER

The Town Manager was informed that staff planned to have the sharrows completed on Alabama Drive that next day.

The Town Manager stated that staff was able to put together a temporary light for Queens Row Street, which should be going in soon. However, the town had to run a drainage pipe across Van Buren Street at Herndon Parkway that next day, which meant there would be flaggers directing traffic at that intersection. He had sent out the appropriate notifications, but he still expected traffic issues.

Following on the Town Manager's comments, Mayor Olem stated that there were six major transportation projects going on in town. Out of a cost of approximately \$110 million, \$85 million had come from external sources.

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ADJOURNMENT

On motion of Vice Mayor del Aguila, seconded by Councilmember Dhakal, and carried by unanimous roll call vote, the meeting of the May 17, 2022 work session was adjourned at 9:09 p.m. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."


Sheila A. Olem
Mayor




Amanda E.M. Kertz
Chief Deputy Town Clerk

Minutes approved by Town Council: September 13, 2022.

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NOTE:

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