TOWN OF Herndon VIRGINIA

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HERNDON TOWN COUNCIL
Work Session
Tuesday, May 19, 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 19, 2020 Herndon Town Council Work Session 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 14, 2020. In attendance electronically were:

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

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

STAFF ANNOUNCEMENTS

The Deputy Town Clerk welcomed those listening to the May 19, 2020 work session. She stated that night's regularly scheduled Herndon Town Council meeting was a virtual meeting. Next week's meeting would be a public hearing and the public was encouraged to provide comments for the record at town.clerk@herndon-va.gov. She stated, for the record, that:

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- The Town Council meeting that evening was conducted electronically 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.
- 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 work session by electronic means to order and asked the 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. As the Deputy Town Clerk stated, Mayor Merkel stated that the meeting that evening was being conducted pursuant to the appropriate laws associated with the COVID-19 pandemic disaster.

Mayor Merkel asked Members of Council to observe meeting decorum by showing their hands to be recognized by the Chair for comments. She asked Council to unmute their microphones and to start their comments, motions, or seconds by stating their name when she recognized them.

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2. **Comments from the Town Manager**

Mayor Merkel recognized the Town Manager for an update on the continuity of operations and matters related to the emergency.

The Town Manager stated that over the last week, staff had spent time preparing to move into Phase 1 to be ready when the Governor allowed it. He stated that this preparation had been both external for businesses and internal for the town government.

Externally, the Town Manager stated that Phase 1 would allow restaurants to have limited outdoor seating. That past week, he asked staff for a comprehensive review of the processes required to approve outdoor seating, which required a separate ABC approval for outdoor alcohol sales, along with certain town approvals for seating. There were two major categories, which were seating in a public space and in private space. Staff was looking to streamline the processes, under the current code, to facilitate outdoor seating as quickly and efficiently as possible. He would like to run the town's approval process in tandem with the ABC approval process and, in fact, beat ABC to approval. The Town Manager stated that staff was working on a communications plan to assist restaurants in understanding the requirements and getting their approvals in an expedited manner. The Town Manager wanted staff to put a package together as a resource for businesses before the Governor moved the town into Phase 1.

Internally, the Town Manager stated that staff was looking at what could open and when it could open. He stated CDC and Health Department guidelines would be followed and he emphasized social distancing; telework; using Webex when possible; personal protective equipment; and enhanced cleaning and disinfecting procedures. He was considering policy changes, such as would the town require masks to be worn and if so, how would masks be provided; and ways to protect interactions between employees and the public.

The Town Manager stated that, logistically, considerations were being made for plexiglass, floor stickers, and directed traffic flow through town buildings. He also stated that staff communications were important and he had been working with the Communications and Human Resources teams on ways to stay in better contact with employees to keep them informed.

The Town Manager stated that another consideration was the need to have paper masks available if staff and visitors were asked to wear them in the buildings.

The Town Manager concluded by stating that staff was still working on the phased reopening with the Governor's guidance. He stated the town should be ready to open appropriate facilities when Phase 1 started.

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Council Response to the Town Manager's Comments

In response to queries from Councilmember McKenna about the timeline, the Town Manager conveyed the sentiments of Dr. Gloria of Fairfax County, who stated that the timeline would be about data and not about time. He also shared information about the enhanced data the Northern Virginia Regional Commission (NVRC) was providing the region, including data broken down by zip codes. Much of NVRC's data was from the state and the various health departments. He reiterated that reopening was all about the supporting data.

Mayor Merkel added to the Town Manager's comments and stated that at last week's press conference, members of the NVRC were a little disappointed when the state officials were referencing "data not dates," and then gave a date for the projected start of Phase 1 in the region. She stated that date was subject to change based on the data.

In response to queries from Councilmember Baker about requiring masks and the willingness to wear them, the Town Manager stated that would be a legal question. He stated the region was looking at this issue and they were trying to schedule a call with the Governor's attorneys later this week. He asked the Town Attorney for more information.

The Town Attorney stated that there were no specifics that she could provide, but staff was researching different scenarios regarding masks and which state and town codes could give such authority. She reminded Council that Virginia is a Dillon Rule state, which made the way health codes were written in with the state code a bit strange. These codes also did not interact well with law enforcement code. She stated that she could provide a legal update to Council, either in a separate memo or in her weekly dispatch, possibly by the end of that week. She stated the update might have to wait until the next week, when she had more definitive guidelines on what the town was going to do and what the supporting laws would allow.

The Town Manager added that, drawing on the news and CDC guidance, masks protect other people. He anticipated that staff would be wearing masks to protect the customer from the employee. He stated that he would consider the anxiety some employees were experiencing during the pandemic when thinking about masks. He stated that personnel issues had been coming up that he would not have seen otherwise because employees were experiencing anxiety, and the town could not serve customers without staff. He stated this was also on his mind while navigating the legal question.

Councilmember Baker then asked the Town Manager to walk through the local government and police enforcement roles in Phase 1 which would potentially begin the next week.

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In response to Councilmember Baker, the Town Manager stated that the roles were different for private versus public space. He stated that for private, there was a zoning approval process for outdoor seating and the town was trying to expediate that process. He stated that the ABC had been progressively focused throughout COVID-19, and certain things, like outdoor seating, had already been worked out so that a restaurant's outdoor seating would only need to be within 100 feet of it. He stated that he wanted the town's process to run simultaneously with the ABC so that the town would not be holding up any businesses. The Town Manager stated staff was also working on streamlining the process for use of public space as well, and they would talk about this during the discussion of the Continuity of Government Ordinance later that evening.

Councilmember Baker expressed her appreciation to staff for their forward thinking toward businesses and residents.

The Town Manager also confirmed with Councilmember Baker that the Council would further discuss the use of public space. He stated that being compliant with the code and being safe were two of the most important elements.

Mayor Merkel agreed with the Town Manager's comments. She stated that the ABC had been unbelievably flexible during the pandemic, for which she was thankful, since restaurants rely so much on that. Regarding masks, Mayor Merkel stated that there were huge differences in opinion over what local jurisdictions could do and she stated that enforcement would be the issue. She hoped the town would have some clarity over the next several weeks.

The Town Manager stated that staff was looking at the logistics of supplying people with masks to wear in the town buildings and proper disposal. Staff was considering what could be required and how it could be facilitated.

In response to queries from Councilmember Friedrichs about closing down public streets or parking lots to enable restaurants to serve outside, the Town Manager responded by sharing that for those restaurants whose parking lots were privately owned, the first step would be for them to talk to their landlords. He also stated that the Economic Development Manager would be a resource for town approval processes. He stated that those restaurants that did not serve alcohol could start working on their permits for the approval process, since they would not need to wait for ABC.

In response to queries from Councilmember Friedrichs about shutting down Pine Street for serving outdoors, the Town Manager stated that Pine Street had not been one of the streets brought up while staff was looking into the matter. Staff needed to come up with criteria to consider using streets in this way and they would do the best they could. He thought the sidewalks were fair game to discuss, but using the streets would require more thought.

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Mayor Merkel provided comments on the town wanting to help with re-opening in a way that would be reasonable, feasible, and safe.

The Town Manager agreed with Mayor Merkel's comments stating that safety and compliance with code would be critical. If those two criteria could be met and the town could say "yes," he stated that he would like to be able to do so.

Councilmember Friedrichs provided comments about how something that works for one business may not necessarily work for another. She asked about communications efforts to encourage wearing masks and asked if signs could be displayed around town.

The Town Manger responded by sharing that there were already some signs on the W&OD Trail and that the Chief Communications Officer was already working on individual signage and social media posts to encourage social distancing and wearing masks. He could look to see where else the town could put up these signs. He also stated that money used to buy such signs could come from the CARES act reimbursement, and he would want high quality signs to send the message.

Mayor Merkel conveyed that the NVRC had discussed sending out a central, regional message. She stated that on the City of Alexandria's website, they shared a lot of already curated information. She stated that the NVRC was trying to combine resources so there was one central message and so that localities did not have to recreate the same message.

Responding to Mayor Merkel, the Town Manager stated that the information Mayor Merkel referenced was sent to the Chief Communications Officer. He also sent her the invitation from the City of Alexandria allowing localities to use their messaging as needed. The Chief Communications Officer was looking this information over to see what would apply to Herndon.

Mayor Merkel added that the information was also provided in multiple languages.

Councilmember Friedrichs then provided comments on foot traffic near Station Street, which she stated she received from the individual who had asked her about signage in town. She asked why the town's golf course had not opened back up when many commercial golf courses had. She stated three citizens in her neighborhood asked her this question.

In response to Councilmember Friedrichs, the Town Manager stated that the Director of Golf needed to update the business model, which he had, and staff was ready to implement it. Secondly, from a governmental perspective, he wanted to make sure the town opened the golf course at the appropriate time, consistent with the guidance from the state. He did not feel the town should open one of its own businesses while so many others had to remain closed. He clarified that as soon as Phase 1 started, the Director of Golf would have a plan in place and be ready to open.

Vice Mayor Olem then provided comments about road closures and having enough space for everyone to be safe. She was impressed about what the staff was considering and asked staff to consider with outdoor seating, as they do for the festival, how to stop vehicles from potentially hitting crowds. She then provided comments from an epidemiologist about the likelihood of contracting the virus while grocery shopping, versus the likelihood of grocery store employees, and the family members of those employees, getting COVID-19. She stated they could set the example by wearing masks and summarized by asking those listening to stay vigilant.

In response to Councilmember Friedrichs' queries about how businesses and restaurants would define capacity, Mayor Merkel stated that those numbers came from their current occupancy rate, which the Town Manager confirmed.

In response to queries from Councilmember Friedrichs about furniture placement in outdoor seating, the Town Manager stated that restaurants would need to follow the guidelines. Staff had discussed having restaurants not submit a full site plan, but an aerial image of their parking lot or outdoor space with the seating drawn over it. He reiterated that they would all need to comply with the Governor's orders.

In reference to earlier discussion about possible street closures, the Town Manager stated that the town would need to work with Fairfax County Fire and Rescue to make sure emergency services could navigate a closed street. That could lead to a street closure process taking a little longer.

In conclusion, Mayor Merkel stated that their goal was not to make this a difficult process. The town would not require site plans, architects, and things of that nature. She wanted to have town businesses up and running again as quickly as the town could help them do so.

PUBLIC HEARINGS

3. **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.)**

   [Note: this public hearing was continued from the May 12, 2020 meeting]

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Mayor Merkel asked the Deputy Town Clerk if any written comments were received for the record on this item, and the Deputy Town Clerk stated that all comments received were provided to the Town Council and had been entered into the record.

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

The Deputy Director of Public Works presented the staff report and a PowerPoint dated May 19, 2020, which are on file in the Town Clerk's office. The proposed ordinance would increase the town's recycling fee from $8.00 to $16.00 per quarter. She showed a graph displaying the total refuse operating costs, the fee and the recycling rebate, and a graph of the recycling costs versus the rebate the town received. Declining rebates were due to either the cost of the commodity or contamination rates. The recycling fee was last increased in 2018 when it was changed from $4.00 to $8.00 per quarter. 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 to Councilmember Friedrichs, the Deputy Director of Public Works clarified her graph on page 3 of the PowerPoint. She stated that the right axis of the graph represented the rebates which were shown by the line of the graph and correlate to the numbers on the right.

In response to queries from Councilmember del Aguila about seeing the information on a quarterly basis, the Deputy Director of Public Works stated that she could review the information quarterly. She thought there were some peaks and valleys during the year and that with refuse, they usually collect more in the spring. She thought recycling followed that pattern.

In response to queries from Councilmember del Aguila, the Deputy Director of Public Works confirmed the numbers for 2021 were the projected operating costs and rebate and were based on what they were seeing at that time. She stated that the projected rebate was about $30,000 for FY 2021.

In response to Councilmember del Aguila's requests, the Deputy Director of Public Works stated she would look at the costs quarterly.

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

5. **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

6. **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

[Note: these public hearings were continued from the May 12, 2020 meeting]

Mayor Merkel stated that the next three items on the agenda related to the Town Manager's proposed FY 2021 budget, which were continued from the Council's meeting on May 12, 2020. For information, she stated that the Town Manager developed the proposed budget prior to COVID-19 and it was provided to the Town Council and public by April 1 per state law. Because of the necessary changes, the town council and town manager delayed the Town Council budget meetings from April to May, and tonight was the second work session on the FY 21 budget. The Town Manager provided a bridge document on May 1 to update the proposed budget to accommodate the new fiscal realities imposed by COVID-19

Mayor Merkel asked the Deputy Town Clerk if any written comments were received for the record on the budget items, and the Deputy Town Clerk stated that all comments received were provided to the Town Council and had been entered into the record.

Budget Process

Mayor Merkel stated that the second advertised public hearing on the proposed budget would be next week, Tuesday, May 26, 2020. At that meeting, the Council would hold separate public hearings on the Tax Levy, which would require a two-thirds vote of council, which was five. She stated that concurrent public hearings would be held on the Fiscal Planning Resolution, which would require a majority of those present and voting, which is four (if all members of council are present and voting); and the Appropriation Ordinance, which would require a majority of the Council, which is four.

Disclosures

The Deputy Town Clerk 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.

Staff Presentation

Mayor Merkel recognized the Town Manager for additional comments on the proposed budget. She stated that the Director of Finance and the Budget Manager were being promoted as panelists and might also have input for these items.

During the last four meetings, the Town Manager stated that staff had focused on the budget realities; the April 1 baseline budget; the May 1 Bridge Document; and strategies moving forward. These discussions included staff's proposed revisions to the baseline budget, such as removing the proposed tax increase and employee compensation enhancements and sequestering $5.5 million of operating and maintenance and capital funds. Benchmarks would be established throughout the fiscal year to either release the sequestered money or make further cuts. He stated those discussions were based on the General Fund. That night, staff planned to outline the Enterprise Fund portion of the budget. He encouraged Council to ask questions about the Enterprise Funds or the conversations from the past several weeks either during or following the presentation. He recognized the Director of Finance to continue the staff report.

The Director of Finance presented a PowerPoint dated May 19, 2020, which is on file in the Town Clerk's office. She also discussed the attachments to the budget resolutions and ordinances on that night's agenda, which she stated might look a little different than they had in prior years. The Appropriations Ordinance, in particular, was the mechanism through which the Council would appropriate funds if they approved the budget the next week. It would also be how staff would have Council's approval to spend the lower dollar amount. As staff needed additional authorizations to spend money, they would ask Council for permission.

The Director of Finance began her PowerPoint presentation. She discussed the background and changes to the proposed budget, starting with Council's priorities in the baseline budget, released April 1 and the Bridge Document released May 1, which was drastically affected by COVID-19. In creating a new budget, she emphasized that staff wanted maximum flexibility to fiscally protect the town while avoiding an over-reaction due to the limited information available at that time.

The Director of Finance outlined the FY 21 assumptions that staff used for the original proposed Enterprise Fund rates. She explained that Enterprise Funds were business-like funds in a government that are fully funded by user fees and charges and not supported by the General Fund. For FY 21, staff had proposed a five percent increase in water rates and a 10 percent increase in sewer rates. The Cemetery Fund had made fee adjustments that were approved in January 2020. The Golf Fund had anticipated proposing fee increases in April 2020 and, before COVID-19, was having an exceptional year because of mild weather. The Downtown Parking Fund would remain status quo, which was related to the downtown redevelopment and would look the same year-to-year until there was more movement on the downtown.

The Director of Finance next reviewed the FY 21 revised budget assumptions for the Enterprise Funds. Staff would remove the water and sewer rate increase for FY 21, as further analysis of the water and sewer rate model was needed. With the spending plan, staff proposed to freeze certain capital spending until model analysis was complete and new rates were recommended. She stated that staff was working with residents and was not pursuing collections like it would if there was not a pandemic. With the Cemetery Fund, she stated there had been changes to graveside services due to COVID-19, which could have a small effect on revenue. For the Golf Fund, staff removed the proposed fee increase for April. She stated that COVID-19 hit at the beginning of prime golf season and staff needed a lot of flexibility to reconfigure the fund during the pandemic.

The Director of Finance stated that, similar to staff's proposal for the General Fund, the revised Water and Sewer fund only removed the personnel increases. In the spending plan, staff requested the appropriation of $13.068 million but would also ask to freeze $4.1 million of the capital projects. Staff would only be authorized to spend $8.87 million as of July 1, 2020. Once staff analyzed the rate model, they would come back to Council with new rate recommendations.

The Director of Finance stated the only real revision in the Cemetery Fund was personnel action. This fund had not been impacted as much because the cemetery had remained open and it was a self-sustaining fund, like the other Enterprise Funds.

The Director of Finance stated the revised Golf Fund would remove personnel actions and the fund would be approximately $1.59 million. Staff had not proposed to sequester funds in the Golf Fund's spending plan, but they were aware the estimated numbers could be drastically different. The proposed plan would provide maximum flexibility for the Director of Golf and Town Manager to reconfigure the business plan to what would make sense.

The Director of Finance emphasized that the Downtown Parking fund remained status quo. No personnel costs were associated with this fund.

The Director of Finance highlighted the revised Capital Improvement Program (CIP) spending program, which was page 13 of the PowerPoint. While this was not an Enterprise Fund, she wanted to add it to her presentation so it was not ignored. She stated that the baseline for the CIP included approximately $5.396 million. There were no personnel costs so there were not proposed amendments for this program. Staff proposed to sequester the General Government Items in the CIP, which included the town-wide security initiative; HVAC in the Herndon Police Department server room; and approximately $1.2 million related to the arts center build-out. She stated that the arts center was not at the build-out yet, so freezing the money this year would not cause a delay.

The Director of Finance summarized the FY 21 spending plan that the Town Manager previously reviewed, which emphasized strong fiscal management to create maximum flexibility; the use of revenue benchmarks; and that revenue had to support the sequestered funds before they could be released. She stressed that this was an unusual process for unusual and uncertain times.

The Town Manager stated that he asked staff to promote the Director of Golf as a panelist to answer any questions related to the Golf Fund.

General Budget Discussion

There was brief discussion amongst Council and staff on the presentation.

In response to queries from Councilmember Friedrichs, the Director of Finance said starting that week, the town should receive some meals tax payments, which were due on May 20. These would be returns for the month of April and would be the first full month of COVID-19 data. She stated that the town deferred the due date for Transient Occupancy Tax and as that data came in, staff could see how accurate their estimates were. As reopening starts to occur, there could be an upswing in payments, but she stated that the town was still in a really poor data environment.

For the Water and Sewer fund, the Director of Finance stated the outstanding receivables right now, versus last year at this time, were approximately $35,000 higher. She stated that the total receivable was at about $625,000 because of the cycling and the due dates. Staff was working with residents to put those on payment plans who needed it and she stated that she still saw a lot of the payments arriving in the mail. Staff would have a better picture of the data after a few months.

In response to queries from Councilmember Friedrichs, the Director of Finance stated that in the typical Appropriation Ordinance, the Council would appropriate and authorize designated dollar amounts. The budget not only provides legally appropriated funds into expense accounts that departments manage, but the Council also gives its expressed authorization to spend that money. Staff was requesting a lower authorization than the appropriation to start the fiscal year, since they did not know how the revenues would look. This would also be a measure of control, so staff could not spend the full allocated amount when the revenues did not support it. As staff received more information and as revenues improved, they would ask Council for additional authorization. She stated it would be less onerous to use the authorization approach, which would not require additional legal advertisements and public hearings. She stated that, usually, authorizations and appropriations were equal in the budget. She reiterated the benchmark requirements that would factor into authorizing spending.

The Town Manager followed up on the Director of Finance's comments and stated that any requests for spending would be predicated on the revenues supporting the request. Conversely, if the revenue situation was more dire, staff would make operational cuts moving into the next fiscal year.

Councilmember Friedrichs thanked staff for the flexibility it was giving Council and for all their work on the budget.

Mayor Merkel agreed with Councilmember Friedrichs' comments and stated that a lot of work had gone into this.

Vice Mayor Olem stated, for those listening, that at the last public hearing and work session, Council had reviewed several items on which the public might have interest. For example, they discussed why the town was planning to continue some of it planned improvements. If anyone would like to hear the details of those discussions, she encouraged them to listen to the last public hearing. She thought the Town Manager gave an excellent presentation on several of those topics. She stated that Council was reviewing citizen's comments as they were received.

Councilmember Baker thanked staff for tonight's presentation which she thought added more detail to the Council's budget discussions. She appreciated the concerted effort to make the best of the current situation.

Seeing no further questions or comments, Mayor Merkel discussed the approximately $5.5 million proposed sequestered items. She wanted to clarify for the public that these were items that the Council supported and that were funded – per say – but the town was waiting to make sure it had the revenue to support spending. At the appropriate time, Council would decide which of those items and when to release them.

The Town Manager agreed with Mayor Merkel's comments. The proposed process would give staff legal authorization in the budget, but they would have to get Council's permission to spend the sequestered funds. The proposed process would allow staff to react quickly and Council could authorize spending for the funds in one meeting. He stated that process would be easier than if the Council authorized the budget low, and the revenues came in better than expected. Then staff would have to advertise and follow the budget amendment process for each of those public hearings. That would make this a much longer and more arduous process.

Mayor Merkel stated that was the point she was trying to make. She stated that when and if the revenue was there, it would be easier, faster, and more efficient to fund the projects that the Council cared about, without having to undertake the lengthy advertising requirements for a budget amendment.

The Town Manager stated that from staff's perspective, this was not an approximately $38 million dollar budget, it was an approximately $33 million dollar budget, which would take the sequester monies into account. He stated that would be staff's starting point going into the next fiscal year, that they would establish revenue benchmarks, and he would hold staff accountable to manage funds in a tight and fiscally responsible manner. If the town missed the revenue benchmarks, he reiterated that staff had a plan for that scenario. If the town surpassed the benchmarks, he emphasized that was when staff would ask permission to release some of the sequestered funds.

Mayor Merkel stated that she had wanted to say those comments tonight and that she would probably state something similar at next week's meeting. She stated that there were a lot of projects and funding options on the sequestered list that were important to the Council's philosophy and strategic plan. Being on this list did not mean the town did not support the item, it meant that the town might not have the money to fund it right away. She thanked staff for their efforts, which included doing six months' worth of work in about six weeks, under tough circumstances.

GENERAL

7. **Ordinance, to amend Ordinance 20-O-23 adopted on March 24, 2020, as amended, to clarify electronic meeting procedures and provide for resumption of normal government practices and procedures upon the conclusion of the declared disaster.**

Mayor Merkel asked the Deputy Town Clerk if she received any comments on this item and she confirmed no comments had been received to enter into the record.

Mayor Merkel recognized the Town Attorney for the staff report.

The Town Attorney presented the staff report dated May 19, 2020, which is on file in the Town Clerk's office. In response to various state and local declarations of emergency due to COVID-19, the Council adopted the Continuity of Government Ordinance on March 24. Due to the uncertainty and fluid nature of the disaster, staff expected some changes and amendments to this ordinance. Most recently, due to state amendments to electronic meeting regulations and the realization that the increase in Covid-19 positive cases in the region may make it unlikely that the Town Council and Boards and Commissions would be able to safely meet in person in the near future, further clarification of the town's electronic meeting procedures was desirable. Since the adoption of this ordinance, staff has advanced numerous improvements to the virtual meeting process, such as the ability to watch and participate through Webex, Granicus, and HCTV with instructions on how to do so posted on the town's website. The second function of the amendment was to give the Town Manager the authority to sign legal instruments necessary to address the anticipated phased reopening of the region. Finally, the amendment included specific language to provide for resumption of normal government practices and procedures upon the conclusion of the declared disaster, as required by the state code. Staff recommends approval of the proposed ordinance, as presented.

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

Mayor Merkel stated the proposed ordinance would further clarify, on the record, how Council was handling the COVID-19 emergency. She asked if one of the things they would authorize the Town Manager to do would be the approval of the ABC permits without having to go before Council.

Responding to Mayor Merkel, the Town Attorney confirmed and reminded Council that, in the past, they had to approve license agreements for the use of public property. For any entity other than the town to use public property, like a parking lot or right-of-way, state code requires Council approval after a public hearing. During this crisis, declarations by the Governor and the Town allowed certain things to be lifted, including this particular requirement, which would streamline things immensely. She stated that the follow up was that the Council would have to ratify these agreements later.

Mayor Merkel stated that there had been a few of those items already where the Town Manager has used his authority, and he let Council know in his dispatch. If it would require Council action, the Council would approve it after the fact.

The Town Attorney clarified and confirmed that Council would ratify the Town Manager's decisions where required.

In response to queries from Councilmember Friedrichs about the Town Manager using this authority to reopen the town, the Town Attorney stated that some of the things the Town Manager could be authorized to do were not anticipated, even a few months ago. She stated that staff could not have anticipated some of these situations, like eating or drinking on public property. She stated Council would be granting the Town Manager the specific authority to handle such matters that would have otherwise required Council action or some other sort of formality. She thought he was handling the things needed to plan for the reopening of the town.

Councilmember Baker thanked the Town Attorney for her clarifications and stated she thought this was good for citizens and businesses of the town. She also stated it would be great to be able to react at the pace at which things would be happening instead of the pace of government.

Mayor Merkel stated the town was fortunate to have a great line of communication with the Town Manager, staff, and county representatives, which made items like this easier to manage.

ROUNDTABLE

Mayor Merkel reminded Council that comments needed to be limited to the continuity of business operations or directly related to the emergency to fall in compliance with state code.

1. **Vice Mayor Olem:** Expressed appreciation to staff, the Town Manager, and the leadership team. She also stated that it was the Department of Public Works (DPW) Appreciation Week, and she encouraged those listening to wear their masks just as DPW workers were wearing theirs.

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(work session)

Vice Mayor Olem provided comments about updates given by Senator Boysko at the Chamber meeting as well as updates about progress from Metro Monday.

Vice Mayor Olem asked if it would be possible to get a list of attendees from that night's meeting.

Vice Mayor Olem concluded by encouraging those listening to wear their masks and dispose of them properly.

Mayor Merkel shared how a list of attendees could be found if Councilmembers were using a laptop. She stated that she was sure they could get a list of the participants for everyone.

2. **Mayor Merkel**: Stated that she had some updates from the NVRC Mayors and Chairs meetings, but those had all been discussed during the meeting.

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 19, 2020 work session was adjourned at 8:19 p.m. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Lisa C. Merkel
Lisa C. Merkel
Mayor

TOWN OF HERNDON, VIRGINIA
1879

Amanda M. Kertz
Amanda M. Kertz
Deputy Town Clerk

Minutes approved by Town Council: June 9, 2020.

NOTE:

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