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HERNDON TOWN COUNCIL
Tuesday
September 8, 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 stated that the September 8, 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, September 3, 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 were: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; and Viki L. Wellershaus, Town Clerk.

Staff Announcements

Viki L. Wellershaus, Town Clerk, welcomed those listening to the September 8, 2020 public hearing. She stated 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;
 - ❖ the Governor's Executive Orders, as amended; and
 - ❖ in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended.

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- Proper notice of the electronic meeting was provided in accordance with 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; and
- Electronic meetings would begin and end with roll call votes.

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. Wellershaus 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 that evening. As the Town Clerk had stated, 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. when she recognized them.

APPROVAL OF MINUTES

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

On motion of Vice Mayor Olem, seconded by Councilmember Baker, and carried by unanimous roll call vote by electronic means, the minutes of the August 4, 2020 public hearing were approved. The vote was: Councilmembers Baker, Dhakal, del Aguila, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

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

On motion of Councilmember McKenna, seconded by Vice Mayor Olem, and carried by unanimous roll call vote by electronic means, the minutes of the August 11, 2020 public hearing were approved. The vote was: Councilmembers Baker, Dhakal, del Aguila, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

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2. COMMENTS FROM THE TOWN MANAGER

Before recognizing the Town Manager for comments, Mayor Merkel asked Vice Mayor Olem to confirm that her video was working, which she confirmed it was.

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.

Mr. Ashton stated that there was not much of an update from last week's meeting and that the number of cases in the county and in Herndon's zip code had remained steady. He stated that the Fairfax County Health Department's key focus now was messaging, particularly for vulnerable communities. The county health department was also reaching out to see how long-term care facilities were managing and increasing the number of times they checked on the facilities.

Mr. Ashton stated that he, Dr. Gloria, and the health department wanted to remain on message, which was to encourage social distancing, washing hands, wearing a face covering in public, and staying home when not feeling well. He emphasized that those experiencing any symptoms should seek a COVID test. Mr. Ashton asked those listening to answer their phones if the county health department appeared on their caller id. He stated it could be a contact tracer to advise about someone you had close contact with who tested positive.

There were no comments from Council.

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.

There were no comments from Council.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Merkel asked Viki L. Wellershaus, Town Clerk, if she received comments for the record or Transactional Disclosure Declarations from Council on any items listed on that evening's agenda, and Ms. Wellershaus stated that she had not received either comments or disclosures from Council for that meeting's record.

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GENERAL

4. **To amend and readopt Ordinance 20-O-23 to implement procedures and effectuate temporary changes to address Continuity of Governmental Operations during Pandemic Disaster (COVID-19) and to supersede previously adopted amendments.**

Mayor Merkel recognized Lesa Yeatts, Town Attorney, for the staff report.

Ms. Yeatts presented the staff report dated September 1, 2020, which is on file in the Town Clerk's office. On March 24, 2020, the Council adopted Ordinance 20-O-23 "Continuity of Governmental Operations during Pandemic Disaster (COVID-19)" pursuant to the Code of Virginia. The town's Continuity of Government ordinance (COG) was first amended in April and in May to adjust to the disaster.

Ms. Yeatts stated that the original ordinance was enacted for six months, which would end very soon. Because of the continuing nature of the COVID-19 disaster, it was necessary to amend and reenact the COG ordinance to extend its duration to the full extent provided by law, which was six months beyond the end of the disaster. The end of the disaster would be signaled by the lifting of the State of Emergency. The proposed ordinance would include: all of the items in the original COG ordinance and its two amendments; all continuity of government provisions in one ordinance; allow discussion of a broader range of subjects; reinstitute general public comment during virtual meetings; specify land development approvals extended during the emergency; and continue the Town Manager's authority to sign legal and negotiable instruments necessary for continuity of government. Readopting the ordinance would give the town the flexibility to continue responding to the emergency as it had been. Staff recommends approval of the proposed ordinance, as presented.

In response to queries from Councilmember Friedrichs, Ms. Yeatts provided comments and confirmed that Council would begin to see more routine items starting at next week's meeting.

In response to queries from Vice Mayor Olem, Ms. Yeatts stated next week's agenda would likely have two initiating resolutions for zoning ordinance text amendments to allow matters to begin flowing again to the Planning Commission. She recognized Mr. Ashton for further comments about the Heritage Preservation Handbook rewrite.

Mr. Ashton stated that next week's agenda would likely include an initiating resolution that was directly related to the Heritage Preservation Review Board. Staff intended to give Council a full update about the rewrite at that time and hopefully provide the schedule for the completion of the handbook rewrite project.

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On motion of Councilmember Friedrichs, seconded by Vice Mayor Olem, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-23 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-23, to amend and readopt Ordinance 20-O-23 to implement procedures and effectuate temporary changes to address Continuity of Governmental Operations during Pandemic Disaster (COVID-19) and to supersede previously adopted amendments.

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

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia arising from the novel coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order Fifty-One acknowledged the existence of a disaster as defined by Virginia Code Section 44-146.16 arising from the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive "any state requirement or regulation" as appropriate; and

WHEREAS, on March 24, 2020, the Town's Emergency Management Coordinator issued a Declaration of Emergency and Disaster, applicable throughout the entire Town of Herndon, Virginia pursuant to the Town's Emergency Management Plan and Virginia Code Sections 44-146.21; and

WHEREAS, ~~also on March 24, 2020 the Town Council affirmed the existence of a disaster and declared a state of emergency and disaster throughout the entire Town that remains active; and~~

WHEREAS, Virginia Code Section 15.2-1413 provides that a locality may, by ordinance, provide a method at variance with general or special laws to assure continuity of government in the event of a disaster for a period not to exceed six months after the disaster; and

WHEREAS, Virginia Code Section 44-146.21(C) further provides that a local director of emergency management or any member of a governing body in his absence may upon the declaration of a local emergency "proceed without

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regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to performance of public work"; and

WHEREAS, the Town Council values transparency in government and public engagement, it also finds that emergency measures are necessary to mitigate the spread of COVID-19 and to protect the health, safety and welfare of residents and employees, while still providing for government operations to continue during this state of emergency; and

WHEREAS, due to the Declaration of Emergency and Disaster and the limitations on interpersonal contacts and public gatherings it is necessary to delegate to the Town Manager certain responsibilities and powers in order to preserve the continuity of operations; and

NOW, THEREFORE, BE IT ORDAINED

- a. that any meeting or activities which require the physical presence of members of the Town Council or any of the Town's boards or commissions may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physically present in one location; and
- b. prior to holding any such electronic meeting, public notice shall be provided at least 3 days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
- c. any such electronic meeting shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this Ordinance; identify members physically and/or electronically present; identify process for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and
- d. any such electronic meeting shall be open to electronic participation by the public and closed to in-person participation by the public; and
- e. for any matters requiring a public hearing, public comment may be solicited by electronic means in advance and shall also be solicited through electronic means during the electronic meeting. All such public comments will be provided to members of the public body at or before the electronic meeting and made part of the record for such meeting; and

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- f. the minutes of all electronic meetings shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. Minutes of an electronic meeting may be approved at a subsequent electronic meeting and all such minutes shall be approved at a regular or special meeting after the emergency and disaster has ended; and

IT IS FURTHER ORDAINED that agenda items scheduled or proposed to be considered for the duration of the local emergency declaration by the Town Council, Planning Commission or any other Town board or commission shall be deemed continued for the duration of the local emergency declaration, if the Town Council, Planning Commission or other Town board or commission does not take action on the agenda item during the referenced timeframe, including those agenda items for which state or local law requires an affirmative action to be taken within a statutorily-mandated time frame and the failure to act can be deemed an approval; and

IT IS FURTHER ORDAINED that nothing in this ordinance shall prohibit the public entity from holding in-person public meetings provided that the Town Manager has approved resumption of such meetings and public health and safety measures as well as social distancing are put into place; and

IT IS FURTHER ORDAINED that the Town Manager or his designee shall, in addition to all powers otherwise granted by the federal, state and local law, for the duration of the local emergency declaration be empowered with all responsibilities and powers, heretofore conferred upon the Town Council, by the Town's Internal Administrative Policies, Resolution 18-G-29, be enabled to approve any transaction pursuant to Chapter 30, Section 30-311 of the Town Code, be empowered to re-direct or suspend town services to preserve the public health and safety, be enabled to take ~~actions to preserve the health and safety of employees including any~~ action taken under Section 54-61 of the Town code relative to administrative leave, and be empowered to sign all legal or negotiable instruments necessary for the function and continuity of Town operations; and

IT IS FURTHER ORDAINED that the Town Manager is hereby temporarily authorized to approve and sign instruments necessary to address the phased re-opening. The Manager's actions will only be effective until the next regularly scheduled Town Council meeting. At that time the Town Council may ratify and extend the time for which the Town Manager's action remains in effect; and

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IT IS FURTHER ORDAINED that Town Council reserves the right by subsequently enacted ordinance to rescind, readopt or amend this ordinance. An emergency and disaster is deemed to exist and this ordinance shall be effective upon its adoption; and

IT IS FURTHER ORDAINED that to the extent possible, town staff will endeavor to take action as is practical and appropriate to meet deadlines or time frames established under state law or town ordinances, however, notwithstanding any provision of law, regulation, or policy to the contrary, any deadlines requiring action by the town, any public body, or town employees are suspended. Time frames for review or expedited reviews are also suspended. Failure to meet any deadline or time frame will not constitute a default, violation, approval, ratification, or recommendation. Any policies or procedures inconsistent with this ordinance are hereby suspended; and

IT IS FURTHER ORDAINED that the validity of any approvals set out in Virginia Code Section 15.2-2209.1 and any staff approved plan, plat, permit, modification, waiver or determination that would have otherwise expired during the disaster and before the expiration or repeal of this ordinance, will remain valid until 60 days following the lifting of the state of emergency declared by the Town or as otherwise provided by law; and

IT IS FURTHER ORDAINED that upon rescission of this ordinance, as amended, or automatic expiration as described herein, this emergency ordinance shall terminate and normal practices and procedures of government shall resume; and

IT IS FURTHER ORDAINED that this Ordinance to Amend and Readopt Ordinance 20-O-23 shall be effective upon its adoption and supersedes any previously adopted amendments.

5. Resolution 20-G-37 to establish the Herndon Town Council meeting schedule for January 1, 2021 to December 31, 2021.

Mayor Merkel recognized Viki L. Wellershaus, Town Clerk, for the staff report.

Ms. Wellershaus presented the staff report dated September 1, 2020, which is on file in the Town Clerk's office. The Council has the ability under the Town Code to modify its meeting schedule and with the development of the 2021 town calendar underway, this was an opportunity to consider modifications before the calendar was printed. Traditionally, the Council's meeting schedule was modified to accommodate participation in National Night Out; federal, state, and county elections; and Thanksgiving holiday travel.

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Ms. Wellershaus proposed modifications for Council's consideration, which had been updated from last week's work session discussion. She stated that the proposal to move the work session for 2021 National Night Out (NNO) had been removed to provide the Chief of Police flexibility to schedule NNO activities either in August or in October, which would be Crime Prevention Month. The proposed changes were as follows:

- Reschedule the work session on Tuesday, November 2 **TO** Tuesday, November 9, to allow participation in the 2021 state election ~ thus, rescheduling the public hearing one week later **TO** Tuesday, November 16; and
- Forgo the second work session and public hearing in November to accommodate Thanksgiving holiday travel.

Ms. Wellershaus stated that Chief Maggie DeBoard, Herndon Police, asked her to announce that the Herndon Police Department (HPD) would not be participating in 2020 NNO activities due to the continuing nature of COVID-19. The rescheduled date provided to Council was a tentative date and not publicized.

Ms. Wellershaus stated that in November 2021, the work session would be held on Tuesday, November 9, 2021 to allow participation in the state election. The public hearing would be on Tuesday, November 16, 2021. Traditionally, the Council has held two meetings in November to accommodate Thanksgiving holiday travel, as provided in the revised resolution.

Ms. Wellershaus stated, for information, that next week's agenda would include a proposed resolution to change the previously scheduled Wednesday, October 14, 2020 public hearing to Tuesday, October 13, 2020 at 7:00 p.m., as the Virginia Municipal League (VML) conference would be virtual this year. Staff recommends approval of the proposed resolution, as presented.

On motion of Vice Mayor Olem, seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, Resolution 20-G-37 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Resolution 20-G-37, to establish the Herndon Town Council meeting schedule for January 1, 2021 to December 31, 2021.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby:

1. Incorporates the meeting schedule set out in Section 2-1 of the Herndon Town Code (2000), as amended, and establishes the meeting schedule for January 1, 2021 to December 31, 2021, modified as follows:

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- Reschedule the town council work session on Tuesday, November 2 **TO** Tuesday, November 9, to allow participation in the 2021 state election ~ thus, rescheduling the town council public hearing one week later **TO** Tuesday, November 16; and
 - Forgo the second town council work session and town council public hearing in November to accommodate Thanksgiving holiday travel.
2. Directs staff to reflect the modified meeting schedule in the 2021 annual town calendar.

CONSENT

6. **Resolution numbers 20-G-30 through 20-G-36 to ratify Extensions of Licenses pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Green Lizard Cycling (20-G-30); Jimmy's Old Town Tavern (20-G-31); Mile 20 at Mediterranean Breeze 20-G-32); Red Kimono LLC, (20-G-33); Russia House Restaurant (20-G-34); Sully's Pour House (20-G-35); and Zeffirelli Ristorante Italiano (20-G-36) for use of public property for temporary outdoor dining; and**
7. **Resolution 20-G-43, to appoint Meron T. Yohannes to the Herndon Planning Commission.**

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

Resolution 20-G-30, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Green Lizard Cycling for use of public property for temporary outdoor dining.

WHEREAS, the parties entered into a License Agreement dated May 26, 2020 for use of public property or public right-of-way for temporary outdoor dining, necessitated by Executive orders of Governor Northam limiting indoor dining services due to the COVID-19 pandemic; and

WHEREAS, said License Agreement was signed by the Town Manager and ratified by Town Council; and

**September 8, 2020
(public hearing)**

WHEREAS, the term of the License Agreement expires on September 3, 2020; and

WHEREAS, Town and Licensee desired to extend the term of the License to expire on November 30, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Extension of License dated September 1, 2020 and signed by the Town Manager between the Town of Herndon and **Green Lizard Cycling** for use of public property or public right-of-way for temporary outdoor dining dated, 718 Lynn Street, Herndon.

[Note: Attached for reference is the extension of license b/n the town and Green Lizard Cycling dated September 1, 2020.]

**September 8, 2020
(public hearing)**

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations due to State of Emergency,
Pandemic Disaster Covid-19**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated September 1, 2020 (the Extension), hereby extends the termination date of the existing License between the TOWN OF HERNDON, VIRGINIA (Town) and GREEN LIZARD CYCLING (the Licensee) dated May 26, 2020, for the use of the Town property or public right-of-way for temporary outdoor dining (the License) for a period not to extend exceed November 30, 2020.

THEREFORE, for the consideration stated in the License and herein, the parties agree as follows:

1. The License is incorporated by reference.
2. Unless otherwise terminated pursuant to paragraph 8 of the License, the Extension shall terminate on **November 30, 2020**.
3. Pursuant to paragraph 7 of the License, the Licensee will provide Town evidence of its insurance coverage required during the extension.
4. In all other respects, the License remains in full force and effect.

GREEN LIZARD CYCLING

By: [Signature]
Print Name: David A. Meyer
Title: Owner
Date: 8/21/20

APPROVED AS TO FORM:

[Signature]
Town Attorney

TOWN OF HERNDON, VIRGINIA

[Signature]
William H. Ashton III

**September 8, 2020
(public hearing)**

Resolution 20-G-31, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Jimmy's Old Town Tavern for use of public property for temporary outdoor dining.

WHEREAS, the parties entered into a License Agreement dated May 28, 2020 for use of public property or public right-of-way for temporary outdoor dining necessitated by Executive Orders of Governor Northam limiting indoor dining services due to the COVID-19 pandemic; and

WHEREAS, said License Agreement was signed by the Town Manager and ratified by Council; and

WHEREAS, the term of the License Agreement expires on September 5, 2020; and

WHEREAS, Town and Licensee desired to extend the term of the License to expire on November 30, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Extension of License dated September 1, 2020 and signed by the Town Manager between the Town of Herndon and **Jimmy's Old Town Tavern** for use of public property or public right-of-way for temporary outdoor dining dated, 697 Spring Street, Herndon.

[Note: Attached for reference is the extension of license b/n the town and Jimmy's Old Town Tavern dated September 1, 2020.]

**September 8, 2020
(public hearing)**

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations due to State of Emergency,
Pandemic Disaster Covid-19**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated September 1, 2020 (the Extension), hereby extends the termination date of the existing License between the TOWN OF HERNDON, VIRGINIA (Town) and JIMMY'S OLD TOWN TAVERN (the Licensee) dated May 28, 2020, for the use of the Town property or public right-of-way for temporary outdoor dining (the License) for a period not to extend exceed November 30, 2020.

THEREFORE, for the consideration stated in the License and herein, the parties agree as follows:

1. The License is incorporated by reference.
2. Unless otherwise terminated pursuant to paragraph 8 of the License, the Extension shall terminate on **November 30, 2020**.
3. Pursuant to paragraph 7 of the License, the Licensee will provide Town evidence of its insurance coverage required during the extension.
4. In all other respects, the License remains in full force and effect.

JIMMY'S OLD TOWN TAVERN

By: James C. Cirrito
 Print Name: JAMES C. CIRRITO
 Title: OWNER
 Date: 8.21.2020

APPROVED AS TO FORM:

Sean J. Yeatts
 Town Attorney

TOWN OF HERNDON, VIRGINIA

William H. Ashton III
 William H. Ashton III

**September 8, 2020
(public hearing)**

Resolution 20-G-32, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Mile 20 at Mediterranean Breeze for use of public property for temporary outdoor dining.

WHEREAS, the parties entered into a License Agreement dated May 28, 2020 for use of public property or public right-of-way for temporary outdoor dining necessitated by Executive Orders of Governor Northam limiting indoor dining services due to the COVID-19 pandemic; and

WHEREAS, said License Agreement was signed by the Town Manager and ratified by Council; and

WHEREAS, the term of the License Agreement expires on September 5, 2020; and

WHEREAS, Town and Licensee desired to extend the term of the License to expire on November 30, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the License Extension dated September 1, 2020 and signed by the Town Manager between the Town of Herndon and **Mile 20 at Mediterranean Breeze** for use of public property or public right-of-way for temporary outdoor dining dated, 781 Station Street, Herndon.

[Note: Attached for reference is the extension of license b/n the town and Mile 20 at Mediterranean Breeze dated September 1, 2020.]

**September 8, 2020
(public hearing)**

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations due to State of Emergency,
Pandemic Disaster Covid-19**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated September 1, 2020 (the Extension), hereby extends the termination date of the existing License between the TOWN OF HERNDON, VIRGINIA (Town) and MILE 20 AT MEDITERRANEAN BREEZE (the Licensee) dated May 28, 2020, for the use of the Town property or public right-of-way for temporary outdoor dining (the License) for a period not to extend exceed November 30, 2020. (the Extension)

THEREFORE, for the consideration stated in the License and herein, the parties agree as follows. The License is incorporated by reference.

2. Unless otherwise terminated pursuant to paragraph 8 of the License, the Extension shall terminate on **November 30, 2020**.
3. Pursuant to paragraph 7 of the License, the Licensee will provide Town evidence of its insurance coverage required during the extension.
4. In all other respects, the License remains in full force and effect.

MILE 20 AT MEDITERRANEAN BREEZE

By: Philip H. Orwe
 Print Name: Philip H. Orwe
 Title: Cover
 Date: 8/24/20

APPROVED AS TO FORM:

Sam J. Yeater
 Town Attorney

TOWN OF HERNDON, VIRGINIA
William H. Ashton III
 William H. Ashton III

September 8, 2020
(public hearing)

Resolution 20-G-33, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Red Kimono, LLC for use of public property for temporary outdoor dining.

WHEREAS, the parties entered into a License Agreement dated May 29, 2020 for use of public property or public right-of-way for temporary outdoor dining necessitated by Executive Orders of Governor Northam limiting indoor dining services due to the COVID-19 pandemic; and

WHEREAS, said License Agreement was signed by the Town Manager and ratified by Council; and

WHEREAS, the term of the License Agreement expires on September 6, 2020; and

WHEREAS, Town and Licensee desired extend the term of the License to expire on November 30, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the License Extension dated September 1, 2020 and signed by the Town Manager between the Town of Herndon and **Red Kimono, LLC** for use of public property or public right-of-way for temporary outdoor dining dated, 790 Station Street, Herndon.

[Note: Attached for reference is the extension of license b/n the town and Red Kimono, LLC dated September 1, 2020.]

September 8, 2020
(public hearing)

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations due to State of Emergency,
Pandemic Disaster Covid-19**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated September 1, 2020 (the Extension), hereby extends the termination date of the existing License between the TOWN OF HERNDON, VIRGINIA (Town) and RED KIMONO, LLC (the Licensee) dated May 29, 2020, for the use of the Town property or public right-of-way for temporary outdoor dining (the License) for a period not to extend exceed November 30, 2020.

THEREFORE, for the consideration stated in the License and herein, the parties agree as follows:

1. The License is incorporated by reference.
2. Unless otherwise terminated pursuant to paragraph 8 of the License, the Extension shall terminate on **November 30, 2020**.
3. Pursuant to paragraph 7 of the License, the Licensee will provide Town evidence of its insurance coverage required during the extension.
4. In all other respects, the License remains in full force and effect.

RED KIMONO, LLC

By: 

Print Name: CHEF

Title: CHEF

Date: 8/28/2020

APPROVED AS TO FORM:



Town Attorney

TOWN OF HERNDON, VIRGINIA



William H. Ashton III

**September 8, 2020
(public hearing)**

Resolution 20-G-34, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Russia House Restaurant for use of public property for temporary outdoor dining.

WHEREAS, the parties entered into a License Agreement dated June 4, 2020 for use of public property or public right-of-way for temporary outdoor dining necessitated by Executive Orders of Governor Northam limiting indoor dining services due to the COVID-19 pandemic; and

WHEREAS, said License Agreement was signed by the Town Manager and ratified by Council; and

WHEREAS, the term of the License Agreement expires on September 12, 2020; and

WHEREAS, Town and Licensee desired to extend the term of the License to expire on November 30, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the License Extension dated September 1, 2020 and signed by the Town Manager between the Town of Herndon and **Russia House Restaurant** for use of public property or public right-of-way for temporary outdoor dining dated, 724 Pine Street, Herndon.

[Note: Attached for reference is the extension of license b/n the town and Russia House dated September 1, 2020.]

**September 8, 2020
(public hearing)**

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations due to State of Emergency,
Pandemic Disaster Covid-19**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated September 1, 2020 (the Extension), hereby extends the termination date of the existing License between the TOWN OF HERNDON, VIRGINIA (Town) and RUSSIA HOUSE RESTAURANT (the Licensee) dated June 4, 2020, for the use of the Town property or public right-of-way for temporary outdoor dining (the License) for a period not to extend exceed November 30, 2020.

THEREFORE, for the consideration stated in the License and herein, the parties agree as follows:

1. The License is incorporated by reference.
2. Unless otherwise terminated pursuant to paragraph 8 of the License, the Extension shall terminate on **November 30, 2020**.
3. Pursuant to paragraph 7 of the License, the Licensee will provide Town evidence of its insurance coverage required during the extension.
4. In all other respects, the License remains in full force and effect.

RUSSIA HOUSE RESTAURANT

By: Monika Danner
 Print Name: MONIKA DANNER
 Title: Vice President
 Date: 08/25/2020

APPROVED AS TO FORM:

Sean J. Yeatts

Town Attorney
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TOWN OF HERNDON, VIRGINIA

William H. Ashton III

William H. Ashton III

**September 8, 2020
(public hearing)**

Resolution 20-G-35, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Sully's Pour House for use of public property for temporary outdoor dining.

WHEREAS, the parties entered into a License Agreement dated May 29, 2020 for use of public property or public right-of-way for temporary outdoor dining necessitated by Executive Orders of Governor Northam limiting indoor dining services due to the COVID-19 pandemic; and

WHEREAS, said License Agreement was signed by the Town Manager and ratified by Council; and

WHEREAS, the term of the License Agreement expires on September 6, 2020; and

WHEREAS, Town and Licensee desired to extend the term of the License to expire on November 30, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the License Extension dated September 1, 2020 and signed by the Town Manager between the Town of Herndon and **Sully's Pour House** for use of public property or public right-of-way for temporary outdoor dining dated, 754 Elden Street, #102, Herndon.

[Note: Attached for reference is the extension of license b/n the town and Sully's Pour House dated September 1, 2020.]

September 8, 2020
(public hearing)

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations due to State of Emergency,
Pandemic Disaster Covid-19**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated September 1, 2020 (the Extension), hereby extends the termination date of the existing License between the TOWN OF HERNDON, VIRGINIA (Town) and SULLY'S POUR HOUSE (the Licensee) dated May 29, 2020, for the use of the Town property or public right-of-way for temporary outdoor dining (the License) for a period not to extend exceed November 30, 2020.

THEREFORE, for the consideration stated in the License and herein, the parties agree as follows:

1. The License is incorporated by reference.
2. Unless otherwise terminated pursuant to paragraph 8 of the License, the Extension shall terminate on **November 30, 2020**.
3. Pursuant to paragraph 7 of the License, the Licensee will provide Town evidence of its insurance coverage required during the extension.
4. In all other respects, the License remains in full force and effect.

SULLY'S POUR HOUSE

By: 
Print Name: Jenna Kuhn
Title: Owner
Date: August 25 2020

APPROVED AS TO FORM:


Town Attorney

TOWN OF HERNDON, VIRGINIA


William H. Ashton III

**September 8, 2020
(public hearing)**

Resolution 20-G-36, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations between the Town and Zeffirelli Ristorante Italiano for use of public property for temporary outdoor dining.

WHEREAS, the parties entered into a License Agreement dated June 30, 2020 for use of public property or public right-of-way for temporary outdoor dining necessitated by Executive Orders of Governor Northam limiting indoor dining services due to the COVID-19 pandemic; and

WHEREAS, said License Agreement was signed by the Town Manager and ratified by Council; and

WHEREAS, the term of the License Agreement expires on October 8, 2020; and

WHEREAS, Town and Licensee desired to extend the term of the License to expire on November 30, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the License Extension dated September 1, 2020 and signed by the Town Manager between the Town of Herndon and **Zeffirelli Ristorante Italiano** for use of public property or public right-of-way for temporary outdoor dining dated, 728 Pine Street, Herndon.

[Note: Attached for reference is the extension of license b/n the town and Zeffirelli Ristorante Italiano dated September 1, 2020.]

September 8, 2020
(public hearing)

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations due to State of Emergency,
Pandemic Disaster Covid-19**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated September 1, 2020 (the Extension), hereby extends the termination date of the existing License between the TOWN OF HERNDON, VIRGINIA (Town) and ZEFFIRELLI RISTORANTE ITALIANO (the Licensee) dated June 30, 2020, for the use of the Town property or public right-of-way for temporary outdoor dining (the License) for a period not to extend exceed November 30, 2020.

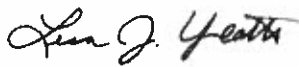
THEREFORE, for the consideration stated in the License and herein, the parties agree as follows:

1. The License is incorporated by reference.
2. Unless otherwise terminated pursuant to paragraph 8 of the License, the Extension shall terminate on **November 30, 2020**.
3. Pursuant to paragraph 7 of the License, the Licensee will provide Town evidence of its insurance coverage required during the extension.
4. In all other respects, the License remains in full force and effect.

ZEFFIRELLI RISTORANTE ITALIANO

By: 
Print Name: SYED MASAIN
Title: PRESIDENT
Date: 8/24/2020

APPROVED AS TO FORM:


Town Attorney

TOWN OF HERNDON, VIRGINIA


William H. Ashton III

**September 8, 2020
(public hearing)**

Resolution 20-G-43, to appoint Meron T. Yohannes to the Herndon Planning Commission.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Meron T. Yohannes** as a "town resident" member to the Herndon Planning Commission for an unexpired term ending September 30, 2022.

8. CLOSED MEETING

Mayor Merkel stated that the Council had a need to go into a closed meeting and that the Town Clerk had posted and filed the appropriate notices, including those for the meeting to be held electronically.

On motion of Councilmember Baker, seconded by Vice Mayor Olem, and carried by unanimous roll call vote by electronic means, the Herndon Town Council went into Closed Meeting at 7:18 p.m., under Section 2.2-3711 (A)(3) of the Code of Virginia, to consider the disposition of publicly held real estate in the downtown where discussion in an open meeting would adversely affect the bargaining position or negotiation strategy of the public body.

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

RECESS

At 7:19 p.m. Mayor Merkel called a brief recess, and at 7:22 p.m., the closed meeting reconvened by electronic meeting using Cisco Webex, all members present, and with Mayor Merkel presiding.

Mayor Merkel took attendance by roll call and asked if there was anyone present whose name she did not call. Hearing none, the closed meeting continued.

CLOSED MEETING

On motion of Vice Mayor Olem, seconded by Councilmember Friedrichs, and carried by unanimous roll call vote by electronic means, the Herndon Town Council reconvened in public session at 9:05 p.m.

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

**September 8, 2020
(public hearing)**

On motion of Councilmember Baker, seconded by Councilmember del Aguila, and carried by unanimous roll call vote by electronic means, the Herndon Town Council approved the following Certification of Closed Meeting.

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

Certification of Closed Meeting

WHEREAS, the Town Council of the Town of Herndon has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by this Town Council that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered by the Town Council.

VOTE:

Ayes – 7

Nays – 0

ABSENT DURING VOTE: 0

ABSENT DURING MEETING: 0

9. 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 September 8, 2020 public hearing adjourned at 9:06 p.m. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."


Amanda M. Kertz
Deputy Town Clerk


Lisa C. Merkel
Mayor



Minutes approved by Town Council: September 22, 2020.