TOWN OF Herndon VIRGINIA

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HERNDON TOWN COUNCIL
Tuesday
May 12, 2020

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Order of the Governor EO-53, as amended; and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19) ~ adopted on March 24, 2020, as amended, Mayor Merkel has stated that the May 12, 2020 Herndon Town Council Public Hearing would be by electronic means. The meeting was broadcast and recorded through Cisco Webex and details for the meeting were made available to the public on Thursday, May 7, 2020. In attendance electronically were: Mayor Lisa C. Merkel; Vice Mayor Sheila A. Olem; and Councilmembers Jennifer Baker; Cesar del Aguila; Pradip Dhakal; Signe Friedrichs; and Bill McKenna.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Jennie Tripoli, Director of Finance; Karen Gagliano, Budget Manager; Tammy Chastain, Deputy Director of Public Works; and Amanda M. Kertz, Deputy Town Clerk.

Staff Announcements

Amanda M. Kertz, Deputy Town Clerk, welcomed those listening to the May 12, 2020 public hearing. She stated that that night's regularly scheduled Herndon Town Council meeting was a virtual meeting and that the public was encouraged to provide comments for the record at town.clerk@herndon-va.gov. She stated, for the record, that:

- The Town Council meeting that evening was conducted electronically pursuant to Virginia Code Section 2.2-3708.2, as amended, and the Order of the Governor EO-53, as amended, and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19) ~ adopted on March 24, 2020, as amended;

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- Proper notice of the electronic meeting was provided in accordance with Section 2.2-3708.2 of the Code of Virginia, along with information for viewing the meeting and submitting comments for the record;
- The agenda and meeting materials were available on the town's website;
- Electronic meetings would begin with a roll call and determination of quorum; and
- All votes, including adjournment, would be by roll call vote.

CALL TO ORDER

1. **Roll Call & Determination of Quorum**

Mayor Merkel called the public hearing by electronic means to order at 7:00 p.m. and welcomed those who were joining the meeting over Webex. She then asked Ms. Kertz, Deputy Town Clerk, to call the roll for attendance and for each Councilmember to respond by clearly stating their name and indicating they were present.

All members were present, electronically, with Mayor Merkel presiding.

Mayor Merkel stated, for the record, that there was a quorum present, electronically, that evening. William H. Ashton II, Town Manager and Lesa Yeatts, Town Attorney, were also present.

Mayor Merkel asked that those on Council physically raise their hand if they wished to speak, because it would be easier to see than the hand raise icon on the screen. She asked Council to unmute their microphones and to start their comments, motions, or seconds by stating their name when she recognized them.

APPROVAL OF MINUTES

Vote on April 28, 2020
Public Hearing Minutes

On motion of Councilmember Dhakal, seconded by Vice Mayor Olem, and carried by unanimous roll call vote by electronic means, the minutes of the April 28, 2020 public hearing were approved. The vote was: Councilmembers Baker, Dhakal, del Aguila, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

2. **COMMENTS FROM THE TOWN MANAGER**

Mayor Merkel recognized William H. Ashton II, Town Manager, to provide an update on the continuity of operations and matters related to the emergency, followed by questions of Council.

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Mr. Ashton stated that a lot happened over the past 72 hours related to the COVID-19 emergency. Governor Northam laid the initial groundwork last Monday, when he suggested that the state was ready to ease restrictions on Executive Order (EO) 53 starting on May 15, 2020. The date given caused concern amongst the five Health Districts (Fairfax, Arlington, Loudoun, Prince William, and the City of Alexandria) in Northern Virginia. The town was part of the Fairfax Health District. This issue was discussed during the Northern Virginia Regional Commission (NVRC) Mayors and Chairs, at the Town Manager's Chief Administrative Officer (CAO) meetings held last week, and in the briefings from Dr. Gloria Addo-Ayensu, Director of Fairfax County Health.

Mr. Ashton reviewed the gating benchmarks the state would have to meet to enter Phase One of the Governor's Forward Virginia plan. These were: a downward trend in of positive tests and hospitalizations over a 14-day period, enough hospital beds and intensive care capacity, increasing and sustainable supply of personal protective equipment (PPE), and increased testing and contact tracing capabilities. The Health Directors of the Health Districts in Northern Virginia were of the opinion that the region failed to meet or were unable to assess or test for those criteria.

Mr. Ashton stated that by the end of the past week, various regional leaders got together and virtually met with the Governor's Chief of Staff. At that meeting, the leaders were advised that as a region, Northern Virginia could forgo the Governor's loosening of restrictions for Phase One. The Governor would not approve a piecemeal approach, where one jurisdiction would open and another would not. Over the last weekend, the regional leaders sent a memorandum to the Governor suggesting that Northern Virginia was not in a position to reopen. They outlined the ways that the region failed to meet the benchmarks to move to Phase One of the Forward Virginia plan.

Mr. Ashton stated that, in response to the memorandum from Northern Virginia, the Governor issued EO-62, Order of Public Health Emergency #4, titled "Jurisdictions Temporarily Delayed from Entering Phase One in Executive Order 61, and Permitted to Remain in Phase Zero." The town was listed as one of the jurisdictions impacted in the order. He read from EO-62 which pointed to the higher positivity rate in Northern Virginia. He stated that as the testing was increasing, the Governor wanted to see the percentage of positive tests decreasing. In the state, the positive test rate decreased to about 10 percent, but was about 25 percent in Northern Virginia. He discussed the number of new cases in Northern Virginia and stated that, as reported in the EO, approximately 70 percent of the Commonwealth's daily positive cases were from Northern Virginia. In the order, the Governor discussed the PPE problem and cited it as another reason as to why he was extending EO-53. All the closures and restrictions that were effective with EO-53 remained in place for the region. Mr. Ashton stated that the restrictions in Northern Virginia would remain in place until midnight, May 28, 2020. He stated that date would likely be revisited and many Northern Virginia Health Directors were looking to June 10, 2020 as a potential date to enter Phase One.

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Mr. Ashton stated that the Fairfax County Health Department issued a news release after the Governor's new order that included additional data they were tracking on their website. He read from the news release, which stated that the county health department was tracking probable and deceased cases, along with COVID-19 testing by week that would help the region assess if it was meeting the gating benchmarks for Forward Virginia.

Mr. Ashton stated that Lesa Yeatts, Town Attorney, and Chief Maggie DeBoard, Herndon Police, were reviewing the order to determine how it applied to the town moving forward. This would also affect when the town government would reopen. The principles and overarching guidelines Mr. Ashton reviewed the past week were still in place and staff was coordinating the timelines to be consistent with the Governor's order.

There were no comments from Council on the Town Manager's comments.

3. COMMENTS FROM THE TOWN COUNCIL

Mayor Merkel reminded Council that comments should be limited to continuity of business and the State Of Emergency to comply with state code requirements. She asked the Council to unmute their microphones and state their name when she recognized them for comments.

Vice Mayor Olem: Reminded everyone listening to wear face masks and gloves if they had them. She hoped everyone would stay safe and that the town could get out of the emergency sooner rather than later, all in one piece.

PUBLIC HEARINGS

Public Hearing Process

Mayor Merkel stated that there were several public hearings that evening, and she would outline the participation process for Webex. At the appropriate time, she would ask that those wishing to address Council on the public hearing item click the hand icon on their Webex. She stated that instructions for participation would be available on the screen and were posted on the agendas and minutes page of the town's website. To make sure we see everyone who wishes to speak, Mayor Merkel stated that she would pause for about 30 seconds to wait for a member of the public to raise their hand. The Clerk would then advise of those who had their hand raised in the order that she saw them on her screen. Mayor Merkel stated that she would take a brief pause while staff enabled the speaker's ability to address the council, and she would call on them when it was their turn to speak.

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Mayor Merkel stated that if staff saw that a member of the public was trying to address the Council and they had technical issues, the Clerk's office would contact them to add their comments to the record and to see what assistance they could provide.

4. **Ordinance 20-O-27, to amend Chapter 63 (SOLID WASTE), Sec. 63-8 (Schedule of fees), for an increase in the recyclables fee to $16.00 per quarter. (The current fee is $8.00 per quarter.)**

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the Friday, April 17, Friday, April 24, and Friday, May 1, 2020 issues.

Mayor Merkel opened the public hearing and asked Amanda M. Kertz, Deputy Town Clerk if any written comments were received for the record on the budget items.

Ms. Kertz stated that all comments received were provided to the Town Council and had been entered into the record.

Mayor Merkel recognized Tammy Chastain, Deputy Director of Public Works, for the staff report.

Ms. Chastain presented the staff report dated May 5, 2020, which is on file in the Town Clerk's office. The town's recycling fee was last increased in 2018 when it went from $4.00 to $8.00 per quarter. The proposed ordinance would increase the town's recycling fee from $8.00 to $16.00 per quarter. She stated that similar to the last time the fee changed, there have been many changes to the recycling industry. She stated that the commodity rates were sometimes worse than they had been before. In some cases, the town had to pay for recycling as a contamination cost, which now included glass, since Fairfax County removed it from the recycling stream. Residents could still recycle glass at the purple container the county provided at the Town Shop, but not everyone properly disposes their glass and other non-recyclables.

Ms. Chastain stated that another contributor to the fee increase was the declining rebate to the town. In 2018, the town received approximately $139,000 in rebate. This year, staff is projecting this year's rebate to be around $55,000, with even less estimated for next year. Some of this was due to the town having a new contractor. She stated that the town had paid approximately $10,000 to $12,000 a month for recycling. Staff recommends approval of the proposed ordinance, as presented.

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

In response to queries from Councilmember Friedrichs about not cleaning recyclables, Ms. Chastain stated that was a problem not just in Herndon, but in other places as well. She stated that the industry is not as flexible on contamination anymore and also discussed how the different non-recyclable items make the sorting process of recycling difficult. She stated that staff has made education and outreach efforts to the public to help clarify what items could be recycled. This included a flyer that the town sent out a year ago.

In response to queries from Councilmember Friedrichs, Ms. Chastain confirmed that the town had gone from $139,000 to $55,000 in rebates over the last year. She stated the rebates that offset the cost were about $2,000. In the past few months, the town paid $10,000 to $12,000, and she stated that the rebate no longer covered the cost.

Councilmember Friedrichs stated that she asked those questions to provide very specific information for the public, who had commented on this item. She stated that the town was doubling the recyclables fee fairly often, and to justify that to the public, they would need to understand how much worse the costs were getting for the town. She thanked Ms. Chastain for her input.

Councilmember Baker added on to Councilmember Friedrichs' comments and asked staff to clarify, for the public, the percentage of costs that the fee would cover. She thought that the Town Manager had provided information about that number to the Council last week and she believed it was about 20 percent.

In response to queries from Councilmember Baker, William H. Ashton II, Town Manager, outlined a report he sent to Council about the history of the town's recycling fees. In reviewing the minutes around when the offset fee started in 1992, he could only find the percentage of costs the fee covered for both refuse and recycling together. It was set at $7.50 a quarter, which was approximately 20 percent of the overall refuse and recycling costs. Rather than compare different numbers, he took that cost comparison all the way through the present. He stated that the proposed change to the fee would cover up to 20 percent of the refuse and recycling costs together. The assumption was the same percentage of that overall cost was going to recycling.

Councilmember Baker realized that residents were frustrated that they could no longer recycle glass. She stated that it was a widespread issue because almost none of the recycling companies took glass anymore. She asked staff to confirm that the purple bins for recycling glass were back at the Town Shop.

In response to Councilmember Baker, Ms. Chastain stated that the purple bin arrived last Friday. She encouraged the public to use the bin to recycle glass.

Vice Mayor Olem appreciated the Town Manager's report about recycling in town. As the Town Manager stated, when the fee first started, the town was at 20 percent of refuse and recycling costs. A year later, Vice Mayor Olem stated, the Council took the fee down to covering six percent of the costs. She stated that the town was trying to cover its fees where she thought they should have been, as the fees were not adjusted for inflation and the costs were rising. She was glad to learn when she moved to town from Fairfax County that the Homeowners Association and town fees were less than what she had paid in the county. She stated the same was still true for the town's water fees versus the county water fees. She thanked the Department of Public Works (DPW) staff for everything they do for residents. She thanked the Town Manager and other staff for managing this increase, which she thought was fair. She stated that if more companies stop buying recyclables, the town would have to pay tipping fees, which were more expensive.

In response to queries from Mayor Merkel about the intent of the recyclables fee, Mr. Ashton stated that from the minutes, he understood the original intent was to serve as a means to offset increased costs of recycling to the overall solid waste program. There were individuals that testified at the meetings around 1992 that referred to the program as a tax-payer service and indicated that the recycling fee should not be considered for that reason. In later discussions about the fee, it appeared the general theme was that this fee would remain as an offset. This Council and ones in the future could decide how they wanted to approach this moving forward.

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. To make sure everyone who wished to speak would be seen, she stated that she would pause for about 30 seconds to wait for a member of the public to raise their hand to speak. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz stated that she did not see anyone waiting to speak on this item.

Mayor Merkel stated that the public hearing remained open and moved to Council level for discussion and action.

Main Motion **(SUBSEQUENTLY WITHDRAWN)**
to approve the
<u>proposed ordinance</u>

Councilmember Baker moved to **<u>APPROVE</u>** Ordinance 20-O-27, as presented (there were no comments from the audience). Vice Mayor Olem seconded the motion.

There were brief comments from Council.

Vice Mayor Olem compared the costs that a resident would pay in Fairfax County to what one would pay with the town, even with the increase. She stated that the town also provides snow removal, yard debris pick-up, and excellent customer service. She stated that the prices were much better than services provided by private trash companies in other parts of the county. She stated that "Herndon trash rocks," and she had written this on her driveway to support DPW.

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Councilmember Dhakal stated that the Council received many comments about why the town was increasing the fee. He wanted to reiterate what they just discussed. He stated that if the town wanted more services, or better development, it would come from tax-payers' money. Having said that, because of the situation right now, where many are losing jobs – increasing the real estate tax was put on hold. The gap between operations and expenses and between expenses and revenues was widening, and if that continued, there would be a time when the town would no longer be able to narrow it. He stated that while this was a 100 percent increase, it was paid quarterly, which would be $64 a year, versus increasing the real estate tax by one percent. He stated this would be less of a burden to citizens, especially at this time of economic uncertainty.

Mayor Merkel recognized the Town Attorney for a point of clarification.

Point of Clarification

Lesa Yeatts, Town Attorney, stated the Council had moved to Council level for discussion and action without closing the public hearing, which remained open to be continued to the next set of meetings. She wanted to clarify that the motion was to continue and not adopt. She believed that Councilmember Baker had moved to continue the public hearing.

There was discussion between Mayor Merkel, Councilmember Baker, and Ms. Yeatts on the fact that the motion had been made to adopt.

Mayor Merkel stated that she thought Councilmember Baker's motion was to approve Ordinance 20-O-27. She asked if there was a need to continue the item. She would defer to Ms. Yeatts for further explanation.

Councilmember Baker thought the Council could approve Ordinance 20-O-27 and that it was only the other budget line items that Council could not approve that night. She stated she could change her motion if needed.

Ms. Yeatts asked Mr. Ashton why this item had been pulled out of the FY 21 budget, because it might have to do with the rest of the entire budget.

Mayor Merkel apologized for the confusion and recognized Mr. Ashton for clarification.

Point of Order

Councilmember del Aguila called a point of order. He stated that the motion was made and was on the floor. He stated that the Council needed to vote on the motion, but it could not be modified because it was a motion on the floor.

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Clarification

Ms. Yeatts agreed with Councilmember del Aguila's point of order.

Councilmember Baker agreed with Councilmember del Aguila and Ms. Yeatts and she stated that the Council needed clarification on what action it needed to take.

Mayor Merkel questioned if there was a procedural or budgetary reason that this should be continued, because Council could certainly withdraw the main motion and start over with a new motion.

Mr. Ashton stated he did not have a reason for continuing the item. He thought it was a legal question and asked Ms. Yeatts to clarify the matter.

In response to Mayor Merkel's queries about the number of times the budget and this item had been advertised, the Town Attorney advised that this item was advertised to be on the agenda twice, which was this set and the next set of meetings.

Mayor Merkel stated she had not realized that and then asked about the correct way to address the main motion. She asked if the proper thing was to withdraw the motion, and then ask for a new main motion.

Following input from the Viki Wellershaus, Town Clerk, the Town Attorney confirmed that this item had been advertised for two Town Council public hearings, which were that night and May 26. At this point, she stated that the motion could be voted down and another motion could replace it, or it could be withdrawn, but emphasized that the motion was on the floor.

Mayor Merkel returned to the motion maker, Councilmember Baker, and asked her if she would like to withdraw the main motion.

Councilmember Baker **WITHDREW** the main motion, which was to **APPROVE** the public hearing on Ordinance 20-O-27.

In response to queries from Mayor Merkel, the Town Attorney confirmed that Councilmember Baker's action to withdraw the main motion was adequate.

There was no motion on the floor.

Main Motion ~ **(SUBSEQUENTLY APPROVED)**
To Continue the PH

Mayor Merkel asked Council for a new main motion ~ to **CONTINUE** Ordinance 20-O-27 to the May 26, 2020 Town Council public hearing, since it was properly advertised for two public hearings.

Councilmember Baker moved to continue the public hearing on Ordinance 20-O-27 to the May 26, 2020 meeting. Vice Mayor Olem seconded the motion.

There were brief comments from Council.

Councilmember del Aguila stated that he would support the proposed increase. He thought that at previous sessions, he had asked staff to display the gap between the expense and covering revenue. He stated that many people could live with 20 percent coverage, because they saw value in recycling, but it would help him and maybe some of those who were concerned with the increase, to see the trends and at what point the town could stop increasing the fees. He stated that he was not aware of the fee being decreased after the fee covered 20 percent of the costs in 1992. His view was that the town needed to constantly readjust its revenues. He had seen a comment that it was great that the town had "never raised taxes," which he stated was not the right approach. He thought that the town needed to continually invest in the community and the future. It was his opinion that there were things that would need funding and the town did not take the opportunity in a growing economy to increase revenues. He believed that future councils should think about increasing revenues where it made the most sense.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

5. **Ordinance 20-O-28, to Levy Taxes on Real Estate and Manufactured Homes, and Other Subjects for the Fiscal Year 2021 budget;**

6. **Resolution 20-G-16, to adopt a Fiscal Planning Resolution for the Fiscal Year 2021 budget for the Town of Herndon, to consider the proposed total budget as submitted to the town council. [The budget includes the Fiscal Year 2021 portion of the Capital Improvements Program (CIP)]; and**

7. **Ordinance 20-O-29, to Appropriate Funds to Implement the Fiscal Year 2021 budget for the Town of Herndon, establishing the pay plan, and reserving on-going and capital funding for this fiscal year.**

FY 2021 Proposed Budget

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, April 17, Friday, April 24, and Friday, May 1, 2020 issues.

Mayor Merkel stated that the next three items on the agenda related to the Town Manager's proposed FY 2021 budget. She stated that the Town Manager developed the proposed budget prior to this health crisis and it was provided to the public and Town Council by April 1, per state law. Over the past month, staff worked to amend the budget to accommodate the new fiscal realities imposed by COVID-19. For this reason, the Town Council and Town Manager delayed the council's budget meetings from April to May, with the first public hearing that evening.

Mayor Merkel opened the public hearing and asked Amanda M. Kertz, Deputy Town Clerk if any written comments were received for the record on the budget items.

Ms. Kertz stated that all comments received were provided to the Town Council and had been entered into the record.

Process

Mayor Merkel stated that public hearings on the proposed budget were scheduled for May 12 and May 26, 2020. She stated that the Council would hold a separate public hearing on the Tax Levy, followed by a motion to continue the public hearing to May 26, 2020. Concurrent public hearings would be held on the Fiscal Planning Resolution and the Appropriation Ordinance, followed by separate motions to continue the public hearings to May 26, 2020. The record would remain open and individuals should continue to email their comments to the Town Clerk, who would enter the comments into the record and distribute to the Council, Town Manager, and appropriate staff.

Disclosures

Ms. Kertz entered into the record all signed Transactional Disclosure Declarations that she received pursuant to Sections 2.2-3112(B)(2)(3) and 2.2-3115(G), of the Code of Virginia. She stated, for the record, that:

- **Mayor Merkel and Councilmember Dhakal** each provided signed statements for the record that throughout the year, they may be invited as a guest to attend events hosted by various organizations, some of which may receive funds or services from the town. The statements indicate that they are able to participate in the budget deliberations regarding non-profit organizations fairly, objectively, and in the public interest, and that the appropriate disclosures have been filed with the Town Clerk and Town Attorney; and

- **Vice Mayor Olem; and Councilmembers Baker, del Aguila, Friedrichs, and McKenna** each provided signed statements for the record that they are unpaid volunteers for various organizations in the community, some of which may receive funds or services from the town. Throughout the year, they may be invited to attend events hosted by these organizations as guests. The statements indicate that they are able to participate in the budget deliberations regarding non-profit organizations fairly, objectively, and in the public interest, and that the appropriate disclosures have been filed with the Town Clerk and Town Attorney.

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Budget Presentation

Mayor Merkel recognized William H. Ashton II, Town Manager, for the budget presentation.

Mr. Ashton asked that Karen Gagliano, Budget Manager, and Jennie Tripoli, Director of Finance, also be made panelists on the Webex so that they could respond to questions from Council during the staff presentation.

Mr. Ashton provided an overview of the proposed FY 2021 budget and presented a PowerPoint dated May 12, which is on file in the Town Clerk's office. He stated that tonight's presentation would be similar to the work session presentation last week, since there were new people watching the Webex and it was being televised. This presentation was focused on the General Fund. Next week and at the next public hearing, he would delve into the Enterprise Funds. He would also include any questions or concerns from Council.

Mr. Ashton discussed the budget process and stated that he submitted the proposed budget on Friday, April 1, 2020, pursuant to state code. He stated that on March 11, 2020, COVID-19 ushered in a different economic model. Many experts were saying different things about the economic modeling and the effects of revenue, the duration of the shutdown and the length of recovery were unknown. Earlier that evening he mentioned that Northern Virginia was pushed back by two weeks under the Governor's easing of restrictions which would put the town behind the curve. Last week, he had mentioned mid-August as a point where things could start to normalize, which could also now be set back by two weeks.

Included in the Town Manager's staff report, dated May 5, 2020 was the "FY 2021 Budget Bridge Document" (Bridge Document), which was submitted in response to the COVID-19 emergency. This document, along with the proposed amendments to the existing budget, was summarized in the PowerPoint and had been provided to the public on Friday, May 1, 2020. These documents are on file in the Town Clerk's office.

FY 2021 Budget

Mr. Ashton stated that there were significant challenges in crafting a new FY 21 budget because of the limited data that was available. The specific numbers were reflected in the PowerPoint. For the meals tax and TOT, staff only had about two weeks' worth of comparative data reflecting the current economic environment. Sales tax numbers from the state were always delayed two months, and the Commonwealth added another 30 days to remit the sales tax, so the town was behind by 90 days in sales tax data. These factors, along with the unknown length of shutdown, pace of reopening, and a possible second round of the virus, made the future environment unpredictable. Secondary revenue effects would also need to considered because BPOL numbers could be down substantially when remitted in the spring of 2021. The impact on commercial and real estate tax revenue should also be contemplated and would be longer-term effects.

Mr. Ashton stated that in revising the FY 21 budget, staff had to fiscally protect the town and the best way to do that was through flexibility and adaptability. He wanted to allow staff to meet Council priorities where possible, especially if the revenue projections were better than anticipated, but wanted to avoid overreacting in a negative way with limited information. Mr. Ashton emphasized taking a measured approach and avoiding decisive action.

Budget Plan

Mr. Ashton reviewed his revised FY 21 Budget Plan. Step One was the baseline budget which included the original guidance from Council. Step Two was where the town was at that time. Staff was asking Council to adopt the baseline budget with an amendment that avoided taking decisive actions before warranted and avoided large spending early in FY 21. As soon as Council adopted the budget, if they chose to do that, he was asking the Council to adopt a strict spending plan, the Bridge Document. This amendment would reset the baseline budget, would be flexible and adaptable, and would buy the town time to get more data to inform them of making decisions going forward in the fiscal year.

Mr. Ashton further discussed Step Two, which would remove: the proposed one-cent increase to the real estate tax rate; the proposed $100,000 projected BPOL increase; the proposed market rate adjustment and pay-for-performance increase; and $56,000 from the contingency fund. He highlighted the FY 21 projected changes in revenues and expenses in his PowerPoint. If staff had to estimate the FY 21 revenues with the limited data they had, the actual revenues would decline by approximately $5.5 million, to reset the revenue projections to $33.3 million. That was a stark decrease, but he was not sure if it was enough or too much without updated data. In his PowerPoint, Mr. Ashton showed the revenue assumptions staff used to reduce the town's revenue projections, including meals tax, TOT, sales, interest and fees, and Parks and Recreation fees, along with the rationale for decreasing each source.

Mr. Ashton discussed Step Three of the proposed FY 21 updated Budget Plan. This would be the strict spending plan, or the third step staff was asking Council to adopt with the budget. This would: freeze all spending not related to COVID-19, public health or safety, waste management, or transportation; sequester $5.5 million in O&M and capital; and set revenue benchmarks for releasing the sequestered funds or looking at further cuts – particularly personnel. He stated that sequestering funds was better than not funding these items and asking for the money later, and that the Director of Finance had more information on that topic. The sequestered funds were detailed by category in pages 18-19 of the PowerPoint.

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Mr. Ashton emphasized the town needed to be measured and disciplined and that if the town missed the benchmarks based on the sequestered funds, the only place it could go would be to address personnel. He stated staff was working on a plan for if that needed to happen. He stated that letting people go was not always clean fiscally, and the town would still need to pay for unused leave and unemployment. Cutting personnel was a long-term savings plan and staff was trying to create an environment where that would be the town's "last line of defense" moving forward.

Mr. Ashton stated that he had been in town government for many years and been through many budgets, but he had never seen anything like this. He would argue that his counterparts in other jurisdictions had not seen anything like this either. The proposed budget plan was an unusual process for unusual and uncertain times. During the next fiscal year, staff would update the Council on how the town was meeting the revenue benchmarks and would keep them advised of any additional information. In two weeks, staff planned to discuss the Enterprise Funds in more detail, and he stated there were some issues there as well, but not nearly as harsh as what he saw in the General Fund.

Budget Discussion

There was discussion amongst Council and staff on the budget items.

Councilmember Dhakal appreciated the changes to the proposed budget. He stated that the revenues were not in the town's control, but expenditures were, and he thought that sequestering the $5.5 million was a good way to handle that. Since the community donations were sequestered, he asked if that meant those funds would not be released until the revenue projections were met.

Responding to Councilmember Dhakal's comments about community donations, Mr. Ashton stated that was how staff envisioned releasing the funds. These funds would be kept unless certain revenue benchmarks were met since they did not immediately affect public safety, public health, transportation, and the other core missions of the town. He stated that Council could prioritize which items they wanted to release once the town met its revenue targets. He stated staff went through the budget and removed everything they could without impacting the town in critical areas or personnel decisions.

Councilmember Dhakal noted that $20,000 toward speed signs was sequestered. He felt that, living in a small town where the speed limit was generally 25 miles per hour, these signs were very important for pedestrians and bicyclists. He asked if it was possible to move the $20,000 out of sequestration, which he believed was directly related to public safety and was a good reminder for drivers. He asked for the funding to be moved back to the budget to put these speed limit signs in place where they were needed.

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(public hearing)

In response to queries from Councilmember Friedrichs, Mr. Ashton stated he had not planned to replace the $420,000 from the Revenue Stabilization Fund needed for FY 20 in the next fiscal year. He stated that would leave that fund at approximately $1.3 million. He added that they should keep in mind that approximately $900,000 was in a standard contingency fund and a capital investment fund was at just under $2.0 million. He stated the Undesignated Fund Balance was set at 20 percent of the General Fund, per Council policy, which contributed to the town's AAA bond rating. Mr. Ashton stated the town was at approximately 29 and a half percent of Undesignated Fund Balance, or approximately $10 million. He stated that two-thirds of that balance was protected, but the town had mechanisms to access it.

Further, Mr. Ashton stated that the town was not looking to replace any fund balance in the FY 21 budget. He stated that these balances were normally added to through good fiscal management over the course of the year ~ using vacancy savings, extra BPOL revenue, and coming in under budget on certain items. He stated there was not a line item in the budget to replace the money that was taken out.

Councilmember Friedrichs then questioned if there were sufficient funds to maintain the town's AAA bond rating, and Mr. Ashton confirmed that was the case. He stated the town was still in a good place from a capital perspective and that the cash flow was what the town was watching closely.

Ms. Tripoli added that on the revenue side, the line item in the General Fund for "use of fund balance" would use some of the capital reserve, which as Mr. Ashton mentioned, had surpluses from things like the Meals Tax and BPOL revenues. The town typically has this fund in place, but it hardly ever needs to use it because of the strong BPOL returns.

Ms. Tripoli stated that she thought the other side of Councilmember Friedrichs' question was whether the town intended to use more of those reserves. She stated that was a reason the town has the reserve funds, but that the town would not want to spend them all because that would jeopardize its bond rating. She stated the town tries to preserve the reserves, and amounts needed would be used judiciously, like in using part of the Revenue Stabilization Fund to balance FY 20. Staff would see what happens in FY 21, but that these funds were "tools in the toolbox" that were in place due to Council decisions geared toward AAA bond ratings. While there were some current cash flow issues, like the month-long delay in real estate taxes, there were some securities maturing at the same time to help fill the gap. She stated staff would provide more detail to Council as they did reviews throughout the process.

In response to Councilmember Friedrichs, Ms. Tripoli confirmed that the real estate assessments were set and certified as of January 1, 2020. While real estate assessments lag, the town expected to bill the approximately $12.0 million presented in the budget. She stated that she was not as worried about August collections, but was more worried about December, when mortgages would go into forbearance, on which staff had observed an uptick. Ms. Tripoli stated that servicers were generally responsible for payments to localities for homeowners who have a mortgage and escrow. She stated this made up about 35 percent of the town's real estate, and she clarified that about 35 percent of homeowners escrow with a mortgage and that was how the town received payments, leaving the remaining 65 percent returning payment by other means.

Councilmember Friedrichs thanked staff for their impressive work on the budget. She stated she was worried about a "worst case scenario" as Councilmember del Aguila had mentioned, but she thought it sounded like staff was planning very carefully and not overreacting or underreacting.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-28, to Levy Taxes

Mayor Merkel opened the public hearing on Ordinance 20-O-28, to Levy Taxes on Real Estate and Manufactured Homes, and stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized.

Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item. She would pause for 30 seconds to see if there was any member of the public waiting to speak.

Ms. Kertz stated that she did not see anyone waiting to speak on this item.

Mayor Merkel stated that the public hearing on this item remained open and asked for a motion to continue the item to the May 26, 2020 public hearing.

Vice Mayor Olem moved (there were no comments from the audience) to continue the public hearing on Ordinance 20-O-28 to May 26, 2020. Councilmember Baker seconded the motion.

There were brief comments from Council.

Vice Mayor Olem stated, for the public, that the Council received their comments, which she had reviewed. She stated Council even received a comment asking the Council to increase the taxes, but that was not proposed in light of everything that was going on. She stated that she appreciated the staff's work on the budget. On the previous item, for trash and recycling, she stated not all town residents received those services from the town. Only those that receive the town's services would be impacted by the proposed rate increase.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Resolution 20-G-16, Fiscal Planning Resolution and Ordinance 20-O-29, Appropriation Ordinance

Mayor Merkel opened the concurrent public hearings on Resolution 20-G-16, Fiscal Planning for FY 2021; and the Ordinance 20-O-29, to appropriate funds to implement the FY 2021 budget, establish the pay plan, and reserve on-going and capital funding. She stated that members of the audience who wished to address Council on these items should click the hand icon to be recognized.

Mayor Merkel reminded the audience that this separate action would be taken on both items.

Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on these items. She would pause for 30 seconds to see if there was any member of the public waiting to speak.

Ms. Kertz stated that she did not see anyone waiting to speak on these items.

Mayor Merkel stated that the public hearing on this items remained open and asked for separate motions to continue the items to the May 26, 2020 public hearing.

Resolution 20-G-16

The public hearing remained open. Councilmember Dhakal moved (there were no comments from the audience) to continue the public hearing on Resolution 20-G-16 to May 26, 2020. Vice Mayor Olem seconded the motion.

There were brief comments from Council.

Vice Mayor Olem stated that the Council had received comments from individuals who were concerned about the town's current projects and thought some of them should be stopped. She asked Mr. Ashton to review some of the major projects, like realigning of Elden Street, Downtown, and Center Street; Herndon Parkway by the Metro; and Spring Street. She asked Mr. Ashton to let the public know why the town would continue these projects, which were which were being funded by other sources.

Mr. Ashton reviewed four projects that staff was still aggressively pursuing because of the amount of money coming from sources other than the town's internal revenues. He stated that two of these projects related to Van Buren Street and could be found on page 14 of the CIP. The first was the "Van Buren Street to Old Spring Street Improvement," of which 98.3 percent was funded by external grants from county, state, and federal sources. Mr. Ashton stated the second Van Buren Street project was CIP Project 24 "Herndon Parkway Van Buren Street Intersection," which was 100 percent funded by state and federal grants. Mr. Ashton stated that the Bus Bays project, "Vehicular and Pedestrian Access to Metro," CIP Project 13, was also 100 percent funded by local, state, and federal grants. The Elden and Center Street Realignment, CIP Project 20, would be 89 percent funded through county, state, and federal grants. He stated that approximately 9.7 percent of that project would be paid for with bonds that the town already issued and another 1.3 percent would come from the General Fund. He stated that these grants were complicated, especially with the federal, state, and county layers. He stated that it would be very difficult for the town to walk away from these projects, especially since they were primarily funded by these grants. Unwinding these grants would be very difficult and would make obtaining future grants harder.

Vice Mayor Olem stated that the funds the Town Manager outlined would be around $12.0 million, with the town being responsible for approximately $1.0 million. She wanted to make sure the public knew the town was not just going on spending money on projects, and she thanked all the staff who had put these projects together over many years.

Mayor Merkel stated that she thought the clarification was important.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-29

The public hearing remained open. Vice Mayor Olem moved to continue the public hearing on Ordinance 20-O-29 to May 26, 2020 (there were no comments from the audience). Councilmember Dhakal seconded the motion.

There were brief comments from Council.

Councilmember del Aguila thanked the Town Manager and the Department of Finance team for their presentation during a difficult time where the town was operating in survival mode. He thought Council discussed this at the work session, but he wanted to emphasize the revenue assumptions on page 16 of the Town Manager's PowerPoint. He stated that staff was proceeding with the assumption that there would be a decline in the town's revenue sources, which they were looking at on the whole. He stated that what has to be realized is that many of the entities contributing to future revenue would not exist. He knew that staff did not have the numerical data and that it had only been a few weeks, but he encouraged staff to add "unpalatable percentages" to the projected downturn and to look at it dispassionately. He stated that the town was in a bad situation, which he thought was not as bad as it would get, but he wanted the town to plan for that. He suggested running the models at 30 percent and 50 percent declines and stated that the revenues would not just be down, entities would not be there.

Mayor Merkel concurred with her colleagues and stated that she thought there would be a robust discussion the next week, because during the COVID-19 emergency, things changed rapidly. She agreed with her colleagues that this would be a tough budget and they needed to consider every angle.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Mayor Merkel provided brief comments to those listening. If there was a member of the public who had hoped to speak that evening and had a technical issue that she or staff were not aware of, she encouraged them to reach out to the town. She stated that all of Council had a technical issue at one point or another during these virtual meetings and she wanted to give the public many opportunities to comment ~ whether it was on the Webex, over email, or personally. She stated that the virtual meetings were new and she wanted to provide everyone the opportunity to participate.

8. ADJOURNMENT

On motion of Vice Mayor Olem, seconded by Councilmember Baker, and carried by unanimous roll call vote by electronic means, the meeting of the May 12, 2020 public hearing was adjourned at 8:39 p.m. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Lisa C. Merkel
Mayor

TOWN OF HERNDON, VIRGINIA
1879

Amanda M. Kertz
Deputy Town Clerk

Minutes approved by Town Council: May 26, 2020.

NOTE:

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