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**HERNDON TOWN COUNCIL
Work Session Meeting Minutes
Tuesday, March 7, 2023**

The Town Council held a work session meeting on Tuesday, March 7, 2023, at 7:00 p.m. in the Herndon Police Department (HPD) Community Room, 397 Herndon Parkway, Herndon. In attendance were: Mayor Sheila Olem, Vice Mayor Clark Hedrick, and Councilmembers Cesar del Aguila, Pradip Dhakal, Keven LeBlanc, and Donielle M. Scherff.

Councilmember Alam was absent.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Chief Maggie DeBoard, Herndon Police; Kirstyn Barr Jovanovich, Town Clerk; Lisa Gilleran, Director of Community Development; Page Kalapasev, Director of Information Technology; Marjorie Sloan, Director of Finance; Scott Robinson, Director of Public Works; Anne Curtis, Chief Communications Officer; Cindy Roeder, Director of Parks and Recreation; John Irish and Tammy Chastain, Deputy Directors of Public Works; Michael Mueller, Golf Course General Manager; David Stromberg, Zoning Administrator; Maria Lee, Budget Manager; Dennis Holste, Economic Development Manager; Dave Bracamonte, Systems Manager; and Amanda Kertz, Chief Deputy Town Clerk.

1. CALL TO ORDER

Mayor Olem called the work session to order at 7:00 p.m. and determined there was a quorum, with six members present. Councilmember Alam was absent. Mayor Olem reminded Council of the meeting decorum.

Mayor Announcements

Mayor Olem reminded Council about a diversity training session for March 10 to Saturday March 11, 2023. Both events will be held in the Herndon Police Department Community Room. She asked that her colleagues to RSVP to the Town Clerk’s office if they had not done so yet.

Comments and Disclosures for the Record

Mayor Olem asked Amanda Kertz, Chief Deputy Town Clerk, if the Town Clerk had received comments for the record or disclosures from Council on any items listed on that evening's agenda. Ms. Kertz stated that the Town Clerk received comments on item six, Closed Meeting, which were distributed to Council and entered into the record. The Clerk did not receive other comments or disclosures from Council on any other items listed on the agenda.

Motion to (Failed) Amend the Agenda

Councilmember LeBlanc moved to amend the agenda, to make item number six, the Closed Meeting, open to the public. He stated that the purpose of Section 2.2-3711(A)(1), which is the State Code section referenced on the agenda, is to protect the anonymity and privacy of the individual that is being discussed. However, emails from the public indicate that the public wants to know the issues warranting the Closed Meeting. He stated that the individual who is the subject of the closed meeting would like the discussion to be held in public session.

The motion to amend the agenda was seconded by Vice Mayor Hedrick.

Responding to questions from Councilmember Scherff, Lesa Yeatts, Town Attorney, stated that the Council can discuss this motion while preserving the ability to have a closed meeting. Councilmember Scherff expressed concern over moving the discussion to an open meeting due to the nature of the topic being considered.

There was discussion amongst Council and staff, including the nature of the Closed Meeting, citizen comments on the matter, and if the subject should be discussed in a closed or open session of Council.

Following further discussion amongst Council, Mayor Olem went around the table and asked each Councilmember to state if they wanted to move the Closed Meeting discussion into an open session, and the motion failed by a vote of 3-3. The vote was: Councilmember LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting "Aye." Councilmembers del Aguila, Dhakal and Scherff voting "No." Councilmember Alam was absent.

Mayor Olem stated that the Council needed to discuss this item that evening, whether it was in open or closed session.

2. PUBLIC HEARINGS

- a. Ordinance to approve and authorize the Mayor to sign a Fourth Lease Amendment with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation to revise the exhibits, utility and access easement description, premises description, approved equipment list, and rent at the Town's Alabama Drive Water Tower**

Tammy Chastain, Deputy Director of Public Works, presented the staff report dated March 7, 2023. The proposed fourth amendment to the original lease agreement between the Town and AT&T includes revisions to the equipment lists and exhibits to allow for the removal of various pieces of equipment. The current lease remains in effect, and it expires on May 31, 2026. Staff recommends approval of the proposed ordinance, as presented.

There was no discussion on this item.

- b. Ordinance to consider zoning ordinance text amendment, ZOTA #23-01, to amend Chapter 78 (ZONING), Section 78-141.6 (Sign Standards for Downtown Mixed-Use Districts), to revise the regulations governing the location of wall mounted signs**

David Stromberg, Zoning Administrator, presented the staff report dated March 7, 2023. He stated that this Zoning Ordinance Text Amendment arose out of a recent case that went before the Historic District Review Board (HDRB) in January 2023. The building in that case was a contributing historic structure and historically had a wall sign located on the second floor. The existing zoning ordinance limits wall signs in the downtown zoning districts to the ground floor. The proposed amendment expands the locations available for a wall sign, so long as the sign is approved through a Certificate of Appropriateness. The Planning Commission and staff recommend approval of the proposed ordinance, as presented.

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

3. GENERAL

- a. Resolution to approve the Town's participation in the proposed settlement of opioid-related claims against Teva, Allergan, Walmart, Walgreens, CVS, and their related corporate entities, and to direct the Town Manager and/or Town Attorney to execute the documents necessary to effectuate the Town's participation in the settlements**

Lesa Yeatts, Town Attorney, presented the staff report dated March 7, 2023. In 2021, as a part of the nationwide settlement of opioid claims, the Town participated in the Virginia settlement with McKesson, Cardinal Health, AmerisourceBergen, and Johnson and Johnson. A new settlement was reached with Teva and Allergan, Walmart, CVS, and

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Walgreens. The proposed resolution allows the Town to participate in the new settlements and authorizes the Town Manager and Town Attorney to sign the documents necessary to participate. The Town is not able to directly receive funds but can apply to receive funds from Fairfax County. The County plans to use the funds toward emergency departments, social services and similar departments. Staff recommends approval of the proposed resolution, as presented.

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

In response to Councilmember Scherff's questions regarding data on opioid use in Herndon, Chief Maggie DeBoard, Herndon Police, stated that most of that data is public safety sensitive and therefore not releasable. She stated that the County's health department records public health data that may include some of that information.

Ms. Yeatts added that because the Town does not have its own Community Services Board, Fairfax County collects the Town's mental health-related data.

Mayor Olem stated, for the record, that there are parts of the state that are especially impacted by opioid abuse. She encouraged eligible Virginia localities to participate in the settlement so the state can receive vital funding.

Following brief discussion and with the concurrence of Council, staff was directed to place this item as presented on the Consent Agenda for the next meeting's agenda.

4. DISCUSSION

a. FY 2024 General Fund Budget Discussion

William H. Ashton II, Town Manager, presented a PowerPoint dated March 7, 2023. He provided an overview of the General Fund, discussing: (1) strategic objectives, (2) current and projected revenues, (3) expenditures, and (4) current and proposed tax rates. Staff is not proposing any changes to the tax rates from the prior fiscal year. He stated that at the Council's next work session, he will discuss the Enterprise Funds, which includes Water and Sewer rates.

Personnel expenditures comprise the largest portion of the General Fund, and Mr. Ashton reviewed how staff proposes to help recruit and retain employees. This includes the approved two percent cost of living adjustment (COLA) that takes effect on March 11, 2023, along with proposed COLA increases on July 1, 2023 (one percent), and in January 2024 (two percent). Additionally, employees will see an average merit-based increase of 2.5 percent. Mr. Ashton stated that unilaterally, he was able to increase the base rate for Commercial Driver's License (CDL) holders and he was considering making similar changes for other departments.

There was brief discussion amongst Council and staff about the General Fund, including American Rescue Plan Act (ARPA) funds, personnel topics, cost pressures, and potential impacts of an economic downturn on the Town.

Councilmember del Aguila asked the Town Manager to confirm, for the record, (1) how the Town is using the ARPA funds, and (2) that the Town was not likely to lower its tax rates in the near future – if the County raises tax rates – due to deferred projects and maintenance.

Responding to Councilmember del Aguila, Mr. Ashton stated that the ARPA funds are slated to cover the three years' worth of deferred projects and maintenance that were delayed due to the COVID pandemic. To meet the federally mandated ARPA guidelines, these projects had to already be in motion. Regarding tax rates, Mr. Ashton emphasized that the Town and County are two separate governments that have different needs to address. He stated that in addition to the deferred projects Councilmember del Aguila referenced, the Town has to account for other costs like building maintenance.

Following further discussion, Mr. Ashton stated that he was going to discuss a financial policy change with the Council when the proposed budget is released in April. He stated that the ARPA funds are temporary, and he is examining long-term ways to pay for items like deferred maintenance and projects.

b. Organizational Orientation Discussion by the Town Manager and the Information Technology Department and the Town Attorney's Office

William H. Ashton II, Town Manager, stated that tonight's department orientation presentations are the Department of Information Technology and the Town Attorney's Office.

Organizational Orientation – Information Technology (IT)

Page Kalapasev, Director of Information Technology, presented a PowerPoint dated March 7, 2023. He provided an overview and discussed the department's mission and responsibilities, staffing structure, initiatives, challenges, and accomplishments. In his presentation, Mr. Kalapasev emphasized application and system management, data standardization, and stressed the importance of physical and information security.

There was brief discussion amongst Council and staff about the IT orientation, including the departments' preparation and responses to security risks, progress on the website redesign and website accessibility, electronic records, and cloud-based data storage.

Mr. Ashton stated that the Council has security training on March 30, 2023, which will include cyber security training.

Organizational Orientation – Town Attorney’s Office

Lesa Yeatts, Town Attorney, presented a PowerPoint dated March 7, 2023. She provided an overview and discussed the department’s mission and responsibilities, staffing structure, focus, initiatives, and challenges. In her presentation, she emphasized legal services the department provides throughout the Town, including to the Town Council, Planning Commission, Board of Zoning Appeals, Historic District and Architectural Review Boards, and Town departments. She noted that the department reviews all documents that go before the Town Council and its associated boards and commissions.

There was brief discussion amongst Council and staff on the Town Attorney’s orientation, including contract management, continuing education and staff training requirements, and the department’s structure and resources.

c. Impact of the East Spring Street project on the Sunset Business Park Businesses

Mayor Olem recognized Councilmember Scherff to begin the discussion item.

Councilmember Scherff stated that several businesses in Sunset Business Park are concerned about the Virginia Department of Transportation’s (VDOT) project on Spring Street that will close the median on Spring Street up to the Herndon Parkway intersection. She distributed an aerial map to Council and went over the businesses’ concerns, which included: (1) making access to the business park more difficult, (2) lack of signage at the Herndon Parkway entrance, (3) and the primary construction period is from September to December, which she said is the busiest time of year for these businesses.

There was brief discussion amongst Council and staff on the project’s impacts on Sunset Business Park, including the Town’s previous and planned efforts to mitigate the construction impacts, and how future projects in the area may affect the business park.

William H. Ashton II, Town Manager gave a brief update on VDOT’s project. He stated that a previous Town Council passed a resolution asking VDOT to allow U-turns at the Spring Street and Herndon Parkway intersection, except for the evening rush hours of 3:30 to 6:30 p.m. VDOT accepted these terms, which are currently in place.

Lisa Gilleran, Director of Community Development, provided an overview of the VDOT project. She stated that in the resolution that the Town Manager mentioned, a prior Town Council requested that the traffic circle at the Herndon Parkway entrance be modified to accommodate larger trucks. Staff is also looking at ways to install a traffic signal at the Herndon Parkway entrance into Sunset Business Park. Ms. Gilleran stated it has been difficult to obtain grant funds for that project, because the intersection does not meet VDOT’s requirements for a traffic signal.

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Scott Robinson, Director of Public Works, stated he estimates a traffic signal at the Herndon Parkway intersection would cost approximately \$400,000, based off of the recent Queens Row Street light replacement cost of approximately \$200,000, which was a smaller intersection.

Responding to the discussion about the future Fairbrook development and arterial streets, Mr. Ashton stated that extending Fairbrook and Worldgate Drives would provide better arterial connections. He stated that a challenge for this area is that there are multiple property owners, which can make connections between parcels difficult.

Responding to Councilmember Scherff, Mr. Ashton stated that to assist Sunset Business Park, he has asked staff to: (1) provide full engineering and construction drawings for the redesign of the intersection at the Herndon Parkway entrance, (2) provide information on what would be required to remove the traffic circle at the Herndon Parkway entrance, and (3) reach out to the Sunset Business Park about signage, and to see if code changes are necessary to make it easier to direct traffic to the business park.

d. Revisiting the Need for the Economic Development Advisory Committee

Mayor Olem recognized Councilmember Scherff to begin the discussion item.

Councilmember Scherff stated that several business owners had approached her about reinstating the Town's Economic Development Advisory Committee (EDAC), which disbanded in 2020 during the COVID pandemic. She requested that the Town Council consider reinstating the EDAC.

There was brief discussion amongst Council and staff, including (1) if and how to reinstate the EDAC, (2) the committee's structure and mission, (3) conducting a survey to determine the best way reach out and respond to the business community, and (4) reaching out to other localities and local business organizations for input.

Councilmember LeBlanc stated that during the Town Council retreat, he plans to give a presentation to spur discussion on ways to support the Town's small business community. This includes his suggestion of surveying the business community. He also suggested finding ways to collaborate with the Dulles Regional Chamber of Commerce and other local business groups.

Following discussion and with the concurrence of Council, it was decided that the Council would: (1) first review Councilmember LeBlanc's presentation on small businesses at the Town Council retreat, (2) consider moving forward with a survey to better understand the community's needs, and (3) determine further action following those steps.

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5. ROUNDTABLE

Councilmember Dhakal: no comments.

Councilmember Scherff: no comments.

Councilmember LeBlanc: stated that he attended a recent Committee for Dulles meeting focused on growth and the metrics around the 2045 Plan, which included projected traffic and population patterns. He stated that he talked to the Town Manager about it, and he plans to bring the 2045 Plan forward for Council discussion.

Councilmember del Aguila: stated that he is looking forward to the Town Council retreat this weekend.

Councilmember Alam: absent.

Vice Mayor Hedrick: no comments.

Mayor Olem: stated that she attended the Herndon Depot re-opening that past Sunday and she encourages everyone to visit the Depot.

Mayor Olem stated that the Northern Virginia Regional Commission (NVRC) is holding a fundraiser to collect money for the victims of the earthquake disaster in Turkey and Syria. She encouraged those interested to contribute and stated that she posted information on her Mayor Olem Facebook page. The NVRC's goal is to raise at least \$25,000 from the Northern Virginia region.

Mayor Olem stated that she also posted a link to a survey for Fairfax County Public Schools on her Mayor Olem Facebook page. She hopes individuals will consider visiting the link and sharing it.

William H. Ashton II, Town Manger: as a follow-up to the Sunset Business Park discession, he stated that staff handed him a memo from October 6, 1999, which noted that the Town Manager at that time asked the then Director of Public Works to wait on closing the median for one year.

Mr. Ashton thanked Councilmember LeBlanc for mentioning his forthcoming presentation at the retreat that weekend. He had just received the agenda for the retreat from the moderators, which he will distribute to Council later that week.

Mr. Ashton asked that Councilmembers send any agenda items for the Council's work sessions to his office by close of business on Wednesday, so that staff is prepared for the Management Team meeting that occurs on Thursday morning. He said that sending materials to his office even earlier is helpful.

6. CLOSED MEETING – HELD IN OPEN SESSION

[Note: the published agenda included a closed meeting pursuant to Virginia Code Section 2.2-3711(A)(1) to conduct a discussion relative to the performance of a member of the Town Council. The discussion was held in open session; therefore, no closed meeting was held.]

Mayor Olem stated that earlier in the meeting, a motion to amend the agenda failed. Now, the Council had to determine if they are going to hold the closed meeting, which was included in the published agenda.

Mayor Olem asked if there was a motion to move into closed meeting. Seeing no motion, Mayor Olem stated they will proceed and hold the discussion in open session.

Councilmember del Aguila stated it was his understanding that the motion was to have a closed meeting, not whether or not to have the discussion.

Mayor Olem stated that no one had made a motion to go into closed meeting.

Motion to (Failed) Table the item

Councilmember del Aguila moved to table the matter to another work session. Motion seconded by Councilmember Scherff.

Following discussion, Mayor Olem went around the table and asked each Councilmember to state if they wanted to table the matter, and the motion failed by a vote of 4-2. The vote was: Councilmembers del Aguila and Scherff voting “Aye.” Councilmembers Dhakal, LeBlanc, Vice Mayor Hedrick, and Mayor Olem voting “No.” Councilmember Alam was absent.

Discussion relative to the performance of a Member of the Town Council

Once the vote to table the item failed, Mayor Olem stated that the Council will discuss the item in open session that evening.

At 10:19 p.m., Mayor Olem relinquished the Chair to Vice Mayor Hedrick, who then became Chair of the meeting.

Vice Mayor Hedrick called on the sponsor of the request to open the discussion.

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Councilmember Scherff stated that she sponsored this agenda item. She outlined why she decided to bring this matter forward, stating that she worked with the Town Attorney. She indicated that it was her understanding that the item falls under the appropriate section of the State Code that permits closed meetings.

There was discussion amongst Council on the matter and the incidents that were described. Council discussed their (1) procedures as a public body, (2) potential training, (3) roles of the Mayor and Town Council, and (4) conduct and communication amongst Councilmembers.

Councilmember Scherff stated that she wanted to address a pattern of ongoing behavior that she said is not in line with the Council's ethics statement. She discussed two incidents where she said Mayor Olem behaved inappropriately, one was threatening comments made to her, and the second involved Mayor Olem asking a Member of Council to change seats before a work session. She started to reference Councilmember Alam's experiences.

Vice Mayor Hedrick asked Councilmember Scherff not to discuss Councilmember Alam's experiences since she was absent. Councilmember Scherff agreed.

Mayor Olem addressed the two instances that were mentioned and discussed why she had reserved the seat next to her for the Vice Mayor. On the incident Councilmember Scherff described, Mayor Olem stated that she did not say the inappropriate statement. Mayor Olem recollected past experiences in the community and her personal life, and said she is always happy to meet with anyone who wants to talk with her.

Councilmember Scherff stated that she did not feel comfortable meeting with Mayor Olem because of the incident she outlined.

Councilmember Dhakal discussed the instance where he was asked to change seats and stated that he felt disrespected. He said that he did not mind sitting anywhere, but he wanted to be aware of procedural changes ahead of time. Councilmember Dhakal suggested codifying the Town Council's procedures, like seating, so that there is no confusion in the future.

Vice Mayor Hedrick suggested that the Council could agree on seating conventions, like where the Mayor and Vice Mayor sit at work sessions.

Following further discussion, at 11:14 p.m., Vice Mayor Hedrick relinquished the Chair to Mayor Olem.

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ADJOURNMENT

There being no further business, Mayor Olem adjourned the March 7, 2023 Town Council work session at 11:14 p.m.

Amanda E. Monaw Kertz

Amanda E.M. Kertz
Chief Deputy Town Clerk



Minutes approved by Town Council: March 28, 2023