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**HERNDON TOWN COUNCIL
Work Session
Tuesday, January 5, 2021**

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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments, Mayor Olem has stated that the January 5, 2021 Herndon Town Council Work Session would be by electronic means.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 Wednesday, December 30, 2020. In attendance electronically were:

- Mayor Sheila A. Olem, presiding;
- Vice Mayor Cesar del Aguila;
- Councilmember Naila Alam;
- Councilmember Pradip Dhakal;
- Councilmember Signe Friedrichs;
- Councilmember Sean M. Regan; and
- Councilmember Jasbinder Singh.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Elizabeth Gilleran, Director of Community Development; Jennie Tripoli, Director of Finance; Scott Robinson, Director of Public Works; Dave Stromberg, Zoning Administrator; Karen Gagliano, Budget Manager; Viki L. Wellershaus, Town Clerk; and Margie C. Tacci, Deputy Town Clerk.

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ANNOUNCEMENTS

The Deputy Town Clerk welcomed those listening to the January 5, 2021 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.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 Olem called the January 5, 2021 work session to order at 7:00 p.m. and asked the Deputy Town Clerk to call the roll for attendance. Mayor Olem asked each member of Council to respond by clearly stating their name and indicating they were present.

Following the roll call for attendance, Mayor Olem confirmed there was an electronic quorum present that evening. All members were present electronically, with Mayor Olem 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.

MAYORAL ANNOUNCEMENTS

Mayor Olem asked for a few moments of personal privilege to welcome her colleagues. She stated that she was looking forward to a productive working

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relationship with each of them over the next two years. She invited and encouraged her fellow Councilmembers to contact her at any time.

Mayor Olem stated, for the benefit of citizens and those watching the meeting, that the entire Council received their formal oaths of office, which have been filed in the Circuit Court. She stated that while she was sorry the town could not host the traditional swearing-in celebration, she celebrated with each Councilmember virtually and offered them congratulations. She stated that town staff had completed the Council's onboarding and thanked the Town Attorney for the handbook she provided Council with.

Mayor Olem stated that earlier that day, the town hosted a WebEx panel discussion on housing. The guest speakers included Senators Jennifer Boysko and Barbara Favola, along with Jeff Gore, Hefty Wiley & Gore. Housing was an issue the previous Council discussed recently, and the discussion had provided Council, staff, and the community with information necessary to develop housing policy from a position of experience, credibility, and professionalism. This was the first step in building proficiency and understanding in all phases of the development process to include neighborhood planning, organizing, and financial planning.

Mayor Olem was pleased many of her colleagues participated in the event and thanked Town Manager and Town Attorney for their efforts in coordinating the panel discussion. She stated the meeting was available on the town's website for those who were not able to attend.

GENERAL

2. Resolution 21-G-01, to adopt Robert's Rules of Order Newly Revised In Brief, 3rd edition and to designate the Town Attorney as the Parliamentarian.

Councilmember Dhakal moved approval of Resolution 21-G-01, as presented. Councilmember Friedrichs seconded the motion.

There were no comments from Council.

The question was called on the motion, which was approved by unanimous roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

3. Resolution 21-G-02, to elect the Vice Mayor.

Mayor Olem nominated Councilmember del Aguila as Vice Mayor for the 2021-2022 Town Council and moved approval of Resolution 21-G-02, as presented. Councilmember Dhakal seconded the motion.

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Councilmember Dhakal provided brief congratulatory comments.

Vice Mayor del Aguila provided brief comments thanking the voters of Herndon. He said he would endeavor to persevere, and in the spirit of maintaining openness, he asked for consent to add an item to the meeting's agenda, which would be #10.

Mayor Olem stated they needed to vote on the current item first, and Vice Mayor del Aguila stated he sent a chat to the moderator and just wanted to tee the item up.

The question was called on the motion, which was approved by a 6-0 roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, and Mayor Olem voting "Aye." Vice Mayor del Aguila abstaining.

Following the vote, Mayor Olem offered congratulations to Vice Mayor del Aguila, stated she looked forward to working together over the next two years, and asked Vice Mayor del Aguila to touch base with her over the next few weeks.

Discussion on Amending the Agenda

Vice Mayor del Aguila stated that he was asking to add an item to that night's agenda, #10, Town Council Strategic Initiatives 2021-2022, and he stated he believed he had consent to do that.

The Town Attorney stated they needed a second.

Councilmember Dhakal seconded.

Vice Mayor del Aguila made a motion to add a tenth item called Town Council Strategic Initiatives to the Consent Agenda and was seconded by Councilmember Dhakal.

Vice Mayor del Aguila stated that he shared some slides with the Town Manager and the Town Clerk that could be made available to the public. He stated he could go through high-level initiatives quickly, in about five to ten minutes, on that item before the discussion portion of the meeting.

Mayor Olem asked for clarification about the item and Vice Mayor del Aguila clarified that the item was Town Council Strategic Initiatives 2021-2022 and stated that he sent the items to the moderator.

Mayor Olem asked for other discussion.

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Councilmember Dhakal provided brief comments stating that he loved the strategic session and he was open to discussing new items and seeing what Vice Mayor del Aguila was bringing forward.

Councilmember Friedrichs stated that this was a work session and provided questions about the addition of this item to the agenda. She stated Council usually goes through the entire agenda and then have discussion items afterward.

Mayor Olem asked if there was additional discussion.

Councilmember Singh stated he thought this seemed a bit out of order and perhaps should come after Council's entire agenda. He stated the motion was made and seconded, and he would like to approve the motion made. He also provided comments about changes that he had observed since 2012 and administrative changes and discussions about moving forward. He provided a quote from *The Washington Post* by stating "Democracy dies in darkness." He stated he could address those issues about how he thought that Herndon has become dark. He believed that this needed to be corrected to move into a community that was vibrant and where there are people who want to express their opinions without any fear. He stated that the other part of this was to discuss administrative changes, and that should be discussed early. He stated he would like to take these actions and move forward and provided further comments about the proposed addition to the agenda.

Councilmember Regan provided comments about discussing individual Council priorities and what they thought was meaningful to spend time on, but he cautioned that this would require longer, many, and multiple discussions beyond just adding an agenda item. He stated whether it was an agenda item, or a roundtable was unimportant to him. He suggested that whichever manner was discussed would come at the tail of a long meeting and would probably need more time.

Vice Mayor del Aguila expressed a point of clarification that this was just an addition to the discussion not technically an item to vote on or a change to the agenda. He stated this was not something they would technically vote on in a work session. He stated he had brief, high-level comments and overview to set up what he understood the majority and majority-plus would like to see as a more proactive position by Council than reactive. He reiterated they were high-level overview vision strategic initiatives not to act on that evening but for the Town Manager and staff and everyone to be aware of. He stated he did not think they were asking for a vote.

Councilmember Singh stated he would like to second Vice Mayor del Aguila's comments. He thought the motion was to add the item to the agenda so that it could be discussed the next week or some other time in more detail.

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Councilmember Friedrichs agreed these items should be discussed but not the next week since it was a public session. She asked for clarification if this was for this week's agenda or next week's agenda. Councilmember Friedrichs discussed that she wanted to hear Vice Mayor del Aguila's comments, but she asked for warning in the future so that Council was not surprised. She provided further comments about the addition and Council's plan.

Vice Mayor del Aguila called for point of order. He stated Councilmembers came to him with ideas and that if people felt they were being ambushed that was on them.

Mayor Olem stated to the Parliamentarian that she did not recognize Vice Mayor del Aguila to speak, and she was trying to get the meeting back on track. Mayor Olem provided comments about the importance of deciding what they were doing, and she stated bringing things to roundtable was okay but providing information to be transparent to the public of what is on the agenda was important. She stated that bringing items up at the meeting does not allow the public to know what is being discussed.

Mayor Olem asked if there was concurrence to add this item to that night's agenda.

The Town Attorney stated the Chair has the ability discern a consensus. The Town Attorney also stated that, as she understood it, Vice Mayor del Aguila was making a motion to add an item to the agenda, which could be done at any point prior to the item. She stated she understood that he was making a motion to add the item to the end of the meeting and that he had given a thumbnail of what he anticipates the discussion item to be. She stated the Chair could determine if there was consensus. She stated the Mayor may need to go back around to determine consensus, but that was the way she understood the motion that evening.

Mayor Olem stated she did not see consensus but that did not mean an individual could not discuss the item in their roundtable.

Councilmember Singh stated he could say he was in favor of putting it on the agenda and other people could speak.

Vice Mayor del Aguila stated he had thought that Councilmembers Alam, Dhakal, Regan, and Singh were also in favor of amending the agenda.

Councilmember Regan stated that he supported discussing these topics whether as an agenda item or at roundtable. He stated it was important, but it made no difference to him how it was done. He stated he did think they should have time to discuss priorities and that night would be a good time to introduce them.

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Mayor Olem concluded the discussion and stated it could be discussed as a roundtable topic.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Olem 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 had not received any comments or any transactional disclosures for that evening's meeting.

COMMENTS

4. Comments from the Town Manager

Mayor Olem recognized the Town Manager for comments.

The Town Manager stated, for the new Councilmembers, that during virtual meetings he provides an update on the COVID-19 pandemic in the area and on staff. He stated regional numbers continue to increase with ICU bed occupation and hospitalizations both going up. Fairfax County Department of Health stated there was substantial viral activity and community spread. He stated healthcare workers receiving vaccines in the hospitals was going decently and Fairfax County First Responders would begin receiving vaccinations. He also stated that pharmacies, which are taking care of long-term care facilities, started vaccinations on December 28, 2020. Nationally, Virginia was not doing well at 48 out of 50 states for its vaccination percentage.

The Town Manager stated that once healthcare and long-term care facilities were taken care of, then residents 75 years and up would begin receiving vaccinations. This would be effectuated through registration systems for the vaccination of residents. Fairfax County was doing this, and registration would be critical because vaccinations are not interchangeable. He stated you must have both doses of either Pfizer or Moderna. Nationally 500,000 vaccinations were being given a day, but that was lagging benchmarks and there was work to be done.

The Town Manager also provided an update on the latest indirect federal assistance. He stated there was \$25 billion in rental assistance and, with moratoriums on evictions, two-thirds of those in rental situations were behind on payments. He stated this affected banking and mortgages on those building and tax assessments. He stated infusing money and bringing rents up to date was critical for financial health.

The Town Manager also stated that there was a \$10 billion increase to national funding and the state transportation would get their share. He stated \$14 billion

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would be going to mass transit with \$800 billion going to Washington Metropolitan Area Transit Authority (WMATA) looking at Silver Line Opening and this infusion of cash would be welcome by WMATA management.

He stated that later that evening they would be providing Council with a more detailed update on the town's fiscal position as it existed that day.

The Town Manager stated that in looking at the town's revenue loss compared to other towns and cities of similar size, the town's projected loss was more than any of the comparably sized towns. He stated staff continued to be monitored closely and there had been a total of around 14 to 16 positive cases on staff. Thankfully, most of the positive cases had been with low or no symptoms, and they do contact tracing but cannot discern spread in the town buildings. The measures in place had gone a long way in keeping spread under control. He stated if numbers would continue to grow there were a few places on staff that just losing a few people would impact services and they were being monitored very closely. He was hopeful this would not be an issue as they moved deeper into the vaccinations.

Questions from Council

Councilmember Friedrichs asked why Virginia is lagging behind other states at 48 out of 50 for vaccinations. The Town Manager stated this information came from meetings with Congressman Byer that he and Mayor Olem had sat in on earlier that week and other discussions with regional leaders. He expected to have a better understanding by the following Monday after the Mayors and Chairs call with the Northern Virginia Regional Commission the next week. He thought there could have been some allocation and distribution issues.

Councilmember Singh asked about federal aid to the state and town, and the Town Manager stated the only aid the town received to-date was the CARES Act funding. He also stated that Fairfax County was able to apply directly due to its large population size. He stated that Herndon has a great relationship with Fairfax County, and they were able to give the town \$4.2 million. He explained that the CARES Act was rushed into law so fast that it took the Treasury Department months to work through the reporting structure and what it could be used for. He stated that the town had used the funds on items such as public safety, salaries for operational services such as field personnel, personal protective equipment (PPE), advertising, masks for community members, bilingual messaging of Fairfax County Health Department precautions, and for bringing additional testing to town. The Town Manager also stated that earlier in the pandemic Herndon was the fourth highest location of infections in the county. Recently they were running eighth. He stated all these monies had been tracked very carefully, and the Director of Finance could provide even more information later that night. The Town Manager stated he believed they sent a report to the previous Council in November with an update and he could have that updated and sent back out to this Council.

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Councilmember Singh stated he owned a small building and that many tenants had run out of reserves, were now asking for reduced rent, and the building value could be lower that year. He asked whether there was anything in the current stimulus package for localities.

The Town Manager stated there was no additional aid to localities coming forward and the current stimulus included a \$600 per person allocation depending on income tax amounts. He stated that Congressmen Byer and Congressman Connolly have stated they should wait and that after the election in Georgia another package could be coming. The Town Manager stated he still thinks another round could come, but the politics on the Hill would determine how that manifests.

GENERAL

5. Resolution 21-G-03, to ratify a Sublicense Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and The Elden Street Players for space at 750 Center Street.

Mayor Olem recognized the Town Attorney. The Town Attorney congratulated the Mayor, Vice Mayor, and Council. She then presented the staff report dated January 5, 2021 which is on file in the Town Clerk's office.

The Town Attorney stated that the proposed action was approval of the resolution ratifying a sublicense agreement between the town and The Elden Street Players for space at 750 Center Street also known as ArtSpace Herndon. She reviewed the background to the lease with the Elden Street Players and stated that the most recent month-to-month lease expired on December 31, 2020. The transfer of the property to Comstock voided that lease. However, The Elden Street Players and the town still wanted to maintain an arts center in that location and Comstock, as the town's partner in the redevelopment, has consented to enter into a license agreement with the Town for this purpose. The town entered the License Agreement with Comstock on December 15, 2020. This new sublicense of the town's interest in 750 Center Street to The Elden Street Players is month-to-month and would be for a term of one year. It was anticipated that, as required by the Comprehensive Agreement for the redevelopment of the parcel, that The Elden Street Players would be relocated during the term of the sublicense. It was proposed that the rent remain \$1.00 per term.

The Town Manager signed the Sublicense Agreement pursuant to the Town's Continuity of Government Ordinance, as amended. The Town Council would consider ratification of the Sublicense Agreement to The Elden Street Players in order finalize its approval. Staff recommended approval of this resolution as presented.

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

Councilmember Friedrichs asked if this would be ratified monthly. The Town Attorney stated the lease that existed was voided by the sale of the property, so it was essential that it be renewed.

Councilmember Singh asked about how much advanced notice the tenants would receive when the builder was ready to start construction. The Town Attorney stated 30 days was the minimum. She stated the tenant was aware they would be moving out, and that the notice was anticipated be well in excess of the 30-day notice minimum and that the parties had agreed to that.

6. Resolution 21-G-04, to ratify a Sublicense Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Arts Herndon, Inc. for space at 750 Center Street.

Mayor Olem recognized the Town Attorney. The Town Attorney presented the staff report dated January 5, 2021 which is on file in the Town Clerk's office.

The Town Attorney reviewed the background and the process for the proposed resolution ratifying a sublicense agreement between the town and Arts Herndon, Inc for space at 750 Center Street. The proposed action on the sublicense would be similar to the previous item between the town and The Elden Street Players. This new sublicense of the town's interest in 750 Center Street to Arts Herndon is month-to-month and will be for a term of one year. It was anticipated that as required by the Comprehensive Agreement for the redevelopment of the parcel that Arts Herndon will be relocated during the term of the sublicense. It is proposed that the rent remain \$1.00 per term. She also stated that, similar to the last item, there would be a minimum of a 30-day notice given and it was expected there would be much more notice.

She stated that the Town Manager had signed the Sublicense Agreement pursuant to his powers under the Town's Continuity of Government Ordinance, as amended. Staff recommended approval of this resolution as presented.

Councilmember Regan stated the fiscal impact listed a comparable value of \$16 per square foot and stated he would suggest this be revised down due to the length of the lease. He doubted it would have this value on the market as less than a true 12-month lease. The Town Manager provided feedback about where that evaluation came from which the Director of Economic Development arrived at based on comparison with rents along Center Street in similar buildings. He stated those rents were around \$18-\$19 per square foot and they had revised back. The Town Manager stated if Councilmember Regan would like to see more information, he could discuss that with the Director of Economic Development.

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Councilmember Regan stated he understood that the price made sense for the building, but he said for the lease length it might not.

Councilmember Singh provided further comments about the rent price being \$1.00 per month. The Town Attorney clarified that the rent price was \$1.00 per term with a term being one year. Councilmember Singh clarified with the Town Attorney that it was \$1.00 per year.

Vice Mayor del Aguila stated this discussion had come up the past year, and he provided comments about evaluating the value of the town's donation gift based on market value. He stated there was a discussion they could have about the town's gifts to nonprofits to look at, define, and showcase what the town puts back into the local nonprofits.

7. Resolution 21-G-05, to ratify a Second 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 Olem recognized the Town Attorney.

The Town Attorney presented the staff report dated January 5, 2021 which is on file in the Town Clerk's office.

The Town Attorney provided commentary about the location of the lease and stated staff requested that the Council ratify a Resolution for a Second Temporary Emergency Extension of Lease between the town and Fairfax County School Board, pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended. She reviewed the background of the lease with Fairfax County School Board, who lease 13,593 square feet of office space at 397 Herndon Parkway.

Fairfax County determined that they would not have sufficient time to have a new lease approved and signed by their Board before the current expiration date of December 31, 2020. Therefore, the lease expiration date would be extended a second time to March 31, 2021 to allow for the necessary time to process a new lease agreement with the town.

The Town Manager signed the Second Temporary Emergency Extension of Lease pursuant to the Town's Continuity of Government ordinance. The Council must now consider ratification of the lease to extend the expiration date and to finalize its approval. Staff recommended approval of this resolution as presented. She stated the Director of Public Works was also available.

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Councilmember Singh asked for clarification of the location which Mayor Olem provided by stating this building was located next to the Herndon Police Department. The Town Attorney confirmed that was the location.

Councilmember Dhakal inquired about the financial impact, and the Town Attorney stated “none” was on the staff report because there was no change. Councilmember Dhakal asked for clarification of the amount.

Responding to queries from Councilmember Dhakal, the Director of Public Works stated the extension amount would stay the same at around \$2400 a month.

8. Resolutions 21-G-06 through 21-G-08, to ratify Temporary License Agreements between the Town of Herndon and Green Lizard Cycling (21-G-06); Teryanna, LLC dba Mile 20 at Mediterranean Breeze (21-G-07); and Zeffirelli Ristorante Italiano (21-G-08) for use of public property or public right-of-way for temporary outdoor dining:

- **Resolution 21-G-06, to ratify a Temporary License Agreement between the Town of Herndon and Green Lizard Cycling for use of public property or public right-of-way for temporary outdoor dining;**
- **Resolution 21-G-07, to ratify a Temporary License Agreement between the Town of Herndon and Teryanna, LLC dba Mile 20 at Mediterranean Breeze for use of public property or public right-of-way for temporary outdoor dining; and**
- **Resolution 21-G-08, to ratify a Temporary License Agreement between the Town of Herndon and Zeffirelli Ristorante Italiano for use of public property or public right-of-way for temporary outdoor dining.**

Mayor Olem recognized the Town Attorney. The Town Attorney presented the concurrent staff reports dated January 5, 2021 which are on file in the Town Clerk’s office.

The Town Attorney stated that the proposed resolutions were for ratification of three Temporary Outdoor Dining Licenses signed by the Town Manager pursuant to Ordinance 20-O-23, as amended. She reviewed the background and processes and stated that on July 14, 2020, Town Council ratified seven Temporary Outdoor Dining License Agreements on private property. Those licenses expired 100 days from the date of the Agreements. On September 8, 2020, the Council ratified seven Temporary License Agreement Extensions to extend the expiration dates to November 30, 2020. As Virginia and the town remained in a State of Emergency and restrictions on indoor dining capacity and spacing remained in

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effect, the town required that all restaurants that would like to continue to offer temporary outdoor seating beyond November 30, 2020 submit a new application for permit. The new application was amended to be more specific to the current situation, including language regarding the seasonal use of heaters and language regarding adhering to any future Executive Orders from the Governor. These new Outdoor Dining License Agreements were signed by the Town Manager and would expire on May 10, 2021, or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first.

Staff recommended approval of the three new Temporary License Agreements for Temporary Outdoor Dining on town property to finalize their approval for Green Lizard Cycling; Teryanna, LLC dba Mile 20 at Mediterranean Breeze; and Zeffirelli Ristorante Italiano.

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

Councilmember Regan provided questions about the process moving forward and if this would come back to Council if COVID-19 conditions had not improved in the spring. The Town Attorney confirmed that if they were still in a State of Emergency the process would be the same.

Councilmember Singh asked if a policy like this had ever been considered during a non-COVID time. The Town Attorney stated the town does have outdoor dining regulations.

The Town Manager stated that this was very much on their minds and one reason they only extended through May 10, 2021. He stated they did not know what the world would look like then, and even if the vaccines and herd immunity were on track, they were looking for ways to provide outdoor seating in a post-COVID environment. He stated they would have to look at ways to help the restaurants with outdoor seating in the warm weather months, so that was being looked at.

Councilmember Singh asked if this was being looked at in these locations or other locations as well. The Town Manager stated in a lot of the locations, initially, there were two issues. There were ones that wanted to be on public property or ones that just needed zoning approval. He stated they were looking at ways to help in both situations.

Vice Mayor del Aguila stated to the Town Manager that he thought the previous Council asked for a plan to have this capability run from early spring to a November timeframe. He asked if that type of evaluation was still being done.

The Town Manager stated they were. He stated the ABC had been the most progressive and forward-thinking agency, and he thought they would be looking to pursue this in a more comprehensive way post-COVID.

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Councilmember Singh stated the ABC was motivated by losing revenue.

Councilmember Friedrichs stated it was her understanding that the area in front of the Herndon Municipal Center could be used for outdoor dining on weekends for restaurants that do not have an outdoor venue.

The Town Manager stated they would need to look for a fair way. He also stated that the temporary restrictions, which he hoped would become permanent, did have a restriction for the distance from their building that would prevent relocation.

Mayor Olem provided further comments about ABC restrictions.

DISCUSSION

9. Town Council Budget Guidance

Mayor Olem recognized the Town Manager, who stated all budget data was available for Council with the Director of Finance if they wanted it. He then stated he would turn the discussion over to the Director of Finance. He stated they also had information about what other jurisdictions were doing and that the Budget Manager was also available on the Webex. The Director of Finance then began the budget guidance discussion. The Director of Finance presented the PowerPoint dated January 5, 2021 which is on file in the town clerk's office.

The Director of Finance congratulated Council and stated she looked forward to working with them. She stated that, in normal years, they would do a high-level overview with guidance. However, this year she would walk Council through where they were at that time and do high-level projections for FY 2022.

She stated the three words that represented this budget were: Survive, Revive, and Thrive. She stated that this was not a new concept, and hopefully FY 2021 would be the worst year. The hope was that toward the end of this FY 2021 they could begin the Revive phase.

She explained that this presentation was General Fund-centric because the Council and staff have more control over the Enterprise Funds. She stated general and local property taxes are less controllable by Council and staff.

The adopted budget was about \$38.8 million in the General fund with \$5.5 million sequestered. The authorized budget was \$33.3 million. \$32.8 million was projected and subject to change.

The Director of Finance stated she was working on a budget primer for Council to show how revenue flowed to give a sense of why certain data was lagged. She

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stated that different revenue streams come in at different times and intervals. Certain things were budgeted very conservatively because the impact is unknown.

The Director of Finance stated that meals taxes were coming in a little higher than expected, but Charges for Services are significantly lower than expected. Intergovernmental revenue was high because of the one-time amount that came in from the CARES Act which they could use for public safety salaries.

Councilmember Singh said there was only \$21 million in actuals and would go to \$32 million. He said the actual could be well below that, and it was not clear. He stated 2022 could be bad as well and he thought there should be options to change looked at every month. He also stated there should be minimum and maximum estimates of the projected so they could see every quarter how to adjust rather than making the determination. He stated they should plan accordingly, and this seemed overly optimistic.

The Director of Finance stated staff looks at data every month and Council would be updated regularly. She stated that the use of Fund Balance was highlighted as a tool in the toolbox to make up for lost revenues.

The Director of Finance resumed her presentation and stated this was just the projection at that time based on data and their estimates, and the dollar impact would be different for each of these items. She then went over which revenues were close to projections, which were doing better, and those that were doing worse than expected. She reiterated that the dollar impact and magnitude would be different for each item type.

The Director of Finance then stated that interest rates were at historic lows and that, into the adoption phase, it was still unclear what CARES Act Funds could be used for until the guidance came out. She stated that staff kept away from grey areas during that time and there were now weekly updates. She had worked closely with Fairfax County to stay in lockstep with them.

She stated that the updated expenditure projection for FY 2021 was around \$32.4 million, but almost all capital spending was frozen and there were no interfund transfers for the second year in a row.

The Director of Finance stated that the debt-refunding in July saved the town \$650,000 in debt-service for FY 2021. There would be saving in FY 2022 and FY 2023 as well.

She stated projected numbers for expenditures could change based on discussions to survive FY 2021, and the key drivers were salary vacancy (attrition/frozen positions), zero interfund transfers, and minimal release of sequestered amounts.

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The Director of Finance stated that something like a snowstorm, for example, could drive the number upwards. She stated the Town Manager could talk about some compensation items that could also drive that amount up.

The Director of Finance then covered some Key Points and Challenges. She referenced an Old Dominion University (ODU) study that showed towns and small cities were more negatively impacted because of diverse revenue streams. With the pandemic everything had suffered. She also stated that the town was very dependent on excise taxes that are paid by the consumer to businesses and then remitted to the town.

Other local taxes were about 1/3 General Fund revenue and real estate taxes are about 1/3. She also stated freezing capital expenditures and interfund transfers was delaying the issue to pay more later.

The Director of Finance then covered the impact on employees and ultimately services. During non-COVID times, employee/personnel costs account for 67 percent of the general fund. With all the fund freezes that cost was now at 75 percent of the general fund. She stated the town froze vacant positions, training, travel, and raises, which were effective to control cost but had a human cost over time. She stated there was an opportunity-cost and a morale cost. She also mentioned increased risk with cybercrime and employees teleworking and outlined challenges with looking for meaningful cuts. She also stated the town used to be compensated for recycling and now must pay for it.

The Director of Finance stated they must invest money with safety first, liquidity second, and yield last. Banking services are no longer free. These are unexpected things that come in this environment and put pressure on the General Fund.

High Level Considerations for FY 2022 would include unprecedented economic uncertainty. She stated local governments were excluded from the latest federal relief package, and the impact to BPOL was unknown. She stated they should expect larger variances between revenue forecasts versus actuals and collections are more volatile than in previous years.

She then discussed the revenue projection for the General Fund at about \$33.2 million with an increase of about ten percent. She stated that the residential real estate market was hot due to historically low interest rates and impacts on other real estate tax with no change in rate will equate to approximately the same real estate tax revenues for 2021.

She stated sales tax should remain relatively stable. The Director of Finance also stated there was less activity for permits and fees in addition to fines and forfeitures. She then discussed Charges for Services, Intergovernmental Funds, Other, and Use of Capital Reserve funds.

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The Director of Finance then discussed the tax rates, and which items the Council can set rates for such as: real estate, meals, cigarette, and transient occupancy. She stated that three weeks from that night's meeting there would be a resolution before Council with the Budget Guidance to use for FY 2022. She stated they would discuss more ideas at the work session in two weeks.

The Director of Finance added that department requests were due that day, and the budget meetings with the departments would take place in the coming weeks through January 26, 2021.

In conclusion, she reiterated the points to: Survive, Revive, and Thrive. She then provided extra information about timing and the calendar for the budget which had to be adopted before the end of the fiscal year.

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

Councilmember Friedrichs asked for a copy of the PowerPoint, and the Director of Finance stated staff could get that to Council. The Town Manager stated he would make sure the PowerPoint was uploaded to Granicus.

Councilmember Friedrichs asked if raising taxes was a suggestion or just general information, and the Director of Finance confirmed that it was just general information.

Councilmember Dhakal asked if it would be possible to have the PowerPoints sent to Council at least one day prior to the meeting so that their work session discussions could be more productive. The Director of Finance stated they could certainly do that. The Town Manager stated that they were still crunching numbers the night prior, and he stated that he would take responsibility for the PowerPoint not being sent to Council earlier.

Councilmember Singh stated he felt some of these projections were optimistic, and he would like to see the assumptions they were working under and respond to the Director of Finance about some of these things in writing. He provided comments and expressed concern over the county's assumptions for real estate taxes. He thought about making that statement to the Fairfax County Board of Supervisors that it would not be right to raise taxes under these circumstances and reduce the standard of living overall.

Councilmember Friedrichs agreed with Councilmember Singh and provided comments about residential real estate markets and recent buying activity in the area. She stated that the Town Manager might have information on that, and she stated that when homes are bought the value increases, so she did not know why they would need to raise the taxes.

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Councilmember Singh asked if the demand could really be that high despite COVID-19.

The Town Manager stated there were two parts to the real estate tax. One was the tax assessment done by the county assessor and the other was the rate set by the county supervisor board or the Council. He said what they were seeing in Herndon was sales of houses going within hours or days above the market prices. Assessment prices would creep up. He also stated as a cautionary note, that it was being observed that if this trend continues, it could form another real estate bubble situation.

Vice Mayor del Aguila agreed with the Town Manager and stated this was because of interest rates being historically low. On slide 10, he prefaced that his portfolio managers had predicted an economic downturn. He stated they should account for larger variances between forecast and revenues. He thinks they are being a little too optimistic about recovery and that revenues are going to be very effected and they need to think about that in setting priorities.

The Director of Finance agreed that it could be the case that these numbers were optimistic. She had looked through Fairfax County's guidance. She also provided some information about the numbers that lag and stated with the volatility and uncertainty there were backstops available.

Councilmember Regan stated that, as Vice Mayor del Aguila had said, the projections will not match actuals. He stated the disparity between estimates and actuals would be increased in the next 24 months or so. He stated they only have the projections they have, and they are living in a world of imperfect information where historical norms did not apply in the short term. He stated Council needs to be adept to pivot more often, in shorter time frames, and greater amounts. He acknowledged that was hard to do with critical services, people and their jobs, and long-term capital.

Councilmember Singh reiterated having a more pessimistic forecast. He asked the Town Manager to what flexibility he had in reducing staff.

The Town Manager stated that under the Town's Charter he had great latitude in staff reductions. He stated they have talked about it soberly and theoretically, and good staff would be hard to replace whenever the town recovered. It would also directly affect service levels and they would need to have a frank service-level conversation. He stated this would be a public policy question and Council would have to address it. He reiterated with the budget changes employee costs went from 67 percent of operating budget up to 75 percent. The Town Manager said that it was not a decision they intended to take lightly. He said they could use revenue stabilization to help weather the storm a little bit longer. Councilmember Singh stated he would like to see the documentation of this in the Charter or guidance because it was especially important.

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Mayor Olem stated that the Charter was available on the town's website.

Councilmember Friedrichs agreed with her colleagues. She stated she was less concerned about COVID-19 and was more worried about the Metro area being redeveloped and the businesses moving out of those buildings. She was also worried about the additional loss of largescale office buildings and that the long-term revenues might not come back at all or in the future when the vaccines are available.

Councilmember Friedrichs asked if any CARES Act funding had been returned, and the Director of Finance stated the town was being audited by Fairfax County, and to-date they have not had to return any money. She meets with Fairfax County weekly about the usage of CARES Act funds.

Councilmember Friedrichs asked why they had less flexibility to utilize CARES Act money than counties, and the Director of Finance stated the restrictions were from the state code. The town is not allowed to give money to private businesses per the state code. Herndon businesses had also been able to participate in Fairfax County's RISE program.

Mayor Olem then provided comments about the excellent work of staff on the last budget to cut costs and keep staff. She looked forward to continued budget discussions.

ROUNDTABLE

1. **Vice Mayor del Aguila:** Vice Mayor del Aguila presented his PowerPoint based on citizen and Council input, which is on file in the Town Clerk's office. He provided an overview about what he thought needed to be done to adapt to continuing, rapid changes in the town. He stated Council needed to talk about their initiatives for 2021-2022, and they needed to start with transparency. He stated everything they do needed to be available to citizens, and he said it was important as they continue to reform and reorganize.

He also stated there would be shorter-term and long-term aspects of these initiatives. Vice Mayor del Aguila stated economic pressures were moving them to these things and that all meetings, public or closed, should be recorded and available—outside of personnel matters. He stated people have a right to hear and everyone should be able to FOIA. He thought that FOIA being expensive was not truly open government. He stated public records should be easily available, and the public deserves to know what Council is doing to uphold transparency. He stated if things are decided and later changed Council needed to make sure that was documented or brought back to them.

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He stated Council needed to look at enforcement agencies such as the Historic District Review Board (HDRB). He asked what value the HDRB brings for the town and stated Council should discuss this. He stated the last Council reacted to a lot of things, and he suggested that the HDRB is something they could reform.

He further expounded upon areas for Council to be proactive rather than reactive. He then detailed some ideas including official onboarding for new Council, standardization of staff presentations, and discussing the allowance for Councilmembers as well as board and committee members.

Next, he outlined neighborhood concerns including speeding, foul smells, traffic flow, gun control, having more diverse Friday Night Live!, having more inclusive activities, and making sure the community center was benefiting the community.

Vice Mayor del Aguila said he was suggesting a strategic planning session and encouraged Council to support the mentioned initiatives.

2. **Councilmember Friedrichs**: Stated she agreed with a lot of the things in Vice Mayor del Aguila's presentation and felt passionately about some of them. She also thanked staff for the housing presentation that morning and asked that, if it was one of a series, that one would go through the financials for how a workforce housing project works and how sustainable it was.

The Town Manager stated this was one of the things staff was working on through the Economic Development office. He stated they were trying to work with academics and people in the development community for more education about where the financing comes from. He stated they wanted to educate on that, a housing baseline study at state-level, and how Fairfax County plays a role in these questions. He stated the goals were to information gather, establish baselines, find out what tools are at their disposal, and then work on policy objectives. The Town Manager asked Council to let him know of other information they would like.

3. **Councilmember Dhakal**: Thanked the Mayor for the opportunity to speak at the first work session of the new Council. Thanked citizens for electing the most diverse Council in the history of the Town of Herndon, and he congratulated Councilmembers for being elected to serve the "4.2 square miles of endless possibilities" to quote former Councilmember Bill McKenna. Councilmember Dhakal stated he would commit that his work would be guided by the value that they can add to the town, and he will be open to new ideas and he asked that Council do that too. He stated the only thing that would hinder Council would be the thought of doing things as they had always been done before. He was hopeful Council was open minded to enhance the greatness of the town. He stated those things that work will be the benchmark, and they will do better from there. He stated change was the only constant, and he could serve constituents by listening to new ideas and adapting to the ever-changing world. He provided comments

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about how he wanted the housing items discussed that were in Vice Mayor del Aguila's presentation to Council. He stated he also wanted to celebrate the diversity in the town, enhance transparency, and re-evaluate, change, amend, and enhance town processes and guidelines. He wanted to prioritize initiatives and accomplishments.

4. **Councilmember Singh:** Spoke about his experience as a Councilmember and how he has brought up before that he felt there was no transparency or long-term plan. He stated Council needed to make sure they prepare for upcoming items such as affordable housing. He stated he has heard residents ask to hear other music and most residents thought Friday Night Live! was run by the town. He stated Friday Night Live! was run for the benefit of the Chamber of Commerce, and they determine programming. He also spoke of a festival suggestion.

He then discussed FOIA document requests how he believed it made it impossible for him to have any documents. Councilmember Singh provided comments about his prior questioning of land values from 30 years of experience. He would also like Council to develop standards that are best in the state and in the country.

Councilmember Singh then discussed the Council meeting minutes which he said used to be detailed. He stated people do not want to watch a three or four-hour long video, and the Council minutes should be better than they were before. He thought the town should be the best government that serves all the residents and not just a few.

5. **Councilmember Alam:** Thanked Mayor Olem for her leadership and thanked the citizens who chose her to lead them. She stated she was listening to everyone, and that she liked the presentation given by Vice Mayor del Aguila.
6. **Councilmember Regan:** Provided comments on the items that Vice Mayor del Aguila presented and stated these were items that were discussed throughout the campaign and items that he ran on. He stated he hoped they could spend time on them, and he added an item: reporting of police statistics and interactions. He was interested to dig into the reports to see what details they got and what was reasonable for a small-town department to provide. Stated he was excited to be on Council and to be working with them. He stated the work was not easy and that he liked the term "argue joyfully" and that he was a firm believer in breaking down an idea from one and building it back together. He hoped Council could try out "arguing joyfully" together.
7. **Mayor Olem:** Provided her own comments about "arguing joyfully." She also reminded all councilmembers that, in accordance with state law, they each needed to complete an approved Virginia Freedom of Information Act (FOIA) Training session within two months of assuming office. The training was provided online by the Virginia FOIA Council, and the FOIA Council would email

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a certificate to be retained in the town's records once the training was completed. She emphasized this was especially important because the Town Clerk must keep the records of who has completed the training and the dates the training was completed. This was also an integral part of the town's annual audit where the auditors would review the certificates on file in the clerk's office. She asked those who had not completed the training to please contact The Town Attorney or the Town Clerk and to send the Town Clerk the certificate once completed.

Mayor Olem stated she wanted to share some good things that happened in 2020. She stated her daughter-in-law had graduated as a veterinarian and that she and her son had been married and bought their first home. She ended the year on a happy note and was looking forward to 2021 and serving the town.

She looked forward to working with Council and hoped they could communicate and work together.

Mayor Olem also stated that Members of Council should soon receive their packets for Statements of Economic Interests for calendar year 2020. The finalized, signed statements were due to the clerk's office by Monday, February 1st. Members of Council were required to complete these forms by state law. She encouraged those with questions about either requirement to contact the clerk's office.

CLOSED MEETING

Mayor Olem 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.

Mayor Olem stated that before asking for a motion she wanted to take a few moments provide an explanation of closed meetings to those listening that evening. She stated only public business matters lawfully exempted from open meeting requirements by Virginia law are allowed to be discussed by council in closed meeting.

She stated these matters must be clearly stated in the motion to convene in the closed meeting.

Immediately following the closed meeting ~ and as the first action reconvening in public session ~ the council must certify, by resolution, that only the matters heard, discussed, or considered by the council in closed meeting were identified in the motion to go into the closed meeting.

She also stated Council cannot take any action in a closed meeting. The council must take all actions in public session. This means that the council must come out of closed meeting and make all motions in open meeting.

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She stated she would continue to encourage her colleagues to reach out to the town attorney with any further questions they have regarding closed meetings.

With that explanation, she then asked if there was a motion to go into Closed Meeting

On motion of Councilmember Friedrichs, seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, the Herndon Town Council went into Closed Meeting at 9:35 p.m., under Section 2.2-3711(A)(1) of the Code of Virginia for discussion of prospective candidates relative to appointments to boards and commissions.

Vote: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

RECESS

At 9:36 p.m. Mayor Olem called a five-minute recess, and at 9:11 p.m., the closed meeting reconvened by electronic meeting using Cisco Webex.

Mayor Olem recognized the Town Clerk to take attendance by roll call, and all members were present, and with Mayor Olem presiding.

Mayor Olem asked if there was anyone present whose name she did not call. Hearing none, the closed meeting continued.

CLOSED MEETING

On motion of Councilmember Dhakal, seconded by Councilmember Friedrichs, and carried by unanimous roll call vote by electronic means, the Herndon Town Council reconvened in public session at 11:06 p.m.

Vote: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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

Vote: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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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

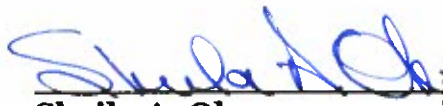
Nays – 0

ABSENT DURING VOTE: 0

ABSENT DURING MEETING: 0

10. ADJOURNMENT

On motion of Councilmember Dhakal, seconded by Councilmember Friedrichs, and carried by unanimous roll call vote by electronic means, the meeting of the January 5, 2021 work session was adjourned at 11:08 p.m. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor de la Aguilera, and Mayor Olem voting "Aye."


Sheila A. Olem
Mayor


Jessica Sizemore
Legislative Assistant



Minutes approved by Town Council: January 26, 2021