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HERNDON TOWN COUNCIL
Tuesday
September 10, 2019

The Town Council met in public session on Tuesday, September 10, 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; Bill McKenna; and Signe Friedrichs.

Councilmember Jennifer K. Baker was absent.

Staff 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; Page Kalapasev, Director of Information Technology; Scott Robinson, Director of Public Works; Lauri Sigler, Deputy Town Attorney; Tammy Chastain and John Irish, Deputy Directors of Public Works; Bryce Perry, Deputy Director of Community Development; Sergeant Bobby Galpin, Herndon Police; Margie C. Tacci, Deputy Town Clerk; and Erika Orellana, Acting Deputy Town Clerk.

Mayor Merkel called the meeting to order at 7:00 p.m., all members present, with the exception of Councilmember Baker, who was absent, 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 stated that Councilmember Baker would be absent from tonight's meeting.

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APPROVAL OF MINUTES

Vote on August 7, 2019 Work Session Minutes

On motion of Vice Mayor Olem, seconded by Councilmember Friedrichs, and carried by a vote of 6-0, the minutes of the August 7, 2019 work session were approved. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

Vote on August 13, 2019 Public Hearing Minutes

On motion of Vice Mayor Olem, seconded by Councilmember Friedrichs, and carried by a vote of 5-0, the minutes of the August 13, 2019 public hearing were approved. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember McKenna abstaining. Councilmember Baker was absent.

PRESENTATIONS

3. Proclamation, to recognize "POW/MIA Recognition Day," September 20, 2019.

Councilmember Friedrichs read the proclamation recognizing "POW/MIA Recognition Day" into the record.

Following comments from Council, Vice Commander Robert Thompson, American Legion Wayne M. Kidwell Post 184, provided comments on the proclamation.

The proclamation was presented to Vice Commander Thompson, along with other members of the American Legion Post 184; Jay Hadlock; and members from the audience that are serving or have served in the armed forces.

TOWN OF HERNDON, VIRGINIA PROCLAMATION POW/MIA Recognition Day September 20, 2019

For many years, the American Legion supported the observance of a National **POW/MIA Recognition Day**, which ~ with the Legion's support ~ was first recognized at the national level on July 18, 1979. That first year, Congress passed a resolution and the national ceremony was held at the National Cathedral in Washington, D.C. Every year following, **POW/MIA Recognition Day** legislation was introduced until 1985, when the President began to issue a proclamation honoring this important day each year, on the third Friday in September.

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POW/MIA Recognition Day honors the commitment and sacrifices made by our nation's prisoners of war; those who are still missing in action; and their families. On this commemorative day, we pay tribute to the service men and women who have not returned home from past conflicts; stand beside their families and loved ones; and honor those who are held captive as prisoners of war. We remain focused on America's responsibility to achieve the fullest possible accounting of the missing members of our armed forces and to bring them home.

Therefore, in recognition of these brave Americans, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim Friday, September 20, 2019 as **POW/MIA Recognition Day** in the Town of Herndon, and offer full support to all members of the United States armed forces, who defend American lives and liberties with unwavering devotion.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim that the Town of Herndon shall annually observe the third Friday of each September as **POW/MIA Recognition Day** and encourage citizens to acknowledge this day of honor and remembrance through the display of the POW/MIA flags and with appropriate ceremonies and activities.

4. Proclamation, to recognize "Virginia Bicyclist and Pedestrian Awareness Month," September 2019.

Councilmember del Aguila, who serves as Chair of the Pedestrian and Bicycle Advisory Committee (PBAC), read the proclamation recognizing "Virginia Bicyclist and Pedestrian Awareness Month" into the record.

Following comments from Council, the proclamation was presented to Chair Councilmember del Aguila and members of PBAC who were present; Sergeant Galpin, Herndon Police, and members of the Herndon Police Department who were present; and Bryce Perry, Deputy Director of Community Development.

Sergeant Bobby Galpin provided comments on the proclamation.

**TOWN OF HERNDON, VIRGINIA
PROCLAMATION
Virginia Bicyclist and Pedestrian Awareness Month
September 2019**

Every year, bicyclists and pedestrians are killed or injured in crashes with motor vehicles in Virginia. To combat these tragic events, hundreds of partners ~ including towns, cities, counties, businesses, organizations, schools, and sporting groups from across the state ~ are teaming up with DRIVE SMART Virginia, Bike Virginia, the Virginia Highway Safety Office at the Division of Motor Vehicles, and other like-minded organizations, to raise awareness about the importance of sharing the road to reduce

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the number of crashes and injuries. During the month of September, the public awareness campaign known as **Virginia Bicyclist and Pedestrian Awareness Month** encourages bicyclists, pedestrians, and motorists to work together with this year's theme ~ 'See and Be Seen' ~ to find solutions to reduce roadway injuries and fatalities, while promoting safety, respect, and cooperation.

Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim September 2019 as **Virginia Bicyclist and Pedestrian Awareness Month** in the Town of Herndon; recognize that bicyclists, motorists, and pedestrians all have mutual rights and responsibilities when traveling on the roadways of Virginia; emphasize the importance of safety for all individuals traveling on the roadways; and promote bicycling and walking as healthy, efficient and sustainable forms of transportation.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby express support for the Herndon Police Department, Herndon Police Citizens' Support Team, and the town's Pedestrian and Bicycle Advisory Committee, in their efforts to make our roads, trails, and paths safer; and remind pedestrians, bicyclists and motorists to be safe, aware and to **'share the road.'**

5. Proclamation, to express appreciation to Green Lizard Cycling.

Councilmember del Aguila read the proclamation expressing appreciation to Green Lizard Cycling into the record.

Following comments from Council, Dave Meyer, co-owner of Green Lizard Cycling, provided comments on the proclamation.

Mr. Meyer presented Mayor Merkel with a Green Lizard Cycling jersey and a tumbler cup. He presented members of Council and the Town Manager and Town Attorney with tumbler cups.

The proclamation was presented to Beth and Dave Meyer, along with members of the Green Lizard staff; members of the Green Lizard Association; Arthur Nachman; and the Green Lizard's friends and neighbors who were present.

Following the presentation, the following individuals provided comments:

- Arthur Nachman, 866 Vine Street, Herndon;
- Ian MacDonald, member of PBAC;
- John Chamberlain, who read a poem he wrote about the Green Lizard;
- Dan Fisher, President, Green Lizard Association, who provided comments on behalf of the Association;

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- Kristine Wooten; and
- Chris Burgess.

**TOWN OF HERNDON, VIRGINIA
PROCLAMATION
Green Lizard Cycling**

Dave and Beth Meyer opened **Green Lizard Cycling** ~ a family-owned business that is now an integral part of the Herndon community ~ in downtown Herndon in March 2013. Throughout the past six years, the Meyers and **Green Lizard Cycling** have been actively involved in partnering with the town and local organizations toward the betterment of the community. Their advocacy for area cyclists has included working with groups such as Reston Bike Club, Washington Area Bicyclist Association, Fairfax Alliance for Better Biking, Mid-Atlantic Offroad Enthusiasts, and the Virginia Bicycling Federation. The Meyers have hosted events including the Crooked Lizard Bicycle Scramble benefitting Friends of Homeless Animals and Boulder Crest, the Annual Fun Ride Bike-a-Thon for the Herndon High School Band in conjunction with the Rotary Club of Herndon, and frequent community group rides and events for cyclists of all ages and levels.

The Meyers have worked with the town to support and promote the annual Bike to Work Day, Coffee with a Cop, and other town events and ~ in collaboration with the Department of Parks and Recreation ~ donated bike helmets and provided technicians to repair bikes at the 2019 Play It Safe: Bike Rodeo and Safety Fair.

They also work to give back to the community through The Green Lizard Foundation, which was formed to encourage healthier living by assisting the youth of the community with options for recreation, exercise and nutrition, and they provide training and sponsor and donate resources to initiatives that support the growth of safe cycling and healthy living.

Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, hereby express its appreciation to Dave and Beth Meyer of **Green Lizard Cycling** for their valued presence in town and their many contributions to the community, and look forward to their continued growth and involvement.

6. Proclamation, to recognize the 130th Anniversary of the Herndon Fortnightly Club.

Vice Mayor Olem read the proclamation recognizing the 130th Anniversary of the Herndon Fortnightly Club into the record.

Following comments from Council, the proclamation was presented to Mary Burger, President, Herndon Fortnightly Club, and members of the Herndon Fortnightly Club that were present.

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Ms. Burger provided comments on the proclamation.

**TOWN OF HERNDON, VIRGINIA
PROCLAMATION
130th Anniversary
Herndon Fortnightly Club**

In 1889, a group of 11 women from Herndon formed a study club called the "*Fortnightly Club of Herndon*" ~ later named the **Herndon Fortnightly Club** ~ the oldest women's club in Virginia's General Federation of Women's Clubs. Its purpose was to enhance member's knowledge of literature, art, science and the issues of the day, and was so named because they met every two weeks. The club has participated in many philanthropic, patriotic and community events over the decades. They started a collection of 40 books that grew to over 1,000 books by 1900, at which point the club became the county's first lending library out of a rented room in Herndon's downtown. In 1927, Fortnightly Club volunteers opened a brick library at 660 Spring Street. By 1953, this library contained over 8,000 books and a few years later, it was designated as a Deposit Station of the Fairfax County system.

In 1972, the **Herndon Fortnightly Club** moved into a new building on Spring Street and operated the Herndon Fortnightly Library until the Fairfax County Public Library System assumed the management and funding responsibilities of the library. The club has maintained an active role with the library and the community, including their comprehensive scholarship program, which has provided over \$200,000 in scholarships to date for area students. A new "Herndon Fortnightly Library" was opened by the county in 1995 ~ so named to honor the significant and historic role the **Herndon Fortnightly Club** has played in supporting and protecting Herndon's heritage.

Therefore, in recognition of the 130th anniversary of the **Herndon Fortnightly Club**, the Mayor and Town Council of the Town of Herndon, Virginia, hereby congratulate and celebrate this important organization and encourage residents to learn more about the club, its history, and its work in the town.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby express sincere gratitude and appreciation to the many volunteers of the **Herndon Fortnightly Club**, who have dedicated countless hours of their time; greatly contributed to our community; and improved the quality of life in the Herndon area for the past 130 years.

7. **COMMENTS FROM THE TOWN MANAGER**

William H. Ashton, II, Town Manager congratulated Cindy Roeder, Director of Parks and Recreation, for receiving the Fellows Award for lifetime achievement at the Virginia Recreation and Parks Society Conference (VRPS).

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Mr. Ashton provided a brief update on several downtown items. He stated that the town was working on the transitional parking plan, which was nearly complete. The transitional ArtSpace location has been identified and was under a letter of intent. Mr. Ashton stated that tomorrow, the Arts Advisory Committee would reconvene to discuss the arts walk. Meanwhile, Comstock was working through their internal processes, including construction bids and fire marshal review. He stated that negotiation was ongoing with Comstock on an environmental remediation agreement. Mr. Ashton stated that preliminary discussions have started on the tri-party agreement between the town, Comstock, and Comstock's lender. The agreement would help protect the town. He stated that the town and Comstock were preparing to meet and formally begin this process. Mr. Ashton stated that another major upcoming milestone would be met when Comstock applies for its building permits, which would occur after the fire marshal's review.

8. COMMENTS FROM THE TOWN COUNCIL

Councilmember del Aguila: Thanked Bishop Mike Hunsaker, congregation leader of the Herndon Ward, Church of Jesus Christ of Latter Day Saints, for inviting him to their ice cream social, where he enjoyed meeting many new people.

Councilmember Friedrichs: Stated that she saw NextStop Theatre's current show, "Beehive," which would be playing through September 22. She encouraged all those interested to purchase tickets and see it.

Councilmember Friedrichs encouraged those interested to attend a pastel drawing class at ArtSpace Herndon, which would start tomorrow, Wednesday, September 11.

Councilmember Friedrichs stated that on Saturday, September 14, Capital One would host a hack-a-thon geared toward young women. The group Girls Computing League, who were local to the Herndon area, was sponsoring the event.

Councilmember Friedrichs congratulated Ms. Roeder on the award she received at the VRPS Conference.

Councilmember Friedrichs understood there had been a query on the Consent agenda item Resolution 19-G-56, for bulk curbside trash collection service. She asked if it was for regular trash pick-up or if it was for the fall and spring clean-up events.

Mayor Merkel stated that the Council received an email from a citizen who was concerned about this item. She asked Mr. Ashton to clarify it.

Mr. Ashton stated that as part of this year's budget, Council moved the spring and fall clean-up to an outsource arrangement, which would assist the Town Shop employees and help improve morale.

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Vice Mayor Olem: Stated that the Herndon Rotary Club held their annual Classic Car Show on Sunday, September 8.

Vice Mayor Olem stated that a representative of the Herndon Fortnightly Library spoke about a service that brings books to resident's homes at the Herndon Rotary Club's most recent meeting. The library also has reader machines, provided free of charge, to assist those that have visual or other impairments that make it difficult to read a traditional book. The reader machines are mailed to the requestor's homes and the library does not issue fines if they are overdue. She asked anyone interested in these services to contact her for more information.

Vice Mayor Olem stated that she enjoyed the performance of NextStop Theatre's "Beehive" and encouraged those interested to attend a show.

9. COMMENTS FROM THE AUDIENCE

The following member of the audience provided comments:

- Jay Hadlock, 515 Alabama Drive, Herndon, member of the Board of Directors for the Friends of Runnymede Park, provided details about several upcoming events at Runnymede Park, including the Fall Native Plant Sale, from 9:00 a.m. to 2:00 p.m. on Saturday, September 21; and NatureFest, Sunday, September 29, 1:00 p.m. to 5:00 p.m.

Mr. Hadlock provided brief comments on Consent agenda item Resolution 19-G-56 and thanked the town for doing their due diligence on this item.

PUBLIC HEARINGS

10. **Ordinance 19-O-26, to authorize the acquisition of a temporary easement on property owned by PSBP Monroe LLC for public use by condemnation for the Herndon Metrorail Access Improvements project for the purpose of construction of public transportation facilities over real estate located at 560 Herndon Parkway, Herndon, Virginia;**
11. **Ordinance 19-O-27, to authorize the acquisition of fee simple, permanent and temporary easements on property owned by Parkview Executive Center, Joint Venture RLLP for public use by condemnation for the Herndon Metrorail Access Improvements project for the purpose of construction of public transportation facilities over real estate located at 593 Herndon Parkway, Herndon, Virginia;**
12. **Ordinance 19-O-28, to authorize the acquisition of fee simple, permanent and temporary easements on property owned by Monroe Parkway Joint Venture for public use by condemnation for the Herndon Metrorail Access**

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Improvements project for the purpose of construction of public transportation facilities over real estate located at 570 Herndon Parkway, Herndon, Virginia; and

13. **Ordinance 19-O-29, to authorize the acquisition of fee simple, permanent and temporary easements on property owned by Kiddar Herndon Station LLC for public use by condemnation for the Herndon Metrorail Access Improvements project for the purpose of construction of public transportation facilities over real estate located at 575 Herndon Parkway, Herndon, Virginia.**

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearings had been duly advertised in the August 23, 2019 and August 30, 2019 issues.

Mayor Merkel opened the public hearings and stated that staff would present their reports concurrently, followed by separate public hearings and roll call votes on each item. She recognized Lesa Yeatts, Town Attorney, for comments.

Ms. Yeatts stated that the proposed ordinances concerned the Herndon Metrorail Access Improvements on Herndon Parkway, which was a long-standing Capital Improvement Program (CIP) project. She highlighted the improvements that were part of this project, including signalized pedestrian and bicycle crosswalk connections and other transit facility improvements. This project was significant because Metrorail's arrival to Herndon was imminent. Ms. Yeatts introduced Courtney Harden, Briglia Hundley, who was an expert on eminent domain, as recognized by the Commonwealth of Virginia's Attorney General. Ms. Harden would provide input on these ordinances. Ms. Yeatts recognized John Irish, Deputy Director of Public Works, for the staff reports.

Mr. Irish presented the concurrent staff reports and a PowerPoint dated September 10, 2019, which are on file in the Town Clerk's office. He discussed the history, background, location, and details of the project. The town identified several interests of land it needed to acquire to construct the improvements, which included four different property owners. There were three different types of easements, or right-of-way, that were involved in this project: fee simple transactions, permanent easements and temporary construction easements. He reviewed the process and stated that the town had engaged its civil engineering consultant to offer packages to the property owners, but the town was still negotiating with the four property owners. The proposed ordinances would allow the town to file a certificate of take in Circuit Court, which would enable the town to move forward with utility easements. The town would submit the dollar value of the appraisals to the court at the same time. The town, as the administrator of these projects, had to take these actions. Staff recommends approval of the proposed ordinances, as presented.

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In response to queries from Councilmember del Aguila, Mr. Irish stated that staff corrected several typographical errors in their reports, but in essence, everything was the same as was presented at last week's work session.

Ms. Harden stated that she is a subject matter expert in eminent domain. As Ms. Yeatts explained, she has a certification from the Attorney General to work on behalf of the Commonwealth in this area. She discussed the project and several related terms. There was a question at last week's work session about the meaning of "eminent domain" and "condemnation." Eminent domain is a municipality's power to take land to build a public project or for a public purpose. Condemnation is the procedure the locality goes through to accomplish that task. Condemnation of land for a public purpose is a normal and necessary part of constructing transportation projects. She discussed the condemnation process and easements as related to the landowners and the town in further detail. Ms. Harden would continue active negotiation with the landowners.

There was brief discussion amongst Council and staff on these items.

There was a brief question and answer session between Vice Mayor Olem and Ms. Harden.

There were further brief comments from Council.

There was a brief question and answer session between Mayor Merkel, Ms. Harden, and Mr. Irish, related to the timing and funding aspects of the project.

Ordinance 19-O-26, PSBP Monroe LLC, 560 Herndon Parkway

Following the public hearing (there were no comments from the audience), Councilmember Friedrichs moved approval of Ordinance 19-O-26, as presented. Vice Mayor Olem seconded the motion.

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 del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

Ordinance 19-O-26, Authorizing the acquisition of a temporary easement on property owned by PSBP Monroe LLC for public use by condemnation for the Herndon Metrorail Access Improvements project for the purpose of construction of public transportation facilities over real estate located at 560 Herndon Parkway, Herndon, Virginia.

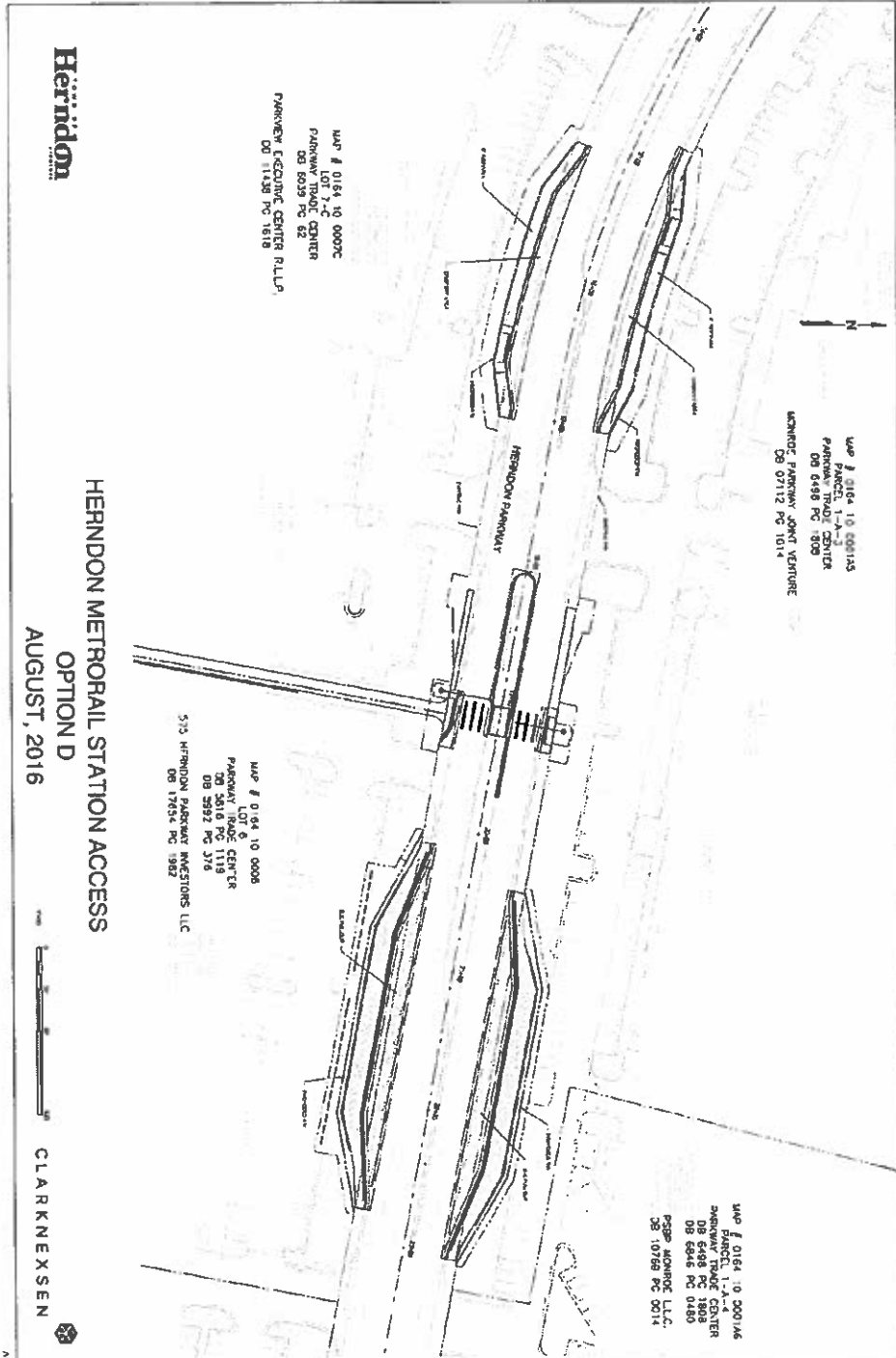
BE IT ORDAINED by the Council for the Town of Herndon that:

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1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 43 square foot temporary construction and grading easement from PSBP Monroe LLC for \$100 in connection with the Herndon Metrorail Access Improvements project. The landowner did not accept this offer. Therefore, the Town Attorney and outside counsel on behalf of the Town is authorized and directed to file and prosecute to completion a condemnation action against PSBP Monroe LLC for the Town's condemnation of this temporary easement over real estate located at 560 Herndon Parkway, Town of Herndon, Fairfax County, Virginia, designated as Tax Parcel No. 0164-10-0001A6.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public transportation facilities, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described easement rights for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above in the form of a Certificate of Take to be filed in the Fairfax County Circuit Court.
4. The easement rights shall be used for the Metrorail Access Improvements project. The easement rights are necessary for the construction, maintenance, or improvement of, and access to, the public transportation facilities.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is the Project Parcel Map titled "Herndon Metrorail Station Access," Option D, August 2016.]

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(public hearing)



September 10, 2019
(public hearing)

Ordinance 19-O-27, Parkview Executive Center, Joint Venture RLLP, 593 Herndon Parkway

Following the public hearing (there were no comments from the audience), Vice Mayor Olem moved approval of Ordinance 19-O-27, as presented. Councilmember McKenna seconded the motion.

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 del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

Ordinance 19-O-27, Authorizing the acquisition of fee simple, permanent and temporary easements on property owned by Parkview Executive Center, Joint Venture RLLP for public use by condemnation for the Herndon Metrorail Access Improvements project for the purpose of construction of public transportation facilities over real estate located at 593 Herndon Parkway, Herndon, Virginia.

BE IT ORDAINED by the Council for the Town of Herndon that:

1. The Town of Herndon made a bona fide but ineffectual effort to acquire 1,822 square foot fee simple, 1,920 square foot permanent utility easement, 71 square foot permanent traffic easement and 2,334 square foot temporary construction and grading easements from Parkview Executive Center, Joint Venture RLLP for \$493,300 in connection with the Herndon Metrorail Access Improvements project. The landowner did not accept this offer. Therefore, the Town Attorney and outside counsel on behalf of the Town is authorized and directed to file and prosecute to completion a condemnation action against Parkview Executive Center, Joint Venture RLLP for the Town's condemnation of these interests in property over real estate located at 593 Herndon Parkway, Town of Herndon, Fairfax County, Virginia, designated as Tax Parcel No. 0164-10-0007C.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public transportation facilities, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set

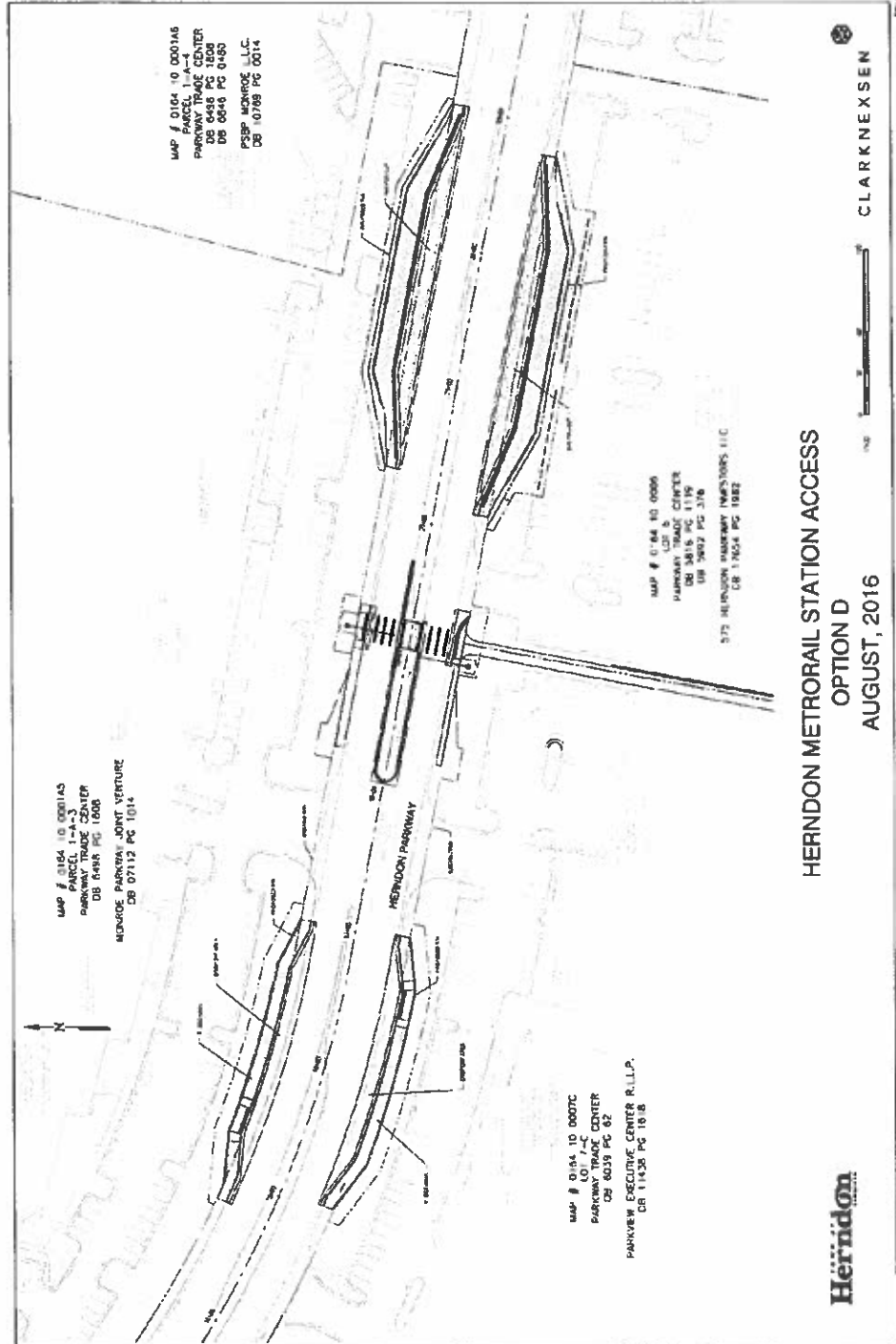
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forth in paragraph 1 above in the form of a Certificate of Take to be filed in the Fairfax County Circuit Court.

4. The property interests shall be used for the Hendon Metrorail Improvements project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public transportation facilities.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is the Project Parcel Map titled "Herndon Metrorail Station Access," Option D, August 2016.]

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**September 10, 2019
(public hearing)**

Ordinance 19-O-28, Monroe Parkway Joint Venture, 570 Herndon Parkway

Following the public hearing (there were no comments from the audience), on motion of Councilmember McKenna, seconded by Vice Mayor Olem, and carried by a roll call vote of 6-0, Ordinance 19-O-28 was approved, as presented. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

Ordinance 19-O-28, Authorizing the acquisition of fee simple, permanent and temporary easements on property owned by Monroe Parkway Joint Venture for public use by condemnation for the Herndon Metrorail Access Improvements project for the purpose of construction of public transportation facilities over real estate located at 570 Herndon Parkway, Herndon, Virginia.

BE IT ORDAINED by the Council for the Town of Herndon that:

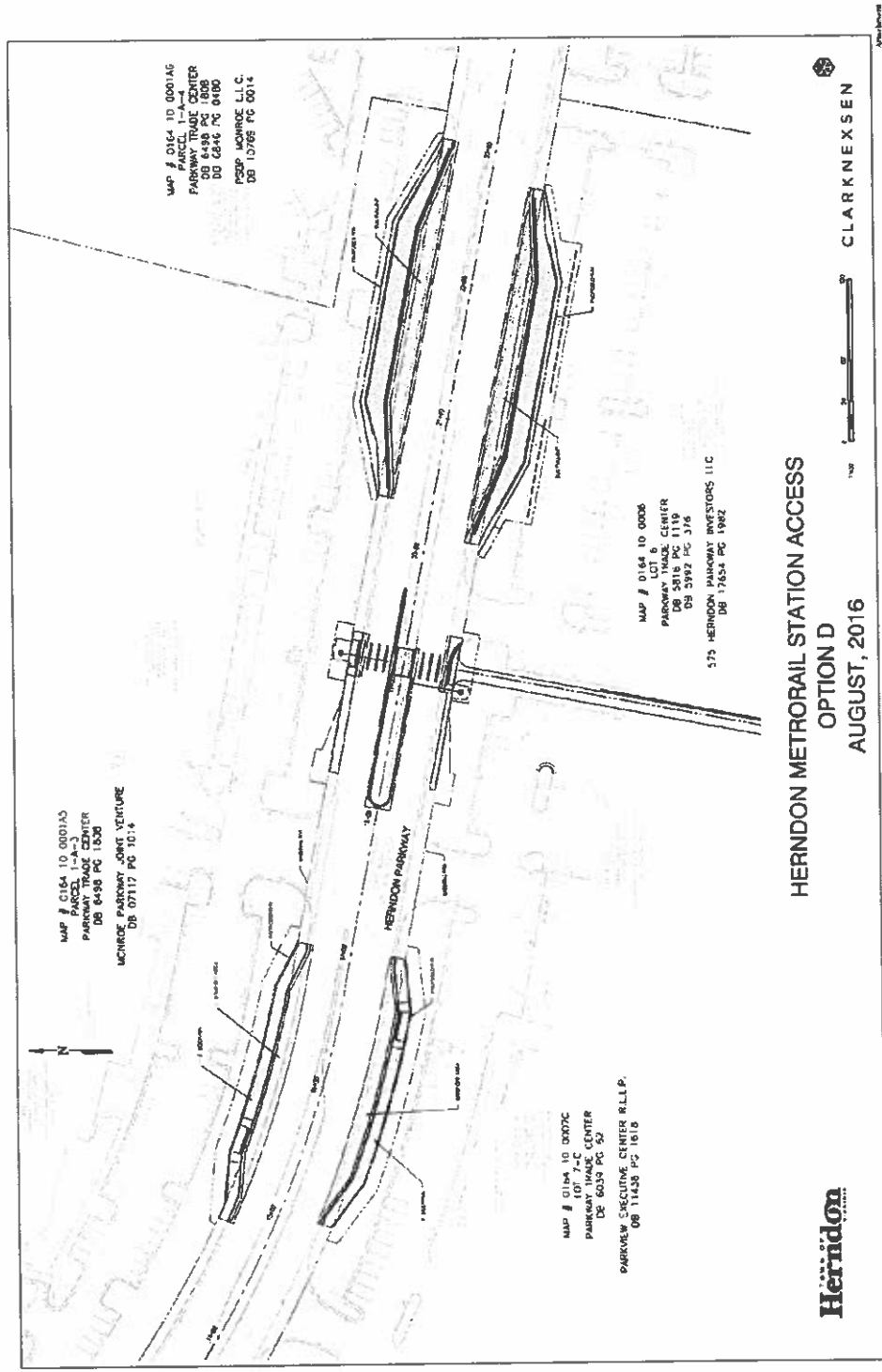
1. The Town of Herndon made a bona fide but ineffectual effort to acquire 5,283 square foot fee simple, 175 square foot permanent traffic easement and 4,687 square foot temporary construction and grading easement from Monroe Parkway Joint Venture for \$158,200 in connection with the Herndon Metrorail Access Improvements project. The landowner did not accept this offer. Therefore, the Town Attorney and outside counsel on behalf of the Town is authorized and directed to file and prosecute to completion a condemnation action against Monroe Parkway Joint Venture for the Town's condemnation of these interests in property over real estate located at 570 Herndon Parkway, Town of Herndon, Fairfax County, Virginia, designated as Tax Parcel No. 0164-10-0001A5.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public transportation facilities, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above in the form of a Certificate of Take to be filed in the Fairfax County Circuit Court.

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4. The property interests shall be used for the Herndon Metrorail Improvements project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public transportation facilities.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is the Project Parcel Map titled "Herndon Metrorail Station Access," Option D, August 2016.]

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Ordinance 19-O-29, Kiddar Herndon Station LLC, 575 Herndon Parkway

Following the public hearing (there were no comments from the audience), on motion of Councilmember del Aguila, seconded by Vice Mayor Olem, and carried by a roll call vote of 6-0, Ordinance 19-O-29 was approved, as presented. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

Ordinance 19-O-29, Authorizing the acquisition of fee simple, permanent and temporary easements on property owned by Kiddar Herndon Station LLC for public use by condemnation for the Herndon Metrorail Access Improvements project for the purpose of construction of public transportation facilities over real estate located at 575 Herndon Parkway, Herndon, Virginia.

BE IT ORDAINED by the Council for the Town of Herndon that:

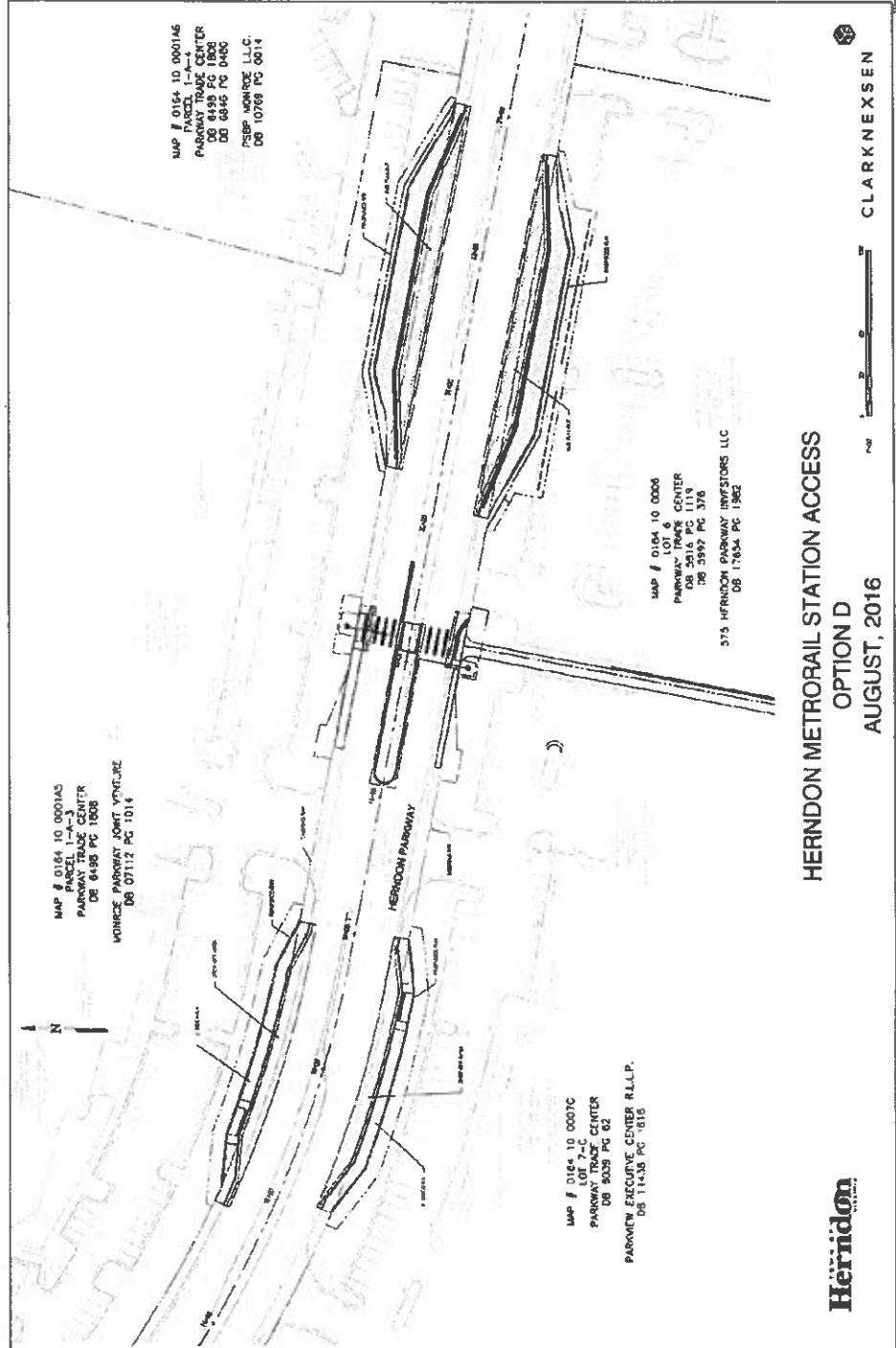
1. The Town of Herndon made a bona fide but ineffectual effort to acquire 5,706 square foot fee simple, 3,824 square foot permanent utility easement and 2,488 square foot temporary construction and grading easement from Kiddar Herndon Station LLC for \$1,359,300 in connection with the Herndon Metrorail Access Improvements project. The landowner did not accept this offer. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file and prosecute to completion a condemnation action against Kiddar Herndon Station LLC for the Town's condemnation of these interests in property over real estate located at 575 Herndon Parkway, Town of Herndon, Fairfax County, Virginia, designated as Tax Parcel No. 0164-10-0006.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public transportation facilities, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above in the form of a Certificate of Take to be filed in the Fairfax County Circuit Court.

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4. The property interests shall be used for the Herndon Metrorail Access Improvements project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public transportation facilities.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is the Project Parcel Map titled "Herndon Metrorail Station Access," Option D, August 2016.]

September 10, 2019
(public hearing)



**September 10, 2019
(public hearing)**

GENERAL

14. Resolution 19-G-53, to award Contract #B-20-01, Chandon Park Trail Improvements.

John Irish, Deputy Director of Public Works, presented the staff report and PowerPoint dated September 10, 2019, which are on file in the Town Clerk's office. He described the project, which was developed under the Herndon Metrorail Station Access Management Study (HMSAMS) program administered through Fairfax County. The Chandon Park Trail Improvements project would provide an eight foot wide asphalt multimodal trail to connect the Dulles Glen Apartments to Worldgate through Chandon Park to facilitate access to the Herndon Metrorail Station. Following the bid process, the apparent lowest bidder, The Kauffman Group, Inc., has been found to be responsive and responsible. Staff recommends approval of the proposed resolution, as presented. Following approval, staff would aim to have the project completed by the end of the year.

Councilmember Friedrichs moved approval of Resolution 19-G-53, as presented. Vice Mayor Olem seconded the motion.

There were comments from Council.

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

Resolution 19-G-53, Award of Contract #B-20-01, Chandon Park Trail Improvements.

WHEREAS, the Chandon Park Trail Improvements project is in the Capital Improvement Program; and

WHEREAS, Contract #B-20-01, Chandon Park Trail Improvements, was advertised on July 16, 2019; and

WHEREAS, a pre-bid conference was held on July 31, 2019 and was attended by four firms; and

WHEREAS, the following bids were received and opened on August 13, 2019 at a public bid opening:

<u>Contractor</u>	<u>Bid</u>
The Kauffman Group, Inc.	\$342,000
McGee Civil Construction, LLC	\$375,000
Finley Asphalt & Concrete	\$404,225
Arthur Construction Co., Inc.	\$538,965
<u>Accubid</u> Construction Services, Inc.	\$560,000

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Sagres Construction Corp. \$647,500; and

WHEREAS, The Kauffman Group, Inc. submitted the lowest bid which was found to be responsive and responsible; and

WHEREAS, staff recommends in addition to the contract that a contingency of \$34,000 which is approximately 10% of the bid, be authorized; and

WHEREAS, funds to support this contract are available in the Capital Projects Account Number 0150886-491780; and

WHEREAS, reimbursement of funds up to \$500,000 are available through a Herndon Metrorail Station Access Management Study (HMSAMS) grant from Fairfax County.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-20-01, Chandon Park Trail Improvements, to The Kauffman Group, Inc. in the amount of \$342,000.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes a contingency of \$34,000.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Director of Public Works designee to approve contract modifications (change orders) that increase project scope and costs, utilizing the project contingency.

CONSENT AGENDA

15. **Resolution 19-G-54, to endorse and authorize a funding application to the Virginia Department of Transportation for the allocation of Revenue Sharing funds to be directed towards the East Elden Street Project;**
16. **Resolution 19-G-55, to endorse and authorize a funding application to the Virginia Department of Transportation for the allocation of Revenue Sharing funds to be directed towards the East Spring Street Project;**
17. **Resolution 19-G-56, to award Contract #19-14, Bulk Curbside Trash Collection Service;**
18. **Resolution 19-G-57, to authorize a Standard Project Administration Agreement between the Town and the Commonwealth of Virginia Department of Transportation for the administration of the SGR Primary Extension Paving FY2020 project; and**

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19. Resolution 19-G-58, to establish the Town Council meeting schedule for January 1, 2020 to December 31, 2020.

On motion of Vice Mayor Olem, seconded by Councilmember McKenna, and carried by a vote of 6-0, the following consent agenda items were approved, without comment. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

Resolution 19-G-54, to endorse and authorize an application to the Virginia Department of Transportation (VDOT) for the Allocation of FY2021 and FY2022 Revenue Sharing Funds for the *East Elden Street Widening and Improvements* project.

WHEREAS, the Revenue Sharing Program provides additional funding to construct, improve or maintain the highway system; and

WHEREAS, the program is administered by the Virginia Department of Transportation in cooperation with the participating locality, under the authority of Section 33.1-23.05 of the Code of Virginia; and

WHEREAS, the Town of Herndon may directly apply for this program since it maintains its own streets; and

WHEREAS, the Town of Herndon must provide VDOT with a Revenue Sharing application and resolution, outlining its request to participate and support of the potential projects identified for possible funding by October 1, 2019; and

WHEREAS, the Town of Herndon desires to submit an application for an allocation of funds of up to \$4,405,000 through the Virginia Department of Transportation Fiscal Year 2021 and Fiscal Year 2022 Revenue Sharing Program; and

WHEREAS, the Town of Herndon must commit a minimum of fifty percent in matching funds, comprised of town general funds, town bond funds and/or NVTB HB-2313 Local revenue, of up to \$2,202,500 (\$1,101,250 for FY21 and \$1,101,250 for FY22), within the two fiscal years subsequent to allocation along with a Town/VDOT agreement prior to beginning a VDOT administered project; and

WHEREAS, these funds in the amount up to \$2,202,500 are requested to be directed towards funding the *East Elden Street Widening and Improvements* (UPC 50100) project in the Town of Herndon.

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NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby supports and authorizes this application be submitted for the allocation of up to \$4,405,000 through the Virginia Department of Transportation Revenue Sharing Program.

BE IT FURTHER RESOLVED THAT the Town of Herndon hereby grants authority for the Town Manager to execute project administration agreements for any approved VDOT Revenue Sharing projects.

Resolution 19-G-55, to endorse and authorize an application to the Virginia Department of Transportation (VDOT) for the Allocation of FY2019 and FY2020 Revenue Sharing Funds for the *East Spring Street Widening* project.

WHEREAS, the Revenue Sharing Program provides additional funding to construct, improve or maintain the highway system; and

WHEREAS, the program is administered by the Virginia Department of Transportation in cooperation with the participating locality, under the authority of Section 33.1-23.05 of the Code of Virginia; and

WHEREAS, the Town of Herndon may directly apply for this program since it maintains its own streets; and

WHEREAS, the Town of Herndon must provide VDOT with a Revenue Sharing application and resolution, outlining its request to participate and support of the potential projects identified for possible funding by December 1, 2017; and

WHEREAS, the Town of Herndon desires to submit an application for an allocation of funds of up to \$4,608,000 through the Virginia Department of Transportation Fiscal Year 2021 and Fiscal Year 2022 Revenue Sharing Program; and

WHEREAS, the Town of Herndon must commit a minimum of fifty percent in matching funds, comprised of town general funds, town bond funds and/or NVTB HB-2313 Local funds, of up to \$2,304,000 (\$1,152,000 for FY2021 and \$1,152,000 for FY2022), within the two fiscal years subsequent to allocation along with a Town/VDOT agreement prior to beginning a locally administered project; and

WHEREAS, these funds in the amount up to \$4,608,000 are requested to be directed towards funding the *East Spring Street Widening* (UPC 105521) project in the Town of Herndon.

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NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby supports and authorizes this application be submitted for the allocation of up to \$4,608,000 through the Virginia Department of Transportation Revenue Sharing Program.

Resolution 19-G-56, Award Contract #19-14, Bulk Curbside Trash Collection Service.

WHEREAS, Bulk Curbside Trash Collection Service was budgeted in the General Fund for FY20; and

WHEREAS, IFB #19-14, Bulk Curbside Trash Collection Service, was advertised on June 17, 2019; and

WHEREAS, the following bids were received and opened on July 17, 2019 at a public bid opening:

<u>Contractor</u>	<u>Bid</u>
Samourai Loafers	\$ 52,304
Junk King	\$ 68,190; and

WHEREAS, Samourai Loafers submitted the lowest bid, which was determined to not be responsive and responsible after reaching out to references listed. Based on information received from the references it was determined that the lowest bidder could not satisfy the terms of the contract. The second lowest bidder, Junk King, was determined to be responsive and responsible; and

WHEREAS, funds to support this contract are available in the Refuse account (Landfill Charges) number 0010889-420380 and the Refuse account (Contract Services) number 0010889-420610.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #19-14, Bulk Curbside Trash Collection Service, to Junk King in the amount of \$68,190.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Director of Public Works designee to approve contract modifications (change orders) that increase service scope and costs, utilizing the service contingency.

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Resolution 19-G-57, Authorizing a Standard Project Administration Agreement between the Town and the Commonwealth of Virginia Department of Transportation for the administration of the SGR Primary Extension Paving FY2020 project.

WHEREAS, the town has expressed its desire to administer the work described in this Standard Project Administration Agreement, and such work for the improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in the Standard Project Administration Agreement have been allocated to finance the Project and the funding currently allocated or proposed for the project does not include Federal-aid Highway funds; and

WHEREAS, both parties have concurred in the town's administration of the work for the respective Project listed in the Standard Project Administration Agreement in accordance with applicable federal, state and local laws and regulations.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia authorizes the Standard Project Agreement and commits to fund its local share of the resurfacing of a portion of Herndon Parkway from Elden Street to Springtide Place under agreement with the Virginia Department of Transportation in accordance with the project agreement.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute all agreements and/or addendums for this project with the Virginia Department of Transportation.

BE IT FURTHER RESOLVED THAT the Town of Herndon hereby grants authority for the Town Manager to execute project administration agreements for any approved VDOT Revenue Sharing projects.

[Note: Attached for reference the Standard Project Administration Agreement b/n the town and VDOT (Project #0228-235-370/UPC #115302).]

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**STANDARD PROJECT ADMINISTRATION AGREEMENT
State-aid Projects**

Project Number	UPC	Local Government
0228-235-370	115302	Town of Herndon

THIS AGREEMENT, made and executed in triplicate this ____ day of _____, 2019, by and between the Town of Herndon, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance the Project(s) and the funding currently allocated or proposed for the project(s) does not include Federal-aid Highway funds; and

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state and local laws and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The LOCALITY shall:
 - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
 - b. Receive prior written authorization from the DEPARTMENT to proceed with the project.
 - c. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.
 - d. Provide certification by a LOCALITY official of compliance with applicable laws and regulations on the State Certification Form for State Funded Projects or in another manner as prescribed by the DEPARTMENT.
 - e. Maintain accurate and complete records of each Project's development of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for not less than three (3) years following acceptance of the final voucher on each Project.

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- f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and also include an up-to-date project summary and schedule tracking payment requests and adjustments.
 - g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if due to action or inaction solely by the LOCALITY the project becomes ineligible for state reimbursement, or in the event the reimbursement provisions of Section 33.2-214 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of state law or regulations require such reimbursement.
 - h. On Projects that the LOCALITY is providing the required match to state funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
 - i. Administer the Project in accordance with all applicable federal, state, and local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of state-aid reimbursements.
 - j. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
 - k. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
2. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
 - b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.f, reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
 - c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
 - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with applicable laws and regulations.

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- e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.
3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.
5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its cost exceeds the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.
6. Nothing in this agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

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9. This agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, 1.g, and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination and unless otherwise agreed to, the DEPARTMENT shall retain ownership of plans, specifications, and right of way for which state funds have been provided, unless all state funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THE LOCALITY and the DEPARTMENT further agree that should Federal-aid Highway funds be added to the project, this agreement is no longer applicable and shall be terminated. The LOCALITY and the DEPARTMENT mutually agree that they shall then enter into a Standard Project Administration Agreement for Federal-aid Projects.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

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Town of Herndon
Project 0228-235-370 UPC 115302

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

TOWN OF HERNDON, VIRGINIA:


Lisa C. Merkel

Typed or printed name of signatory

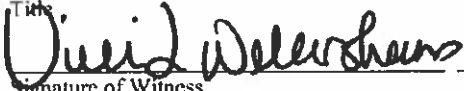
Mayor



Date

9-10-19

Title


Signature of Witness

Date

9-10-19

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this agreement.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

Chief of Policy
Commonwealth of Virginia
Department of Transportation

Date

Signature of Witness

Date

Attachment

Appendix A – UPC 115302

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Appendix A

Project Number: 0228-235-370 UPC: 115302 CFDA # N/A Locality: Town of Herndon Date: 8/7/2019

Project Location ZIP 20170-5577	Locality DUNS # 74818535	Locality Address (incl ZIP+4): PO Box 427 Herndon, VA 20172-0427
Project Narrative		
Work Description:	#SGR Primary Extension Paving FY20 - Resurface a portion of Herndon Parkway from Elden Street to Sterling Road	
From:	Elden Street	
To:	Sterling Street	
Locality Project Manager Contact Info:	John Irish 703-435-6853 john.irish@herndonva.gov	
Department Project Coordinator Contact Info:	Ed Del Rio 703-259-2374 ed.delrio@vdot.virginia.gov	

Project Estimates				
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$0	\$0	\$490,000	\$490,000
Estimated VDOT Project Expenses	\$0	\$0	\$10,000	\$10,000
Estimated Total Project Costs	\$0	\$0	\$500,000	\$500,000

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering						
Total PE						\$0
Right of Way & Utilities						
Total RW						\$0
Construction	\$250,000	State Funds	0%	\$0	\$250,000	
	\$250,000	Local Funds	100%	\$250,000	\$0	
Total CN	\$250,000			\$250,000	\$250,000	\$240,000
Total Estimated Cost	\$250,000			\$250,000	\$250,000	\$240,000

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	\$250,000
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	\$240,000

Project Financing						
CTB Formula	Local Funds					Aggregate Allocations
State Funds						
\$250,000	\$250,000					\$500,000

Program and Project Specific Funding Requirements	
- This Project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Urban Manual - This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$250,000 - This Project shall meet all applicable ADA requirements. - This Project must be advertised within six months of award funding or be subject to de-allocation. - The LOCALITY will continue to operate and maintain the facility as constructed. Should the design features of the Project be altered by the LOCALITY subsequent to Project completion without approval of the DEPARTMENT, the LOCALITY inherently agrees, by execution of this agreement, to make restitution, either physically or monetarily, as required by the DEPARTMENT.	

This attachment is certified and made an official record of this document by the parties to this agreement.

APPROVED AS TO FORM

Authorized Locality Official and Date: Lisa C. Merkel, Mayor, 9-9-2019

Authorized VDOT Official and Date: Marille Phillips

Typed or printed name of person signing: Marille Phillips

**September 10, 2019
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Resolution 19-G-58, to establish the Town Council meeting schedule for January 1, 2020 to December 31, 2020.

BE IT RESOLVED that the town council of the Town of Herndon, Virginia, hereby:

1. Incorporates the meeting schedule set out in Section 2-1 of the Herndon Town Code (2000), as amended, and establishes the meeting schedule for January 1, 2020 to December 31, 2020, modified as follows:
 - Reschedule the town council work session on Tuesday, August 4 **TO** Wednesday, August 5, to allow council participation in National Night Out activities;
 - Reschedule the town council public hearing on Tuesday, October 13 **TO** Wednesday, October 14, to allow council participation in the annual VML conference, and request the town clerk to work in coordination with the Chief Communications Officer to ensure the Wednesday public hearing date is widely-publicized;
 - Reschedule the town council work session on Tuesday, November 3 **TO** Tuesday, November 10 and the town council public hearing on Tuesday, November 10 **TO** Tuesday, November 17, to recognize the 2020 federal and Herndon Mayor and Town Council elections; and
 - Forgo the town council's public hearing on Tuesday, November 24, to accommodate Thanksgiving holiday travel.
2. Directs staff to reflect the modified meeting schedule in the 2020 annual town calendar.

20. CLOSED MEETING

Mayor Merkel stated that the Herndon Town Council had a need to go into a Closed Meeting. Following a brief recess, the Council would reconvene in a Closed Meeting in the Hoover Conference Room.

On motion of Councilmember McKenna, seconded by Vice Mayor Olem, and carried by a vote of 6-0, the Herndon Town Council went into Closed Meeting at 8:50 p.m., under sections 2.2-3711(A)(3) and (A)(8), Virginia Code, to consult with legal counsel and to

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discuss and consider the acquisition of real property for a public purpose where such discussion or consultation in an open meeting would adversely affect the bargaining position, negotiating strategy or litigating posture of the Council.

Vote: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

21. RECESS

At 8:50 p.m., Mayor Merkel called a brief recess and at 8:57 p.m., the Closed Meeting reconvened in the Herndon Council Chambers Building, all members present, with the exception of Councilmember Baker, who was absent, and with Mayor Merkel presiding.

22. CLOSED MEETING CONTINUED

On motion of Vice Mayor Olem, seconded by Councilmember McKenna, and carried by a vote of 6-0, the Herndon Town Council reconvened in public session at 9:23 p.m.

Vote: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

On motion of Councilmember Friedrichs, seconded by Vice Mayor Olem, and carried by a vote of 6-0, the Herndon Town Council approved the following Certification of Closed Meeting.

Vote: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker was absent.

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.

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VOTE:

Ayes – 6

Nays – 0

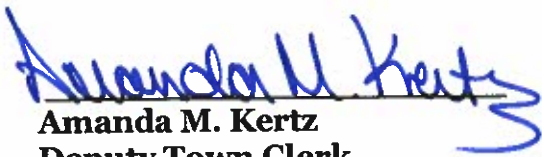
ABSENT DURING VOTE: 1

ABSENT DURING MEETING: 1

23. ADJOURNMENT

There being no further business, the meeting adjourned at 9:24 p.m.


Lisa C. Merkel
Mayor


Amanda M. Kertz
Deputy Town Clerk



Minutes approved by Town Council: September 24, 2019.