TOWN OF Herndon VIRGINIA

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HERNDON TOWN COUNCIL
Work Session
Tuesday, February 18, 2020

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 Tuesday, February 18, 2020, 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 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; Jennie Tripoli, Director of Finance; Page Kalapasev, Director of Information Technology; Cindy Roeder, Director of Parks and Recreation; Scott Robinson, Director of Public Works; Tammy Chastain and John Irish, Deputy Directors of Public Works; David Stromberg, Zoning Administrator; Karen Gagliano, Budget Manager; Tanya Kendrick, Human Resources Director; and Margie C. Tacci, Deputy Town Clerk.

ANNOUNCEMENT

Mayor Merkel stated that Councilmember Baker would not be present at that night's meeting.

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PRESENTATIONS

1. **Proclamation, to honor Women's History Month, March 2020**

   There was brief discussion regarding the groups that would come to accept the proclamation ~ the Herndon Women's Club and the Herndon Fortnightly Club. The presentation was scheduled for the February 25, 2020 public hearing.

PUBLIC HEARING

2. **Ordinance, to grant a third franchise amendment to Zayo Group, LLC for a route expansion**

   Mayor Merkel stated that bids would not be required at next week's meeting, but the action would require a roll call vote. She recognized the Deputy Director of Public Works for the staff report.

   The Deputy Director of Public Works presented the staff report dated February 18, 2020, which is on file in the Town Clerk's office. The original amended franchise agreement between Zayo Group, LLC and the Town of Herndon, Virginia dated January 22, 2017 and would expire on January 22, 2027. This Third Amendment will allow for a route expansion of 915 linear feet over the course of the proposed route expansion as depicted in "red" (Route 1) on Exhibit A, dated February 25, 2020. Staff recommends approval of the proposed ordinance, as presented.

   There was no discussion.

CONSENT AGENDA

3. **Resolution, Award of Contract, Bready Park Tennis Court Resurfacing & Repair, #B20-02**

   There was a brief question and answer session between Councilmember Friedrichs and the Deputy Director of Public Works about the contingency clause in the contract.

DISCUSSION

4. **Financial review of FY2019, first half of FY2020 and revenue projections for FY2021**

   Mayor Merkel recognized the Director of Finance to begin the discussion, and the Director of Finance recognized the Budget Manager for the presentation.

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The Budget Manager presented the PowerPoint dated February 18, 2020, which is on file in the town clerk's office. The PowerPoint broke down the different General Fund Revenues categories, including: Intergovernmental, Charges for Services, Other Local Taxes, General Property Taxes, and Other.

The Budget Manager stated that the Real Estate Tax projection was relatively strong, with more details forthcoming after February 25. The Meals Tax increase that happened in FY2020 is projected to remain flat going forward. She stated that all other revenues in general were relatively flat.

The Director of Finance then highlighted the upward trending of general property taxes.

In response to queries from Mayor Merkel, the Director of Finance stated that the dates for BPOL submission were March or May and were mandated by the state. She clarified that the town could not choose another date.

The Budget Manager continued the PowerPoint presentation. She reviewed a chart showing the General Fund Revenues broken down into categories from the 2019 Actual to 2021 Projected. She stated that staff was projecting an annual increase to general property taxes of about 4.23 percent over last year.

The Director of Finance clarified that the town would have more information about the general property taxes once Fairfax County provides the details to the town. This would happen after the county staff presents the numbers to the Board of Supervisors.

In response to queries from Councilmember Friedrichs, the Director of Finance clarified that the numbers in the PowerPoint were assessments.

The Budget Manager continued the presentation by discussing the Other Local Taxes which would be increasing by approximately $144,000 and further detailed the information provided on page seven of the PowerPoint about the Transient Occupancy Tax, Business Professional & Occupational License (BPOL), Local Sales Tax, and the Meals Tax. She continued by discussing the Charges for Services slide which showed an approximate $65,000 decrease due to recreation programs decreasing.

In response to queries from Councilmember Friedrichs, the Director of Finance clarified that the Herndon Festival revenues had been lower over the past few years, so staff was being conservative with estimates. This accounted for the majority of the estimated $65,000 decrease.

The Budget Manager then detailed the slide on Intergovernmental Revenues.

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The Director of Finance stated that these numbers were very conservative, and more details would be added and updated as better data and more actuals became available.

The Town Manager stated that last year, the town used one percentage point of the meals tax increase toward capital purchases that the town would have otherwise used the excess BPOL revenue to cover.

In response to queries from Councilmember Friedrichs, the Town Manager clarified that the Police 599 funds were from the state.

Councilmember McKenna stated that he thought it would be advantageous to discuss property values relative to tax rates. He stated individuals might not consider inflation, consumer price index (CPI), and the overall assessment, so providing the net costs would be helpful.

Councilmember McKenna stated he would like to see the annual fiscal year moved from where it is currently to provide staff with a 90-day buffer, even though this probably could not happen because Virginia is a "Dillon Rule" state. He stated that moving out the fiscal year would give staff more room for projections. He stated that Richmond needed to take this into consideration because it was a problem for smaller jurisdictions.

Responding to Councilmember McKenna, the Town Manager stated that the fiscal year forces staff to have a certain level of assumption going into budget season. Staff uses historical data and expert opinions to make its assumptions. He addressed Councilmember McKenna's comments about the real estate tax numbers and discussed residential versus commercial real estate taxes.

Councilmember McKenna concurred with the Town Manager's comments.

In response to queries from Mayor Merkel, the Director of Finance stated that she would verify that the July 1 to June 30 fiscal year was mandated by the state.

There was a brief question and answer session between the Director of Finance, Mayor Merkel, and Councilmember McKenna about the fiscal year dates.

Councilmember McKenna provided comments about corporations' fiscal years and the difficulty of being a "Dillon Rule" state.

The Director of Finance highlighted the pie chart on page four of the PowerPoint that showed the percentage of Other Local Taxes.

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The Town Manager then stated that Meals Tax has been a predictable number year in and year out.

In response to queries from Councilmember Friedrichs, the Director of Finance clarified that the term "Privilege" listed as "Permits and Privilege Fee," on page five of the PowerPoint was a bit of an older term. It included things like right of way permits and building inspection fees.

In response to queries from Councilmember Friedrichs about Airbnb licensing, the Director of Finance stated that she knew of one person that inquired about it.

Councilmember del Aguila stated it would be helpful to see a comparison with where the town had ended up in previous years versus staff's estimates.

The Director of Finance stated that staff had projected numbers for FY 21 in October that were a little more optimistic. After receiving more data, the numbers were updated to reflect new information. This included more conservative estimates for the Transient Occupancy and Meals taxes.

The Director of Finance agreed that seeing a chart of how close staff's assumptions were to the actual numbers would be helpful. She also referenced the FY 20 adopted budget numbers and how certain revenues, such as Meals Tax, lagged behind by a few months.

The Town Manager and Director of Finance indicated that the BPOL receipts had not yet been received.

There was a brief question and answer session between the Town Manager and Councilmember del Aguila about revenues and trends.

Councilmember del Aguila asked if others were concerned that revenues appeared to remain flat. He hoped there would have been some increase.

The Town Manager reviewed several tax trends. He stated that the Real Estate tax was a "lagging indicator." As the economy improves, the assessments slowly follow. Similarly, when the economy goes down, the assessments do as well.

Councilmember del Aguila stated that with flat revenues, services and delivery have to expand to increase, so there was a budget potential shortfall.

The Town Manager reviewed revenues and costs. He stated that healthcare and retirement costs were higher. He stated that revenues would remain flat but the costs of living and labor are up. He provided further comments on increasing labor costs.

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Councilmember del Aguila asked staff if there was an easy way to chart the difference between projected revenue and cost of living for the next 10 years. He questioned where staff thought the town would be and stated he expected an increase year-to-year.

The Town Manager stated that staff had started tracking this with the previous Budget Manager. Staff had around four to five years of information from the past budgets.

The Director of Finance stated that staff provided similar information in their presentation in October.

Councilmember del Aguila stated he would like to see those projections based on the data staff had estimated.

The Town Manager discussed trends for the town's revenue, population, and labor costs. He stated that staff had worked to make service delivery more efficient, and that had helped for a couple of years. Now, the town was running out of efficiencies and new demands were coming up. Some positions that were new had replaced vacancies in positions that were no longer needed.

There was brief discussion amongst Council and staff about the BPOL tax.

There was a brief question and answer session between Councilmember Friedrichs and the Director of Finance about BPOL revenue, fleet maintenance costs and the General Fund.

The Town Manager discussed BPOL and stated it was a complex tax. He explained the BPOL process, where a business owner pays for a license upfront for the first two years, and then the town does an audit to see where money is owed. This has caused volatility over the years and staff budgets low to adjust for it.

In response to queries from Councilmember Friedrichs and Councilmember del Aguila as to why this was being done every two years, the Town Manager stated this was done according to state code.

Councilmember Friedrichs expressed concern over the way BPOL tax was collected. She stated that perhaps the Virginia Municipal League (VML) could help fix it. She thought this should be addressed.

Councilmember del Aguila stated that was a huge exposure for the town.

The Town Manager stated that there was a specific reserve fund in case the town has to cover any BPOL refunds.

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Mayor Merkel stated this was the scariest part of the budget, every time. She stated that the General Assembly tries to remove the ability for towns to collect BPOL. Almost every year, the town opposes anything at the state level that would remove BPOL without a replacement revenue source.

The Town Manager stated that the town was fighting just to keep BPOL, because the money is needed.

There was further discussion about the BPOL tax process.

There was discussion amongst Council and staff about the March 1 versus May 1 deadline for BPOL.

In response to queries from Councilmember Friedrichs, the Town Manager and Director of Finance clarified that staff hoped to get to a point where the General Fund would have smoother lifecycle costs.

There was a brief question and answer session between Councilmember del Aguila, the Director of Finance, and the Town Manager about BPOL and budgeting expenses.

In response to queries from Councilmember del Aguila, the Director of Finance emphasized that the town likes to use one-time revenues for one-time expenses. She stated that you could make the argument that BPOL is recurring and therefore could be used in operating expenditures, but staff estimates it low because it is volatile.

The Town Manager stated that ultimately, staff wanted the budget to be all recurring.

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

In response to queries from Vice Mayor Olem, The Town Manager stated that staff had seen some disconcerting numbers. Staff was preparing to discuss more with the Council during the upcoming two-on-two budget meetings.

Regarding compiling all the costs for departments like Parks and Recreation, the Town Manager stated that the town was in the middle of studying this process. There were some delays in getting the Request for Proposals out the door, and the responses were coming back. He stated staff should know more by spring.

Vice Mayor Olem stated at one time, all the costs went into the Department of Public Works budget. She liked that staff was looking at spreading the costs to the appropriate departments.

The Town Manager said that staff was changing some of the methodology about in-kind services, recurring events, and things like that, to create more transparency about costs.

The Town Manager stated that staff was moving donations out of the Town Clerk's budget. He stated staff would add a second line beneath that for in-kind services for the events the Council sanctions.

Mayor Merkel stated that the discussion of in-kind services was supposed to be on the agenda that night, and the Town Manager stated that at the last moment staff decided to pull it back based on state code.

Vice Mayor Olem then discussed National Night Out and stated she hoped it would continue. The Herndon Chief of Police stated staffing was the biggest issue, and that that event was a priority for them each year.

ROUNDTABLE

1. **Councilmember Friedrichs**: Stated she would be attending her first Northern Virginia Transportation Advisory-Planning Coordination Advisory Committee (NVTA-PCAC) meeting the following Wednesday, and she asked for any input that anyone wanted to be shared.

   Councilmember Friedrichs asked the Town Manager for an update about the Heritage Preservation Review Board (HPRB) Guidelines.

   The Director of Community Development responded to this question and asked Councilmember Friedrichs if she was asking about timing. Councilmember Friedrichs confirmed.

   The Director of Community Development stated that illnesses in the department caused a setback. The process also slowed because staff was working with the consultants to try to capture what the town has heard so far. She stated that they were trying to clarify what the guidelines for the HPRB are, and what would be helpful information for the general public. This was a different format than the consultants have used, and it was not something that would be seen in other guidelines. She stated that the consultants were being careful in trying to make this process easier for applicants, while following the standards, state rules, and zoning ordinance on historic preservation. They were trying to ensure that loosening the guidelines does not jeopardize the district. She stated that was a very serious balance.

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The Director of Community Development stated that in the next few weeks, staff might go down to Norfolk to spend some time with the consultants, because this has stretched out. Staff was working with the consultants to find out a reasonable projected date.

Mayor Merkel confirmed with the Director of Community Development that staff originally had aimed for late March.

Councilmember Friedrichs asked if staff was now looking at April, and the Director of Community Development stated she thought that was the case.

Mayor Merkel stated this information needed to be shared with the public. She suggested that the Town Manager share this during his comments at next week's public hearing.

Councilmember Friedrichs asked why there was always two councilmembers at each table during the Community Roundtable events. She stated she would like to see one councilmember at each table. She stated that last time, she observed three councilmembers at one table.

The Town Manager stated that space and logistics were the issues with trying to set up that many tables.

Mayor Merkel stated that the seating was like this last time because there were seven Councilmembers, since everyone could attend.

Vice Mayor Olem stated that she sat by herself at the last Roundtable.

Councilmember Friedrichs stated she would follow up with the Town Manager about her thoughts on this event.

Councilmember Friedrichs stated that she had a citizen ask her to update them on a number of things at the Roundtable.

The Town Manager encouraged Councilmember Friedrichs to read an email sent to Council today.

2. **Councilmember del Aguila:** Stated that this week, he ran into former Maryland Governor Martin O'Malley, who said gave him advice, including "don't be afraid to do the things you know need to be done."

3. **Vice Mayor Olem:** Stated that she has copies of all the VML bills being proposed at the state for everyone. The Town Attorney stated that there were hyperlinks for the bills in some of her dispatches.

Mayor Merkel stated that this information was likely on the VML website as well.

Vice Mayor Olem asked the Town Manager to make an announcement on downtown development and what was going on with Aslin at the upcoming Roundtable. The Town Manager stated he would.

Vice Mayor Olem stated that Kevin LeBlanc would be cooking at the Arts Herndon Mardi Gras party at ArtSpace on Saturday. She encouraged those interested to attend.

4. **Mayor Merkel:** Shared the "Washington Flyer" Magazine where Herndon was mentioned. She had mentioned this article before, which featured Herndon among the Virginia and Maryland weekend getaways. She would like to provide a copy to the Economic Development Manager.

CLOSED MEETING

On motion of Councilmember Dhakal, seconded by Councilmember Friedrichs, and carried by a 6-0 vote, the Herndon Town Council went into Closed Meeting at 7:54 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.

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

RECESS

At 7:54 p.m. Mayor Merkel called a brief recess, and at 7:57 p.m., the closed meeting reconvened in Herndon Council Chambers Building, all members present, with the exception of Councilmember Baker, and with Mayor Merkel presiding.

CLOSED MEETING (CONTINUED)

On motion of Vice Mayor Olem, seconded by Councilmember Friedrichs, and carried by a 6-0 vote, the Herndon Town Council reconvened in public session at 8:22 p.m.

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

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

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Vote: Councilmembers Dhakal, del Aguila, 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.

VOTE:
Ayes – 6
Nays – 0

ABSENT DURING VOTE: 1

ABSENT DURING MEETING: 1

ADJOURNMENT

There being no further business, the meeting adjourned at 8:23 p.m.

Lisa C. Merkel

Lisa C. Merkel
Mayor

Amanda M. Kertz

Amanda M. Kertz
Deputy Town Clerk

TOWN OF HERNDON, VIRGINIA
1879

Minutes approved by Town Council: March 10, 2020

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NOTE:

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