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HERNDON TOWN COUNCIL
Tuesday
February 25, 2020

The Town Council met in public session on Tuesday, February 25, 2020, 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 Jennifer Baker; Bill McKenna; and Signe Friedrichs.

Councilmembers del Aguila and Dhakal were absent.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Maggie DeBoard, Chief of Police; Elizabeth Gilleran, Director of Community Development; Scott Robinson, Director of Public Works; Tammy Chastain, Deputy Director of Public Works; Amanda Morrow Kertz and Jessica Sizemore, Deputy Town Clerks.

Mayor Merkel called the meeting to order at 7:00 p.m., all members present, with the exceptions of Councilmember del Aguila and Councilmember Dhakal, and with Mayor Merkel presiding.

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

ANNOUNCEMENTS

Mayor Merkel announced that Councilmembers del Aguila and Dhakal would be absent from that night's meeting.

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APPROVAL OF MINUTES

Vote on February 4, 2020 **Work Session Minutes**

On motion of Councilmember McKenna, seconded by Vice Mayor Olem, and carried by a 5-0 vote, the minutes of the February 4, 2020 work session were approved. The vote was: Councilmembers Baker, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye." Councilmembers del Aguila and Dhakal were absent.

Vote on February 11, 2020 **Public Hearing Minutes**

On motion of Vice Mayor Olem, seconded by Councilmember McKenna, and carried by a 5-0 vote, the minutes of the February 11, 2020 public hearing were approved. The vote was: Councilmembers Baker, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye." Councilmembers del Aguila and Dhakal were absent.

PRESENTATION

3. Proclamation, to recognize "Women's History Month," March 2018.

Councilmember Friedrichs read the proclamation recognizing "Women's History Month" into the record.

Following comments from the Council, Vicki Herman, President, Herndon Fortnightly Club; and Susan Embt, Second Vice President, Herndon Woman's Club, provided brief remarks on the proclamation.

The proclamation was presented to Ms. Herman, Ms. Embt, members of the Herndon Fortnightly Club and Herndon Woman's Club who were present, along with those in the audience who wished to show their support.

TOWN OF HERNDON, VIRGINIA PROCLAMATION WOMEN'S HISTORY MONTH MARCH 2020

In 1981, the National Women's History Project (NWHF) ~ an educational, nonprofit organization that recognizes and celebrates the accomplishments of women ~ petitioned the United States Congress to declare "National Women's History Week" which was celebrated for the next several years. Six years later, the NWHF successfully petitioned the Congress to expand the celebration of women's history to the month of March. From that point forward, March has been designated as **Women's History Month** across the country to recognize the countless recorded

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and unrecorded contributions that women from every race and ethnic background have made to grow and strengthen our nation.

As the Town of Herndon celebrates **Women's History Month**, we remember that, throughout history, women have demonstrated outstanding leadership in the areas of business, government, law, science, medicine, education, the arts, and many other fields. Women have comprised a significant portion of the labor force working both inside and outside of the home, and, during times of war, women were instrumental in serving in our nation's armed forces to defend the United States. Women have also always served important roles in communities through volunteerism and establishing charitable, philanthropic, and cultural institutions.

Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, proclaim the month of March 2020 as **Women's History Month** in the Town of Herndon. This year's theme "Valiant Women of the Vote" recognizes the centennial of the 19th amendment, celebrates women who fought for woman's right to vote, and honors the women who continue the struggle to ensure voting rights for all.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, call on citizens of the town to observe March as **Women's History Month** with appropriate programs, ceremonies, and activities.

4. COMMENTS FROM THE TOWN MANAGER

William H. Ashton II, Town Manager, provided comments on the "Women's History Month" proclamation and stated that two-thirds of the town's Management Team were women.

Mr. Ashton provided an update on several matters in town, including downtown redevelopment, Aslin – a town business, and the Heritage Preservation Guidelines rewrite.

Mr. Ashton stated that the town and Comstock have been continuing their communication regarding many details of the Comprehensive Agreement. He stated that at this point, the majority of the to-do items were on Comstock's side of the fence and they were working through them. The town was assisting Comstock in any way that it could as things come up that needed staff's attention. He stated that the project was advancing in the time period that the town anticipated under the Comprehensive Agreement.

Mr. Ashton stated that he wanted to discuss Aslin Brewery because there had been a lot of questions on this topic. As of November, Aslin had constructed up to the limits of its current building permit. Staff was unaware as to why they have not done what is necessary to continue further construction; however, staff understands that they have retained new professional staff who have been in contact with town staff. He stated that hopefully, there would be something happening there very soon.

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Mr. Ashton stated that he knew a lot of people were concerned about the Heritage Preservation Guidelines. He stated that it was a complicated project in that the town needed to tailor the Guidelines to Herndon-specific goals and create a document that would provide the Heritage Preservation Review Board (HPRB) with the guidance that it is capable of applying in a consistent manner. He stated that the town's desired finished project is not a standard policy or format for preservation guidelines. He stated it was new, uncharted territory. There were no previous models that the town could count on to help guide us through this point. He stated that it was truly unique in terms of language, format, and policy. Although the Guidelines are primarily used for the HPRB to apply, consultants, staff, and architects also use the Guidelines as well. Staff was trying to meet all of those varied audiences with this rewrite. The consultants and staff were developing a format that all users would readily understand. To date, several concepts have been developed, but none have fully achieved the goals of being able to reach all those varied audiences. With those earlier concepts, staff and the consultants were on the path to a clear, user-friendly format. Furthermore, as professional architects and preservationists, the consultants are being very careful to make sure that they help staff and the town create a document that is reflecting the stated goals of Council, which included some things like loosening the standards, particularly on materials, but doing so in such a way that does not jeopardize the legal standing of the district. Mr. Ashton stated that was a very important piece. The fact this was uncharted territory, that the town was trying to meet all these varied demands and trying to meet the Council's requirements without jeopardizing the district, put a lot of constraints on this project. Staff was trying to be very careful that what comes out of this exercise would meet all of those standards. Mr. Ashton stated that was where the town stood right now on the projects.

5. COMMENTS FROM THE TOWN COUNCIL

Councilmember McKenna: Announced his marriage to "the love of his life" this past Saturday. He stated that he was not on social media, but he heard and appreciated all the congratulations and well wishes. He expressed gratitude to the town, his friends, and family, for all their kindness.

Councilmember Friedrichs: Thanked the Town Manager for providing updates on several topics this evening, including downtown redevelopment and Aslin.

Councilmember Friedrichs attended the Metro Monday event yesterday, February 24, which included updates from Loudoun and Fairfax County. She stated that Metro was expected to start running Silver Line Phase II trains about a year from now. She stated that access to Metro would be very important and that businesses are counting on it.

Councilmember Baker: Highlighted NextStop Theatre's current play, "Ordinary Days," which she was planning to see the next Friday. She encouraged those interested to attend a performance.

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Councilmember Baker stated that this Saturday, February 29, the Town Council would host a Community Roundtable at the Herndon Municipal Center. The Council would seek input from the public on the budget and any other matters on which they wish to speak. She stated that all of Council was planning to attend.

Councilmember Baker also shared that the Herndon Depot would be open on March 1, 2020, from noon to 4:00 p.m., with new displays. She encouraged those interested to stop by the Depot.

Councilmember Baker extended her congratulations to Councilmember McKenna on his marriage.

Vice Mayor Olem: Stated that she, too, attended Metro Monday. She also stated that she attended the Committee for Dulles meeting and that many things discussed at Metro Monday were also covered there as well. She spoke specifically about discussions surrounding affordable and workforce housing with Economic Development heads from local counties. She also stated that more information could be found on the Dulles Regional Chamber of Commerce's website and encouraged those interested to attend the 2020 Housing Challenge on Wednesday, March 11, at George Mason University.

Vice Mayor Olem also stated she had passed on requests for a pickleball court to the Director of Parks and Recreation.

Mayor Merkel: Extended congratulations to Councilmember McKenna and expressed her excitement over having presided over his marriage. She stated that she felt the joyful event was very representative of Herndon.

COMMENTS FROM THE AUDIENCE

The following members of the audience provided comments:

- Diane Weiss, 706 Morningside Court, Herndon, provided comments supporting pickleball in the town.

Ms. Weiss presented a PowerPoint that was submitted for the record and is on file in the Town Clerk's office. She discussed concerns about traffic lights and safety in Herndon, especially the intersection of Summerfield Drive and Herndon Parkway.

In response to Ms. Weiss, Mayor Merkel stated that she appreciated her comments and confirmed that Council received her PowerPoint. She stated that the information could be shared with the Town Manager and the Traffic Engineering Improvement Committee (TEIC).

William H. Ashton II, Town Manager, stated that Ms. Weiss' request had been circulated to TEIC.

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Mayor Merkel stated that the town would take Ms. Weiss' information into account to see if something could be done, as a lot has changed in the past 20 years since she started this conversation. She stated the town would follow up with Ms. Weiss.

- Alexander Burke, 910 Jorss Place, Apt. #304, Herndon, provided written comments for the record, which are on file in the Town Clerk's office. He spoke on affordable housing for seniors and asked the town to work with Fairfax County on affordable housing.

Mr. Burke provided comments on town election and asked the Council who was running for Mayor and Town Council in 2020 on the dais.

In response to Mr. Burke, Mayor Merkel stated that the Council did not respond to questions during Comments from the Audience. She encouraged him to contact Members of Council individually.

Mr. Burke asked if there would be Spanish language interpreters at the Community Roundtable this Saturday.

In response to Mr. Burke, Mayor Merkel stated that his suggestions would be taken into consideration. She stated that the Community Roundtable would be a great place to talk with individual Councilmembers about some of his questions.

- Jay Hadlock, 515 Alabama Drive, Herndon, provided written comments about the FY 2021 Budget for the record, which are on file in the Town Clerk's office.
- Barbara Glakas, 935 Barton Oaks Place, Herndon, reviewed several upcoming events with the Herndon Historical Society. On Sunday, March 22, the Historical Society would be celebrating Women's History Month with a program titled "Mr. President, How Long Must Women Wait for Liberty." She echoed Councilmember Baker's earlier comments about the event at the Depot on March 1 and stated that in the new exhibits, there would be artifacts from the USS Herndon and an interactive telegraph exhibit. The event would occur from noon to 4:00 p.m. and a silent auction would be held as well.
- William Campenni, 1104 Iron Ridge Court, Herndon, provided brief personal comments.

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PUBLIC HEARINGS

6. Ordinance 20-O-17, to grant a third franchise amendment to Zayo Group, LLC for a route expansion

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 Friday, February 7; and Friday, February 14, 2020 issues.

Mayor Merkel opened the public hearing and recognized Tammy Chastain, Deputy Director of Public Works, for the staff report. She stated, for the record, that action on this item would require a roll call vote.

Ms. Chastain presented the staff report dated February 18, 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 would allow for a route expansion of 915 linear feet over the course of the proposed route expansion. Staff recommends approval of the proposed ordinance, as presented.

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

Following the public hearing (there were no comments from the audience), on motion of Councilmember McKenna, seconded by Councilmember Baker, and carried by a 5-0 vote, Ordinance 20-O-17 was approved, as presented. The vote was: Councilmembers Baker, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye." Councilmembers del Aguila and Dhakal were absent.

Ordinance 20-O-17, to grant a third franchise amendment to Zayo Group, LLC for a route expansion

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

1. The Town Council approves this Third Amendment to the Franchise Agreement last amended on May 14, 2019.
2. This instrument allows for a route expansion of approximately 915 linear feet as reflected in "red" on Exhibit A.
3. The route is hereby amended to reflect the addition of a new a route that will cross Worldgate Drive from the south side near 12975 Worldgate Drive to the north side of Worldgate Drive to 12900 Worldgate Drive, limited to 4 conduit as reflected in "red" on Exhibit A dated February 25, 2020.

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4. In all other respects the current franchise remains in effect.
5. The Mayor is authorized to sign and deliver the franchise extension and any ancillary instruments necessary to effectuate or evidence the franchise.
6. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is the third amendment to franchise agreement b/n the town and Zayo Group, LLC dated February 25, 2020.]

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THIRD AMENDMENT TO FRANCHISE AGREEMENT

THIS THIRD AMENDMENT is hereby made to the Franchise Agreement ("Agreement") with an Acceptance and Effective date of February 25, 2020 by and between the Town of Herndon, a Virginia municipal corporation ("Town") and Zayo Group, LLC, a Delaware limited liability company, and successor-in-interest to FiberGate of Virginia, LLC and MFN of VA, L.L.C. ("Franchisee").

WHEREAS, MFN of VA, L.L.C. entered into that certain Franchise Agreement with the Town dated July 8, 2003; and

WHEREAS, FiberGate of Virginia, LLC entered into that certain Franchise Agreement with the Town dated January 22, 2006; and

WHEREAS, Zayo Group, LLC provided written notice to the Town on January 29, 2013 that its affiliates MFN of VA, L.L.C. and FiberGate of Virginia, LLC had been merged up and into Zayo Group, LLC; and the Town accepted such transfer pursuant to Letter dated April 18, 2013.

WHEREAS, Zayo Group, LLC first amended their agreement with the Town on January 22, 2017, extending their agreement for an additional ten (10) years and expiring on January 22, 2027, as amended by the Second Amendment dated May 14, 2019.

WHEREAS, Town and Franchisee desire to amend the agreement as follows;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. The route is hereby amended to reflect the addition of a new route that will cross Worldgate Drive from the south side near 12975 Worldgate Drive to the north side of Worldgate Drive to 12900 Worldgate Drive, limited to 4 conduit as reflected in "red" on Exhibit A dated February 25, 2020.
2. Exhibit A dated February 25, 2020, attached hereto, replaces any previous exhibit(s).
3. Except as specifically amended or modified herein, the terms and conditions of the Agreement will remain in full force and effect through the term.

IN WITNESS WHEREOF, the parties have entered into this Third Amendment as of the day and year set forth below by the signatures of their authorized representatives below.

Signatures on following page

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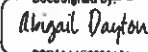
Town of Herndon, Virginia

By: 

Name: Lisa C. Merkel

Title: Mayor

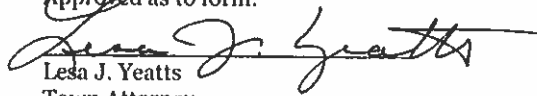
Zayo Group, LLC

By: 

Name: Abigail Dayton

Title: General Counsel, Eastern US and Canada

Approved as to form:


Lesa J. Yeatts
Town Attorney

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Town Of Herndon
EXHIBIT A
February 25, 2020

- Exist. Zayo Facility
- 3 conduit (Rte 1)
- Route 1 will deliver fiber to 12900 Worldgate Drive via Three (3) 1.25" Duct



Attachment
10-10-20

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CONSENT AGENDA

On motion of Councilmember Baker, seconded by Vice Mayor Olem, the following Consent agenda items were approved by 5-0 vote, without comment. The vote was: Councilmembers Baker, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye." Councilmembers del Aguila and Dhakal were absent.

7. Resolution 20-G-10, Award of Contract #B-20-02, Bready Park Tennis Court Resurfacing & Repair

WHEREAS, the Bready Park Tennis Court Resurfacing & Repair project is in the Capital Improvement Program; and

WHEREAS, Contract #B-20-02, Bready Park Tennis Court Resurfacing & Repair, was advertised on January 13, 2020; and

WHEREAS, a pre-bid conference was held on January 22, 2020 and was attended by two firms; and

WHEREAS, the following bids were received and opened on February 4, 2020 at a public bid opening:

<u>Contractor</u>	<u>Bid</u>
Bishop's Tennis, Inc.	\$140,259
Tennis Courts, Inc.	\$178,395; and

WHEREAS, Bishop's Tennis, 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 \$14,000 which is approximately 10% of the bid, be authorized; and

WHEREAS, funds to support this contract are available in the Capital Projects Account Number 0159999-490360; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-20-02, Bready Park Tennis Court Resurfacing & Repair, to Bishop's Tennis, Inc. in the amount of \$140,259.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes a contingency of \$14,000.

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

8. **Resolution 20-G-11, to appoint Lauren Edmondson as a "town resident" member to the Architectural Review/Heritage Preservation Review Boards**

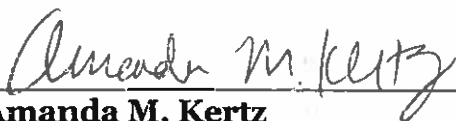
NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Lauren Edmondson** as a "town resident" member to the Architectural Review/Heritage Preservation Review Boards to fill an unexpired three-year term ending June 30, 2020.

9. **ADJOURNMENT**

There being no further business, the meeting adjourned at 7:42 p.m.



Lisa C. Merkel
Mayor



Amanda M. Kertz
Deputy Town Clerk



Minutes approved by Town Council: March 10, 2020.

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NOTE:

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