TOWN OF Herndon VIRGINIA

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HERNDON TOWN COUNCIL
Work Session
Wednesday, November 6, 2019

At a regular meeting of the Town Council of the Town of Herndon, Virginia, held in the Herndon Council Chambers Building, at 765 Lynn Street, Herndon, Virginia, on Wednesday, November 6, 2019, at 7:00 p.m., there were present:

- Mayor Lisa C. Merkel, presiding;
- Vice Mayor Sheila A. Olem;
- Councilmember Cesar del Aguila;
- Councilmember Pradip Dhakal;
- Councilmember Signe Friedrichs; and
- Councilmember Bill McKenna.

Councilmember Jennifer K. Baker arrived at 8:09 p.m.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Captain Brad Anzengruber, Herndon Police; Elizabeth Gilleran, Director of Community Development; Page Kalapasev, Director of Information Technology; Cindy Roeder, Director of Parks and Recreation; Bryce Perry, Deputy Director of Community Development; Scott Robinson, Director of Public Works; Tammy Chastain and John Irish, Deputy Directors of Public Works; Michael Wallick, Transportation Planner; and Margie C. Tacci, Deputy Town Clerk.

ANNOUNCEMENT

Mayor Merkel stated that Councilmember Baker was presenting the proclamation honoring the Pride of Herndon for attending the 75th anniversary of D-day at their fall concert this evening. She would be late arriving.

DISCUSSION

Update on the Fairfax Connector Bus Service to the Herndon/Reston Silver Line Optimization Plan.

Mayor Merkel introduced the town's Transportation Planner, who introduced the officials from Fairfax County, including Randy White, Transit Development Plan Project Manager, Fairfax County Department of Transportation and Robin Geiger, Head of Communications, Transportation Marketing Section. He recognized Michael Felschow, Planning Section Chief, Fairfax County Transit Services Division, to provide an update on bus service to the Metrorail Silver Line Phase 2 stations.

Mr. Felschow presented a PowerPoint, dated November 6, 2019, which is on file in the Town Clerk's office. He reviewed the current and planned bus routes and transit facilities in the Herndon area for Phase 2 of Metrorail's Silver Line and discussed the bus service planning process. The Fairfax County Department of Transportation (FCDOT) was assessing Fairfax Connector bus service in the Herndon-Reston area, gathering public input to generate service improvement recommendations, and developing a plan for service changes. The data collection included a market survey and onboard survey, which provided FCDOT with suggestions for service improvements. Mr. Felschow reviewed a heat map that was made from the data collected regarding where riders started and where they were headed.

There was brief discussion amongst Council and Mr. Felschow about the survey data.

With the information collected through public input and professional analysis, FCDOT was studying three service alternatives, which would be budget neutral and would be developed into a preferred service plan for review by the Fairfax County Board of Supervisors. The preferred option might be a combination of some or all of the three proposed alternatives. Of the plans, Alternative 3, "Transformation," would yield the best results when weighed against criteria including key locations, travel time, and transit propensity. However, the county was not recommending one alternative over the other yet. Mr. Felschow stated that these plans were available for review on the Fairfax Connector's website.

There was discussion amongst Council and Mr. Felschow about the proposed bus route alternatives

There was a brief question and answer period between Councilmember McKenna and Mr. Felschow about existing bus routes and alternatives.

There was a brief question and answer period between Councilmember del Aguila and Mr. Felschow about the data collected and the alternatives.

There was a brief question and answer period between Councilmember Friedrichs and Mr. Felschow about the alternatives.

Mr. Felschow discussed the three proposed alternatives. The county was now collecting input from towns and the community to fill in the gaps between the plans. He stated that the county wants everyone who takes the bus today to be able to take the bus tomorrow. The county would test the preferred system in several ways to ensure it would assist the most people and encourage public transportation.

Mr. Felschow continued the PowerPoint and reviewed the timeline for the Herndon-Reston Bus Service Planning Process. The county has held three public meetings and an online survey. Improvements to the bus service would be ready when Phase 2 of the Silver Line opens.

Ms. Geiger stated that the website, fairfaxconnector.com, had an online survey on its homepage. The county's website, fairfaxcounty.gov, had more information as well.

There was brief discussion amongst Council and Mr. Felschow.

Councilmember McKenna stated that he took the Fairfax Connector 950 route for two months and it was highly utilized on Elden Street and Alabama Drive. He asked Mr. Felschow to consider the current and future routes for this bus line. He stated that the 930 bus was also very well used.

Mr. Felschow stated that in Herndon's area of the county, the 950 route was the highest production route with the highest ridership. He agreed it was a critical route.

There was a brief question and answer period between Councilmember Friedrichs and Mr. Felschow about weekend bus routes.

Mayor Merkel echoed Councilmember Friedrichs' comments and asked why there was little weekend service to the Metro in all of the options.

Councilmember McKenna echoed his colleagues' comments.

Mr. Felschow stated typically, there is less transportation service on the weekends. He stated that the county could look at the weekend service. He stated that the county would evaluate the routes after six months and see what

adjustments they need to make. There would be further evaluations in the months following. Every five years, the county would closely examine the system.

There was a brief question and answer period between Mayor Merkel and Mr. Felschow about meeting the needs of the town's population.

Mayor Merkel stated that the Council was willing to help the county look at options that might not be conventional.

There was a brief question and answer period between Councilmember Friedrichs and Mr. Felschow about autonomous vehicles and tracking software.

There was a brief question and answer period between Vice Mayor Olem and Mr. Felschow about meeting the needs of bus ridership.

There was a brief question and answer period between Councilmember del Aguila and Mr. Felschow about demographic data collection.

Councilmember McKenna thanked the county for adding the bus route 938 that helps high school students get to work. He also thanked the county for keeping the bus depot in Herndon.

There was a brief question and answer period between Mayor Merkel and Mr. Felschow about future bus routes and the circulator route 921. Mr. Felschow stated that his staff was closely monitoring Herndon routes.

Mayor Merkel was concerned about losing the bus route and offered the Council's assistance on advocating for this route.

There was a brief question and answer period between Councilmember del Aguila and Mr. Felschow about the next steps in the process and the 921 route.

Ms. Geiger stated that she would provide information cards to distribute, which would include information on the online survey.

There were further comments from Council.

Mayor Merkel asked that the county keep free bus rides for middle and high school students for as long as it is affordable.

Councilmember Friedrichs stated that she was impressed with the Fairfax Connector's service, which she had to use on September 11, 2001.

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(work session)

PRESENTATION

1. **Proclamation, to recognize Pearl Harbor Remembrance Day, December 7, 2019.**

   There were no comments on the presentation, which was scheduled for the November 12, 2019 public hearing.

PUBLIC HEARINGS

2. **Ordinance, to grant a ten-year telecommunications franchise to AT&T Communications of Virginia, LLC.**

   Mayor Merkel stated that at next week's public hearing, the Council would follow the bid process and take action by roll call vote on the next two items. All bids received would be entered into the record. She recognized the Deputy Director of Public Works for the staff report.

   The Deputy Director of Public Works presented the staff report dated November 6, 2019, which is on file in the Town Clerk's office. This franchise agreement between AT&T Communications of Virginia, Inc., a subsidiary of AT&T Corporation, and the town would permit a 10-year franchise agreement for maintenance of underground telecommunications facilities existing from their previous franchise with the town. Staff recommends approval of the proposed ordinance, as presented.

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

3. **Ordinance, to grant a ten-year telecommunications franchise to Teleport Communications America, LLC.**

   The Deputy Director of Public Works presented the staff report dated November 6, 2019, which is on file in the Town Clerk's office. This franchise agreement between Teleport Communications America, LLC., and the town would permit a 10-year franchise agreement for maintenance of underground telecommunications facilities existing from their previous franchise with the town that expired. The route was shown as Exhibit A, which indicated existing network facilities in place. The attached Exhibit A, dated November 12, 2019, would replace all previous Exhibits. Staff recommends approval of the proposed ordinance, as presented.

   The Town Attorney stated that this ordinance was a lot of work for staff and the providers.

There was no discussion on this item.

4. **Ordinance, to approve a lease of space in the Town's building at 397 Herndon Parkway to the Board of Supervisors of Fairfax County, Virginia.**

Mayor Merkel announced that staff provided a corrected lease to Council earlier this week. Staff provided paper copies for Council and the public. She recognized the Town Attorney for the staff report.

The Town Attorney presented the staff report dated November 6, 2019, which is on file in the Town Clerk's office. Staff's revision was in paragraph three, to change from "rehearsal" to "office space." The proposed ordinance was a lease between the town and the Board of Supervisors of Fairfax County. This lease was for a one-year term and would expire on November 11, 2020. The rent for this space would be $1.00 per lease term consistent with similar leases on town property. She stated that the town's new Risk Manager would start on December 2 and needed the office space formerly used by the Supervisor for their office. Staff recommends approval of the proposed ordinance, as presented.

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

Vice Mayor Olem stated that 397 Herndon Parkway was ADA accessible.

In response to queries from Councilmember del Aguila, the Town Attorney stated that if the Council wanted her to, she could draft a lease that would reflect the market rate rental as an in-kind contribution from the town. She stated that one difference was that the leases in Town Hall were usually longer than the one-year leases at the 397 Herndon Parkway building.

The Town Manager thought Councilmember del Aguila's suggestion made sense. He did not have a problem with that approach.

There were further comments from Council.

GENERAL

5. **Resolution, to authorize Project Administration Agreements between the Town and Fairfax County for the administration of Herndon Metrorail Station Access Management Study (HMSAMS) Projects.**

The Deputy Director of Public Works presented the staff report dated November 6, 2019, which is on file in the Town Clerk's office. This would be a continuation of an agreement between the town and Fairfax County, which was authorized by resolution on January 28, 2014. Previously, the town had used the

funding to study the Van Buren Complete Street project and the cycle track on along Herndon Parkway. This was the next step, to request funding for the design, construction, and implementation of transportation multimodal improvements in the Herndon Transit-Oriented Core (HTOC). The Fairfax County Board of Supervisors approved the list of Herndon Metrorail Station Access Management Study (HMSAMS) pedestrian and bicycle transportation projects on December 8, 2015, to be funded out of the county's Fiscal Years FY 2015 to FY 2020. This would be before the Fairfax County Board of Supervisors on December 2 for approval. Staff recommends approval of the proposed ordinance, as presented.

There was no Council discussion on this item.

6. **Ordinance, to amend Chapter 66 (STREETS, SIDEWALKS, AND CERTAIN OTHER PLACES), of the Code of the Town of Herndon, to add Article V (Shared Mobility Devices).**

The Town Attorney presented the staff report and PowerPoint dated November 6, 2019, which are on file in the Town Clerk's office. In February 2019, the Virginia General Assembly passed a law permitting shared mobility devices in Virginia, subject to local regulations. Local jurisdictions were given until January 1, 2020, to implement shared mobility device pilot programs or legislation. Localities were not able to ban motorized skateboards, scooters, bicycles, or electric power-assisted bicycles, but they could regulate them. If a locality did not implement an ordinance or pilot program by January 1, 2020, shared mobility device companies could operate as authorized by the state legislation. Devices as addressed in state legislation: (1) are less than 100 pounds, (2) have max speed of 20 mph, (3) are permitted to ride on sidewalks unless prohibited by local ordinance, (4) have both headlight and taillight, and (5) if less than 14 years old, riders need parental supervision.

Shared mobility devices include motorized skateboards, scooters, bicycles, or electric-power assisted bicycles. These devices typically are shared among riders, operated by private companies, and are enabled by technology or apps. Shared mobility devices are often deployed as fleets of devices throughout a geographic area. Shared mobility devices are frequently "dockless", meaning that they park in public spaces and "lock" to themselves in an app.

Staff recommends adoption of the proposed ordinance, requiring the franchiser license, to be followed by a permit to operate, to satisfy the requirements for the December 31st deadline. Staff would work to provide Council with a subsequent ordinance(s) to address any outstanding issues.

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

In response to queries from Vice Mayor Olem, the Town Attorney stated that staff could look at speed limits. One thing that would factor into that was if the town would allow the devices on sidewalks.

The Town Attorney stated that the proposed ordinance was well-informed by nearby jurisdictions who have dealt with this issue.

Mayor Merkel stated that it was wise to have a general placeholder ordinance so the town was in compliance. The town could learn from nearby localities. She did not want to over-regulate and then have to back track the regulations.

Vice Mayor Olem stated one of the issues she had seen in larger municipalities was the lack of maintenence on these devices.

There were further comments from Council.

7. **Resolution, to establish the Town of Herndon's 2020 Legislative Program to request that the 2020 Virginia General Assembly amend § 58.1-3910.1 Code of Virginia allowing the Town to into an agreement with Fairfax County for the county treasurer to collect and enforce delinquent or non-delinquent real or personal property taxes; or request that the 2020 Virginia General Assembly amend the Code of Virginia to add § 58.1-3910.2 to allow the Town to into an agreement with Fairfax County for the county treasurer to collect and enforce delinquent or non-delinquent real or personal property taxes and the Town's position on anticipated legislation.**

Mayor Merkel announced that staff provided Council with a revised resolution for the town's 2020 Legislative Program. She recognized the Town Attorney to further outline the resolution in her staff report.

The Town Attorney presented the staff report dated November 6, 2019, which is on file in the Town Clerk's office. One of the reasons for the revisions was that the Virginia Municipal League (VML) distributed their final legislative program late last Friday afternoon. She reviewed the action and position statement items the town proposed to support at the 2020 General Assembly.

The Town Attorney stated she had been in communication with the county on the action item, which was to amend the state code to allow the county to bill and collect delinquent real estate taxes on behalf of the town. Several of the amendments to this item were languages changes from county treasurer to tax administration. This would be an "either/or" amendment to one of the two sections of state code, to permit the county to collect town's taxes. This would allow the town to take advantage of the county's collection tools.

Staff recommends approval of the proposed ordinance, as presented.

There was brief discussion amongst Council and staff on the action items.

The Town Attorney reviewed the position and informational items included in the proposed legislative agenda. These were based on what the Council had previously indicated they would like to support and the VML's position statements. It would not be a good idea for the town to adopt all of VML's positions because they might not all apply to the town. The items included in the staff report were what she considered the most important, drawing on VML's statements.

Councilmember Friedrichs made the Town Attorney aware of a position statement that she wanted to be included for consideration. The Town Attorney stated that she had sent Council the language for this item regarding neighborhood preservation. She asked if Council wanted her to add it to the town's legislative agenda.

Following brief discussion and with the concurrence of the majority of Council, Mayor Merkel asked staff to add the position statement on neighborhood preservation.

There was further discussion amongst Council and staff.

ROUNDTABLE

1. **Councilmember Dhakal:** Stated that he heard one complaint after the election, which was a request to move the chain link fence at St. Joseph church parking lot for a better flow of voters at the Herndon Community Center.

   The Director of Community Development stated that land was owned by the Catholic Arlington Diocese. She was not sure if staff had approached them about accessing the parking lot for one day.

   There was discussion amongst Council and staff about the St. Joseph parking lot and the Herndon Community Center.

   In response to queries from Councilmember del Aguila, the Director of Parks and Recreation stated she could ask the church about using the lot on election day.

2. **Councilmember Baker:** Apologized for being a little late to the meeting. She was presenting the town's proclamation at the Herndon High School (HHS) Band Concert earlier. She discussed the concert, which paid tribute to veterans and the

USS Herndon. She stated it has been an incredible connection between the USS Herndon, the town, and the HHS Band.

3. **Vice Mayor Olem:** Stated that she enjoyed Margaret Jamborsky's presentation about the USS Herndon that she gave at the Herndon Historical Society.

   Vice Mayor Olem was glad to see a purple bin for recycling glass installed at the Town Shop by the county. She suggested that everyone watch the video on what the county is doing with the glass.

   Vice Mayor Olem provided a pamphlet on "sharing the road." She would put the brochures on the table outside the Council Chambers for the public.

4. **Mayor Merkel:** Echoed Vice Mayor Olem's comments about the new purple bin for glass recycling and thanked Fairfax County for putting one in Herndon. It was a county facility that anyone could use.

5. **Councilmember Friedrichs:** Stated that she was reaching out to the Chamber and other groups about Styrofoam containers.

CLOSED MEETING

On motion of Councilmember McKenna, seconded by Councilmember Friedrichs, and carried by unanimous vote, the Herndon Town Council went into Closed Meeting at 8:29 p.m., under:

- Section 2.2-3711(A)(1), of the Code of Virginia, for discussion of prospective candidates relative to appointments to boards & commissions; and

- Section 2.2-3711 (A)(3), of the Code of Virginia, to consider the disposition of publicly held real estate where discussion in an open meeting would adversely affect the bargaining position or negotiation strategy of the public body.

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

RECESS

At 8:29 p.m., Mayor Merkel called a brief recess, and at 8:33 p.m., the closed meeting reconvened in Herndon Council Chambers Building, all members present, and with Mayor Merkel presiding.

CLOSED MEETING (CONTINUED)

On motion of Vice Mayor Olem, seconded by Councilmember Friedrichs, and carried by unanimous vote, the Herndon Town Council reconvened in public session at 8:50 p.m.

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

On motion of Vice Mayor Olem, seconded by Councilmember Dhakal, and carried by unanimous vote, the Herndon Town Council approved the following Certification of Closed Meeting.

Vote: Councilmembers Baker, Dhakal, del Aguila, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel 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

ABSENT DURING VOTE: 0

ABSENT DURING MEETING: 0

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ADJOURNMENT

There being no further business, the meeting adjourned at 8:51 p.m.

Lisa C. Merkel
Mayor

TOWN OF HERNDON, VIRGINIA 1879

Amanda M. Kertz
Deputy Town Clerk

Minutes approved by Town Council: December 10, 2019.