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**HERNDON TOWN COUNCIL
Work Session
Tuesday, September 15, 2020**

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments, Mayor Merkel has stated that the September 15, 2020 Herndon Town Council Work Session would be by electronic means.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, September 10, 2020. In attendance electronically were:

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

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Elizabeth Gilleran, Director of Community Development; Tanya Kendrick, Director of Human Resources; Lauri Sigler, Deputy Town Attorney; John Irish, Deputy Director of Public Works; David Stromberg, Zoning Administrator; Dana Heiberg, Senior Planner; and Margie C. Tacci, Deputy Town Clerk.

**September 15, 2020
(work session)**

ANNOUNCEMENTS

The Deputy Town Clerk welcomed those listening to the September 15, 2020 work session and stated that night's regularly scheduled Herndon Town Council meeting was a virtual meeting, which was being 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.
- Proper notice of the electronic meeting was provided in accordance with the Code of Virginia;
 - Agenda and meeting materials, along with information for viewing the meeting and submitting comments for the record are available on the town's website; and
 - Electronic meetings will begin with a roll call to determine a quorum and all votes, including adjournment, will be by roll call vote.

CALL TO ORDER

1. Roll Call & Confirmation of Quorum

Mayor Merkel called the September 15, 2020, work session to order at 7:00 p.m. and asked the Deputy Town Clerk to call the roll for attendance. Mayor Merkel stated that Councilmember Baker would not be present that evening and asked each Councilmember to respond by clearly stating their name and indicating they were present.

Following the roll call for attendance, Mayor Merkel confirmed there was an electronic quorum present that evening. All members were present electronically, except Councilmember Baker, who was absent, with Mayor Merkel presiding. As the Deputy Town Clerk had stated, the meeting that evening was being conducted pursuant to the appropriate laws associated with the COVID-19 pandemic disaster.

**September 15, 2020
(work session)**

Mayor Merkel asked Members of Council to observe meeting decorum by showing their hands to be recognized by the Chair for comments.

2. Comments from the Town Manager

Mayor Merkel recognized the Town Manager for an update related to the emergency.

The Town Manager stated that according to the health department, Fairfax County was experiencing a low disease burden and the community transmission was low. He stated that while clearly something was working, county health officials thought the community could do more.

The Town Manager stated staff was working on training mandated by the Virginia Occupational Health and Safety Administration to inform staff of their rights, protections, and processes during the COVID emergency. It would also give employees a better idea of how to be part of the solution.

The Town Manager stated that the county health department would get more aggressive with COVID testing, to include sites in the town and were looking to double their testing capacity. The continued message was that, although the area was doing all right, this current phase would last for a long time. He stressed the continued importance of wearing a face mask, keeping six feet distance from others, washing hands regularly, and isolating if you were sick or exposed to a positive case.

Next week, the Town Manager would present the State of the Town Report. During the report, the Director of Finance would present the FY 2020 budget numbers and discuss the beginning of FY 2021.

Questions of Council

In response to queries from Councilmember del Aguila about testing guidance, the Town Manager stated that those who tested positive and have an active virus should self-isolate with their own room and bathroom. He stated that the county contacts all those who test positive and could help those that needed access to their own room(s).

Responding to further queries from Councilmember del Aguila about recovery from COVID, it was the Town Manager's understanding that if an individual was cleared by his or her physician, they would be able to return to daily activities, including work. He explained that staff who tested positive were able to use a special leave category. The employee could return to the workforce with a doctor's note, which had successfully occurred.

September 15, 2020
(work session)

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Merkel asked the Deputy Town Clerk whether she had received comments for the record or Transactional Disclosure Declarations from Council on any items listed on that evening's agenda, and the Deputy Town Clerk stated that she received comments on the Discussion Item regarding gun legislation and on General item #11, Resolution 20-G-45, initiating consideration of an amendment to the 2030 Comprehensive Plan. She had not received any transactional disclosures for that evening's meeting.

PUBLIC HEARINGS

3. **Ordinance 20-O-51, to approve the conveyance of a power utility easement by Quitclaim Deed to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, acquired by the Town of Herndon for transportation facility improvements for the Van Buren Street Improvement Project on property owned by the Trustees of St. Timothy's Episcopal Church at 432 Van Buren Street, Herndon, Virginia, Fairfax County Tax Map #:0162-02-0153.**

Mayor Merkel recognized the Deputy Town Attorney for the staff report and stated that the Deputy Director of Public Works was available for questions.

The Deputy Town Attorney presented the staff report and PowerPoint dated September 15, 2020, which are on file in the Town Clerk's office. She stated this would be similar to the Virginia Electric and Power Company, doing business in Virginia as Dominion Energy Virginia (Dominion), items the Council saw on last month's agenda. She reviewed the location and details of the Van Buren Street Improvement Project and stated it was always the intent for the town to convey this easement to Dominion. The town acquired power utility easements from property owners through Certificates of Take in February to allow for the relocation and placement of new electrical facilities by Dominion. The town paid the property owner directly, rather than funneling the money through Dominion. Staff recommends approval of the proposed ordinance, as presented.

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

There was a brief question and answer session between Councilmember Friedrichs and the Town Attorney about the quitclaim deed process.

September 15, 2020
(work session)

4. **Ordinance 20-O-52, to approve the conveyance of a power utility easement to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia on Town-owned property located in the northeast quadrant of the intersection of Herndon Parkway and Van Buren Street, known as Haley M. Smith Park at 320 and 324 Van Buren Street, Herndon, Virginia, Fairfax County Tax Map #s: 0164-02-0002 and 0162-02-0150, for transportation facility improvements associated with the Van Buren Street Improvement project.**

Mayor Merkel recognized the Deputy Town Attorney for the staff report and stated that the Deputy Director of Public Works was available for questions.

The Deputy Town Attorney presented the staff report and PowerPoint dated September 15, 2020 which are on file in the Town Clerk's office. Dominion requested a 15-foot wide easement extending across the frontage of the town-owned Haley Smith Park at 320 and 324 Van Buren Street. The easement was needed to install new street lighting and electrical facilities for the transportation improvements associated with the Van Buren Street Improvement Project.

The Deputy Town Attorney stated that town would not receive monetary compensation for the easement as the town requested these services and facilities from Dominion and would benefit from the lighting.

The Deputy Town Attorney stated there would be minor edits to the ordinance and attached plats to address a slight change in location. She stated that the square footage would be 7,235 square feet, rather than what was indicated in the staff report. Staff recommends approval of the proposed ordinance, which would be updated for next week's agenda. If approved, Dominion would have the right, privilege, and non-exclusive easement across the property for 40 years.

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

5. **Ordinance 20-O-53, to approve the conveyance of a communication system utility easement to Verizon Virginia, LLC on vacant Town-owned property located in the southeast quadrant of the intersection of Herndon Parkway and Van Buren Street, known as Fairfax County Tax Map #: 0164-10-0007N2, for transportation facility improvements associated with the Herndon Parkway and Van Buren Street intersection project.**

Mayor Merkel recognized the Deputy Town Attorney for the staff report and stated that the Deputy Director of Public Works was available for questions.

**September 15, 2020
(work session)**

The Deputy Town Attorney presented the staff report and PowerPoint dated September 15, 2020 which are on file in the Town Clerk's office. She stated that the easement was part of the Herndon Parkway and Van Buren Street Intersection project. She reviewed the location and details of the town-owned vacant southeast quadrant of the intersection. The easement was necessary to relocate the existing Verizon equipment cabinets and cabling to accommodate transportation improvements associated with the project. The improvements would address traffic congestion, address safety concerns, and help with stormwater drainage.

The Deputy Town Attorney stated that the town was not receiving monetary compensation for the easement and in exchange Verizon would not charge the relocation cost of to the town. If approved, Verizon would have the right, privilege, and non-exclusive easement across the property for 40 years. Staff recommends approval of the proposed ordinance and related Deed of Easement, as presented.

The Deputy Director of Public Works stated that the existing Verizon equipment and lines at the intersection were in the way of the project. The proposed easement would help shift the equipment to a new location on the property.

There were brief comments from Council on this item.

GENERAL

6. Ordinance 20-O-54, to appoint members to serve on the Police Supplemental Plan Administrative Committee (PSPAC).

Mayor Merkel recognized the Town Attorney for the staff report.

The Town Attorney presented the staff report dated September 15, 2020, which is on file in the Town Clerk's office. The town's 401a police supplemental deferred compensation plan mandated that the Council appoint an Administrative Committee by ordinance to administer the plan. The Town Attorney briefly reviewed the committee and stated that some members of the Administrative Committee no longer work for the town, and new members must be appointed to replace them. Additionally, staff has recommended appointing an additional police member to ensure continuity. Current members who would continue serving were: Chief Maggie Deboard, Chair and voting member; Jerry Schulz, Deputy Finance Director and voting member; and Tanya Kendrick, Director of Human Resources, non-voting member and plan administrator.

Staff recommends approval of the proposed ordinance, as presented, which would appoint the following new members: Captain Justin Dyer; Sergeant Chad Findley; and Senior Police Officer Drew Stanley.

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

**September 15, 2020
(work session)**

There was a brief question and answer session between Councilmember Friedrichs and the Town Attorney about the continuity of the committee.

There was a brief question and answer session between Mayor Merkel, the Director of Human Resources, and Councilmember Friedrichs, about who recommended members and about the purpose of the committee.

Following brief discussion and with the concurrence of Council, staff was requested to add this item to the Consent agenda for next week's meeting.

7. Resolution 20-G-39, to accept the State of the Town Report, Fiscal Year 2020.

The Town Manager provided comments and stated that he would present the State of the Town at next week's public hearing. Traditionally, this was done so the report received a wider audience.

There was no discussion on this item.

8. Resolution 20-G-41, to ratify a Temporary Emergency Extension of Lease pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town and Fairfax County School Board.

Mayor Merkel recognized the Town Attorney for the staff report.

The Town Attorney presented the staff report dated September 15, 2020, which is on file in the Town Clerk's office. The Town Manager signed the Temporary Emergency Extension of Lease pursuant to the town's Continuity of Government (COG) ordinance, which the Council must ratify. This lease would expire on September 30, 2020. The Fairfax County School Board currently leases 13,593 square feet of town-owned office space at 397 Herndon Parkway. This Temporary Emergency Extension of Lease would extend the current lease for three months to expire on December 31, 2020 and allow time to negotiate a new lease. Staff recommends approval of the proposed resolution, as presented.

Following brief discussion and with the concurrence of Council, staff was requested to add this item to the Consent agenda for next week's meeting.

9. Resolution 20-G-42, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town of Herndon and Nafis Peter Ahmed and Ruth Llabres Ahmed for the Town's use of the lot at the corner of Lynn and Station Streets for public parking and other public purposes.

**September 15, 2020
(work session)**

Mayor Merkel recognized the Town Attorney for the staff report.

The Town Attorney presented the staff report dated September 15, 2020, which is on file in the Town Clerk's office. On August 31, 2020, the Town Manager signed an extension of license pursuant to the COG ordinance, which the Council must now ratify. This action extended the expiration date to November 30, 2020 to allow time to negotiate a new license agreement. The license agreement that has been operative for the past five years was between the town and Nafis Peter and Ruth Llabres Ahmed for use of their lot at the corner of Lynn and Station Streets for public parking and other public purposes. Under the existing license the town paid \$1,000 per month and during the three-month extension, the town would pay \$1,250 per month. The other conditions would remain the same. Staff recommends approval of the proposed resolution, as presented.

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

In response to queries from Vice Mayor Olem, the Town Attorney confirmed the location and that this was part of the Public Shared Parking Program.

Following brief discussion and with the concurrence of Council, staff was requested to add this item to the Consent agenda for next week's meeting.

10. **Resolution 20-G-44, to initiate a zoning ordinance text amendment ZOTA #20-01, to change the term "heritage" to "historic" throughout the zoning ordinance, and additional amendments within Section 78-150.4 (Heritage Preservation Review Board) to permit issuance of Certificates of Appropriateness by staff and Section 78-60.3 (Heritage Preservation Overlay District) to broaden the ability of staff to review and issue Certificates of Appropriateness, and clarify procedures per Commonwealth of Virginia policy.**

Mayor Merkel recognized the Zoning Administrator for the staff report. She stated that the Director of Community Development would be available for input and questions on this item.

The Zoning Administrator presented the staff report and PowerPoint dated September 15, 2020, which are on file in the Town Clerk's office. The process started when the Council expressed interest in renaming the district after a joint Town Council and Heritage Preservation Review Board (HPRB) meeting in December 2019, along with public support for renaming the district. Staff drafted language specifically for this purpose and the ZOTA was scheduled for initiation at the March 28, 2020 meeting. Since this item was not necessary for the continuity of government, the item was pulled from the agenda.

**September 15, 2020
(work session)**

The proposed ZOTA would rename the Heritage Preservation Overlay District (HPO) to the Historic District Overlay (HDO), which would more clearly identify the district, align it with the term that is most often used around the state and the country, and align the zoning ordinance with the Code of Virginia. The Zoning Administrator stated that the proposed change would require the HPRB to be renamed the Historic District Review Board (HDRB) and multiple edits to the Town Code. He indicated that the future district guidelines would also be listed as "historic."

The Zoning Administrator stated that while staff and the consultants were waiting to present the item to Council, they continued to work on updating the heritage district guidelines. Part of that work was developing a process that would authorize staff to issue certain Certificates of Appropriateness (COA) and clarify or simplify language throughout the chapter. The Board would continue to approve large applications, while staff would review and approve minor projects. He stated that the proposed revisions included in the ZOTA would be useful and practical for the town.

The Zoning Administrator explained several of the proposed changes. He stated that if a homeowner was replacing less than 49 percent of their façade, or less than 49 percent of the roof structure, it would only have to meet the standards for alterations. If a homeowner was improving more than 49 percent, that could invoke standards for demolition or new construction. He discussed several other of the changes, as provided in staff's PowerPoint.

Staff recommends approval of the proposed initiating resolution, which would refer ZOTA #20-01 to the Planning Commission for consideration and recommendation. Following the Commission's review, this item would return to the Council for final action.

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

In response to queries from Mayor Merkel, the Zoning Administrator emphasized that this was an initiating resolution and that this item would be reviewed by the Planning Commission.

There was a brief question and answer session between Councilmember Friedrichs and the Zoning Administrator about the proposed 49 percent replacement threshold. The Zoning Administrator discussed how the standards for the project would impact the approval process. He stated that the 49 percent number was most consistent with other historic districts.

There was a brief question and answer session between Councilmember del Aguila and the Zoning Administrator about staff providing use case examples of the proposed ZOTA.

**September 15, 2020
(work session)**

Responding to Councilmember del Aguila, the Zoning Administrator stated that staff would include those examples when the matter goes before the Planning Commission and back to Council.

There was a brief question and answer session between Vice Mayor Olem and the Zoning Administrator about the process and timeline. The Zoning Administrator stated he would have a better idea of the timing once the Planning Commission has its first hearing on the item.

Responding to queries from Mayor Merkel, the Zoning Administrator stated that since the town initiated this item, there was not a deadline for when this had to be heard by the Council.

Following brief discussion, Mayor Merkel stated this item would remain on the General portion of the agenda for next week's meeting.

11. **Resolution 20-G-45, initiating consideration of an amendment to the Town of Herndon 2030 Comprehensive Plan adopted August 12, 2008 and as amended through February 26, 2019, to change the 2030 Land Use Plan map for the Residence Inn property at 315 Elden Street from Business Corridor to Adaptive Area-Residential.**

Mayor Merkel recognized the Town Manager for an introduction to this item.

The Town Manager introduced the item by stating this was one of the housing projects that he had been referring to. He stated it would bring workforce housing units to the town and that Council needed to rezone this area for this to occur. He stated this was one of three such areas staff was working on in the town. The Town Manager then turned the discussion over to the Senior Planner for the staff report.

The Senior Planner presented the staff report and PowerPoint dated September 15, 2020 which are on file in the Town Clerk's office. The proposed initiating resolution would begin the Comprehensive Plan Amendment process and refer the Residence Inn property on the east side of town to the Planning Commission. Following the Commission's review, this item would return to the Council for final action. He discussed the location and the existing property, features, and zoning of the property, located at 315 Elden Street in the Business Corridor. He stated this would be changed to Adaptive Area/Residential. The building floor area was approximately 118,965 square feet and the property was approximately 30 years old, with the original zoning approvals dating to the late 1980s.

The Senior Planner stated that the owner, Elden Street Owner LLC, expressed interest in pursuing a multifamily use with a commitment to a portion being workforce housing. The repurposing of the property could occur without major changes to the physical structures or site layout. The property was currently

**September 15, 2020
(work session)**

zoned as Commercial Services (CS), so to repurpose the existing hotel use, the Council would need to pass a Zoning Map Amendment (rezoning) for the property. Because the existing density of approximately 25.9 units per acre exceeded the density of the town's multifamily districts, staff recommends that the Council consider creating a variation of the Planned Development-Urban Residential district for adoption. Staff recommends approval of the proposed resolution, sending the item to the Planning Commission for review and recommendation.

In response to Councilmember Friedrichs' comments about the site and questions about ways to ensure this would remain workforce housing, the Senior Planner stated that one way to ensure this would be to pursue a long-term (30-year) agreement with the property owner.

The Town Manager stated the need for a mechanism to ensure workforce housing was one holdup for this project. He stated that this property was obsolete for Residence Inn as one of its first iterations, and the project's developer has completed similar projects on this type of property in other areas of the country. Due to this, he stated the developer had templates, models, and a proven track-record of maintaining workforce housing.

Councilmember Friedrichs voiced her support for this project.

Mayor Merkel added that the property owner had approached the town about this first. She stated this property had easy bus and walking access on Elden Street, even though it was outside the half-mile metro radius.

Councilmember del Aguila added his full support and confirmed with Mayor Merkel that this site was not in the Historic District. He echoed Mayor Merkel's comments on the location and transit access. He stated he would be interested in seeing the potential financial obligations for the town, both now and in the future.

In response to queries from Vice Mayor Olem about the number of units, Mayor Merkel stated they would be over 50 percent workforce housing and the Senior Planner clarified that there were 168 existing units. He believed the property owner was looking to have a similar number of housing units, but staff did not have a firm indication of the amount at this point.

Councilmember Dhakal expressed excitement over this project and stated he was looking forward to hearing the Planning Commission's recommendation.

Following brief discussion, Mayor Merkel stated this item would remain on the General portion of the agenda for next week's meeting.

September 15, 2020
(work session)

CONSENT AGENDA

12. Resolution 20-G-40, to change the meeting schedule for the Town Council Public Hearing to October 13, 2020.

There were no comments on the Consent agenda.

DISCUSSION

13. Proposed Gun Legislation.

The Town Attorney stated that during the regular 2020 session the General Assembly of Virginia adopted Senate Bill 35 and House Bill 421 which amended the Code of Virginia to authorize localities to adopt ordinances to prohibit the possession or carrying of firearms, ammunition, or components thereof in any building or part thereof owned or used by the locality for government purposes. She stated this could include the following if owned or operated by the locality: parks, community or recreation centers, public streets, sidewalks, rights-of-way, or any place of whatever nature that was open to the public. This could also include spaces adjacent to areas that were being used for events permitted by the locality. In buildings that were not owned by the locality, the ordinance would only apply to the part that was used for the governmental purpose. These bills took effect July 1, 2020.

The Town Attorney stated adequate notice would be required, usually by a sign, about how and where the prohibitions would be enforced. She added that surrounding jurisdictions of Falls Church, Alexandria, and Arlington have adopted ordinances prohibiting firearms in recent months.

Councilmember del Aguila thanked the Council for their unanimous support to discuss this item. He was glad to see that other jurisdictions had done so and he wanted to hear from the rest of Council.

Councilmember McKenna stated he did not have personal concerns over this item, but expressed concern about how an ordinance like this would hold up at the federal level if any litigious action was taken. He stated that issues could bubble up and the current U.S. Supreme Court had ruled in favor of individual gun owners.

The Town Attorney questioned if Councilmember McKenna was asking if this had been tested in litigation and Councilmember McKenna confirmed. The Town Attorney then stated that this had not yet been tested and she did not know if it would be upheld if it were challenged.

**September 15, 2020
(work session)**

Councilmember McKenna shared further comments about the Second Amendment, the National Rifle Association (NRA), and the current U.S. Supreme Court. He reiterated his concerns were about where this would go if it went past the state-level to the current U.S. Supreme Court.

In response to queries from Councilmember Friedrichs, the Town Attorney stated that the General Assembly passed enabling legislation in Virginia (a Dillon Rule state) to be adopted and effectively applied by localities. She stated any legal cases would likely come from the implementation of the ordinance and it would probably all be on the table if there were such a case. She emphasized that the state had enabled the localities to pass the legislation and that previously, jurisdictions did not have authority to adopt firearm prohibitions.

Councilmember Friedrichs expressed support for the Council being able to prohibit guns in the Council Chambers, like Fairfax County does when it holds court there. She also shared some concerns she had over this matter.

Vice Mayor Olem asked for clarification on what was being proposed. She asked if it was being proposed that firearms be banned on one piece of property, or at all government buildings.

Councilmember Friedrichs stated it was up to Council to decide whether a potential ban would be just Council Chambers or some other location(s). She also stated it did not need to be all or nothing and emphasized that of all the emails Council had received, very few were from Herndon residents. She had an issue with having no restrictions, and stressed that she wanted to hear from residents. So far, she had personally heard from some residents who were supportive and some who were concerned. Councilmember Friedrichs stated the Council would need time to consider this and gather a lot of public comment.

The Town Attorney stated that she should have mentioned in her comments that the local jurisdictions that adopted ordinances had gone through varying periods of study by their staff, usually at least six months. She stated that none were passed without these periods of study. She stated there would be budget considerations for the town in addition to the fiscal prohibition areas.

Mayor Merkel then asked if Fairfax County was considering this issue, and the Town Attorney confirmed it was being discussed at a public hearing that night, after several months of official study.

Mayor Merkel provided comments about the legislation and the options allowed for localities. She stated that the Council would need to be completely transparent and allow many opportunities for public input, like when a previous Council considered moving the town elections from May to November.

**September 15, 2020
(work session)**

Councilmember del Aguila thanked Council again for unanimous support to discuss this item and expressed his dislike for absolutes. He stated, with majority consent, they could investigate a ban on town properties such as parks. He stated that of the 32 emails received on this item, only two were from Herndon. He welcomed discussion and suggested starting small. He stated the town was not discussing taking inventory and that Herndon was a family town.

Councilmember McKenna agreed that it was important to be prudent. He shared information about a case study involving liquor licenses for gentlemen's clubs where he was a Councilmember in New Jersey. He stated that Council would vote against the license and then the clubs would win on appeal to the ABC board. He stated that by doing studies and providing evidence of violations, the clubs were then denied on appeal. He stated this item was prudent because a lot of money could be involved. Councilmember McKenna also provided anecdotal information about his personal experiences and stated that guns could be scary for people. He concluded by saying his concerns were the backlash and potential financial impact on the town.

Mayor Merkel stated that Council had received a lot of emails but they had not heard from the town. She proposed that the Council spends time talking with the community and also observe what happens in Fairfax County tonight. She wished there were still community roundtables to talk about this and suggested having outreach groups or committees for discussion and thoughtful conversation.

Vice Mayor Olem stated she had heard some individuals' comments about wanting to own guns and their concerns over guns being taken away. She stated that people might not know what the prohibition means. She provided an example about a previous Council getting rid of solicitors which meant kids could no longer have car washes. She stated the Council needed to have focus groups with town residents to figure out what Council wants to do.

Councilmember Dhakal agreed there needed to be more discussion and wanted residents to share their ideas. He did not want there to be a misrepresentation of what the town was trying to accomplish. He also provided comments on the similarities of the emails. He stated this was about public safety and financial consequences. He stated they needed time for feedback and input from residents. Councilmember Friedrichs suggested starting with something like the Council Chambers while Council is in session, rather than going to all town buildings. However, she stated there was a tendency for people to think small things lead to taking everything, which would make it a tough situation. She stated they needed support and asked about using a platform like Survey Monkey, though she stated that the results could be skewed. She stated that perhaps a referendum would be a way to ensure public support, although she realized that process was expensive. She also referred to skeet shooting, which Vice Mayor Olem had brought up, and stated there were concerns over if cars carrying guns on roads would be in violation of the law.

**September 15, 2020
(work session)**

Mayor Merkel agreed that there were genuine concerns and she wanted to know what people in the town want, so Council could come up with the right mix of what to enable. She questioned if the Town Attorney could discuss this with Local Government Attorneys of Virginia (LGA) and her counterparts in other jurisdictions to find out what issues might arise. She reiterated this needed to be a Herndon conversation and that other jurisdictions had long public comment periods. She emphasized her concern with doing it the best way possible.

Councilmember del Aguila agreed with Mayor Merkel. He added that Council could not make everyone happy, and he did not think any of them would support an absolute ban. He stated those concerned should research what was being proposed and that Councilmembers were in these roles and entrusted to make decisions. He echoed Mayor Merkel's comments about looking at what other jurisdictions were doing. He asked the Town Attorney to do research and bring back something to Council that was neither an absolute ban nor a "free-for-all." He thanked those who sent emails but stated he wanted to hear from residents in the 20170 zip code to help draft an organic working document.

Mayor Merkel expressed concern about issues, like this one, ending up as a discussion about something else. She also stated that at the virtual Virginia Municipal League (VML) conference, they could talk to their colleagues around the state, and she would like to see Herndon do this better than any other locality has.

Councilmember Friedrichs thanked Mayor Merkel and Councilmember del Aguila for leading a good discussion.

ROUNDTABLE

1. **Councilmember McKenna:** Stated he had no comments, but he wanted things to return to normal
2. **Councilmember Friedrichs:** Shared there would be a drug take-back at the Fairfax County Police Department in Reston for safe disposal of medications.
3. **Councilmember del Aguila:** Stated that the General Assembly had decriminalized marijuana possession and that the Commonwealth Attorney in Fairfax County was no longer prosecuting those cases since that went into effect in July 2020. He asked if the town was still prosecuting those cases.

The Town Attorney stated that she and Councilmember del Aguila had prior correspondence on this matter and that the Commonwealth Attorney is responsible for felony charges while the town prosecutes misdemeanors. She also

**September 15, 2020
(work session)**

stated that those cases prior to July 1, 2020 were subject to the laws that were in place then, and post-July 1, 2020, the charge was prosecuted as a civil offence and not criminally.

Councilmember del Aguila stated it was his understanding those charges are dismissed, and the Town Attorney stated they may be.

Councilmember del Aguila asked the Town Attorney why the town was prosecuting these cases if Fairfax County was not.

After further discussion between Councilmember del Aguila and the Town Attorney about the cases being dismissed, the Town Attorney stated that the police are sworn to uphold the law as it is currently which is a \$25 fine for a first-offense possession charge. She said she would need to verify the facts and get back to him.

Councilmember del Aguila expressed his appreciation for the Town Attorney's perspective.

4. **Councilmember Dhakal:** Stated he had been in communication with the Town Manager about an area at the intersection of Herndon Parkway and Ferndale Avenue that needed to be cleaned up, and he stated the neighborhood was enthusiastic about keeping the town clean.
5. **Vice Mayor Olem:** Stated she attended the virtual Herndon Chamber Committee Meeting and encouraged all small businesses in Herndon to attend. She also provided information about NextStop Theatre working with local restaurants and how they cleaned their space to rent it out for movies accommodating 16 people. She was impressed that the rentals were already sold out.
6. **Mayor Merkel:** Stated she wanted to recognize Fairfax County Public Schools' teachers, who were going above and beyond during this difficult time of virtual schooling. She said although it was not an ideal situation, she thought it was going well and she applauded those teachers for everything that they do.

COMMENTS FROM THE TOWN MANAGER

The Town Manager stated that the town would be holding a fall clean-up event this year. He asked those interested to stay tuned for dates.

Mayor Merkel indicated that it was her understanding fall clean-up would the week of October 21.

**September 15, 2020
(work session)**

The Town Manager stated that the clean-up date would depend on when the leaves would come down and some other factors, but staff thought they would be able to make it happen.

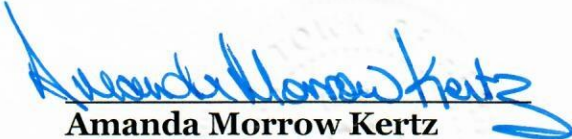
The Town Manager stated that the town sold out the bulk trash pick-up it offered in the summer. He stated staff extended the program into September and although every slot sold out, they were still able to help a few extra residents as well.

14. ADJOURNMENT

On motion of Vice Mayor Olem, seconded by Councilmember del Aguila, and carried by a 6-0 roll call vote by electronic means, the meeting of the September 15, 2020 work session was adjourned at 9:03 p.m. The vote was: Councilmembers del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye." Councilmember Baker was absent.



**Lisa C. Merkel
Mayor**



**Amanda Morrow Kertz
Deputy Town Clerk**

Minutes approved by Town Council: October 13, 2020.

September 15, 2020
(work session)

NOTE:

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