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HERNDON TOWN COUNCIL

Tuesday

August 10, 2021

The Town Council met in public session on Tuesday, August 10, 2021, at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Mayor Sheila A. Olem; Vice Mayor Cesar del Aguila; and Councilmembers Pradip Dhakal; Signe Friedrichs; Sean M. Regan; and Jasbinder Singh. Councilmember Naila Alam was absent.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Maggie DeBoard, Chief of Police; Robert Tang, Director of Finance; Page Kalapasev, Director of IT; Elizabeth Gilleran, Director of Community Development; Cindy Roeder, Director of Parks and Recreation; Tammy Chastain, Deputy Director of Public Works; John Irish, Deputy Director of Public Works; David Stromberg, Zoning Administrator; Dave Bracamonte, IT Operations Manager; and Margie Tacci, Deputy Town Clerk.

PLEDGE & CALL TO ORDER

Mayor Olem led the Pledge of Allegiance and called the meeting to order at 7:00 p.m., all members present, except for Councilmember Alam who was absent, with Mayor Olem presiding.

ANNOUNCEMENTS

Mayor Olem asked Council, and those participating, to observe meeting decorum by showing their hand to be recognized by the chair for comments and stating their last names before providing comments and when making or seconding motions. She reminded those participating to follow the town's Meeting Guidelines that were used for all government meetings to maintain good order, which included: refraining from participation unless and until recognized by the chair; being respectful in comments;

**August 10, 2021
(public hearing)**

refraining from threatening or intimidating language; profane, vulgar, obscene, or threatening remarks were not permitted; and attacks on the character, motive, or other harmful remarks against individual members of Council, town staff, or the public would not be tolerated.

APPROVAL OF MINUTES

Vote on May 4, 2021

Town Council Work Session Minutes

On motion of Councilmember Friedrichs, seconded by Councilmember Dhakal and carried by 6-0 roll call vote, the minutes of the May 4, 2021 Town Council Work Session were approved. The vote was: Councilmembers Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Alam was absent.

Vote on May 6, 2021

Town Council Strategic Planning Minutes

On motion of Vice Mayor del Aguila, seconded by Councilmember Regan and carried by 6-0 roll call vote, the minutes of the May 6, 2021 Town Council Strategic Planning Meeting were approved. The vote was: Councilmembers Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Alam was absent.

Vote on May 11, 2021

Town Council Public Hearing Minutes

On motion of Councilmember Regan, seconded by Vice Mayor del Aguila and carried by 6-0 roll call vote, the minutes of the May 11, 2021 Town Council Public Hearing were approved. The vote was: Councilmembers Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Alam was absent.

3. COMMENTS FROM THE TOWN MANAGER

Mayor Olem recognized Town Manager, William H. Ashton II who provided comments. He shared that he spoke with health officials within the state and his regional counterparts, and it was noteworthy that the Delta variant was the surging in Virginia and nationally. The Delta variant was the most contagious strain yet whether people were vaccinated or not. He indicated there was a high transmission rate, and deaths and disabilities were occurring more in the 30-40-year-old category than any other age group. Mr. Ashton said 90 percent of hospitalizations were unvaccinated, and the vaccine was to keep symptoms at bay. Those who were vaccinated could still transmit the virus asymptomatically. According to data, full vaccination protected from hospitalization and death.

**August 10, 2021
(public hearing)**

In Fairfax County, 76.7 percent of adults had received at least one dose and 69.9 percent were fully vaccinated. The epidemic curve for the Delta variant in United Kingdom and Israel was around a two-month window, but the Lambda variant already being discussed.

For comparison, there were under 10 cases in INOVA hospitals two weeks ago and 50 that day. Fairfax County was considered a substantial transmission area which triggered CDC guidance for masks indoors. Mr. Ashton urged everyone to get vaccinated. He stated almost all local governments, including the Town of Herndon, were returning to mask mandates in their facilities. Some were also mandating vaccinations, but Herndon was not doing so at that time.

Questions from Council

Councilmember Dhakal encouraged everyone to wear masks and get vaccinated. He inquired about going back to virtual meetings. Mr. Ashton indicated that would be Council's decision and staff would support them. Related to vaccinations, Mr. Ashton also stated antibodies were less effective than the vaccine according to studies, and these elements together pointed to having a mask mandate back.

Councilmember Friedrichs asked about the number of ICU beds available in the area. Mr. Ashton indicated, based on INOVA conversations, that was not at risk at that time. It was a lagging indicator and illness was the first indicator. He was unsure if they would get back to where they were. He hoped not.

Councilmember Friedrichs encouraged people to remember this was "geometric." She asked people to be vigilant, be careful, and wear masks.

Vice Mayor del Aguila said it was up to the body to decide and maybe they could discuss after looking at data.

Mr. Ashton reminded Council they needed to be considerate about advertising for meetings and cognizant of that for scheduling purposes.

Mayor Olem said she was on the Mayors and Chairs call with Mr. Ashton and places like Louisiana were already at 50 percent of people in hospital with COVID cases. She thought they were in a good place if they were smart and careful. She encouraged people to get vaccines, who did not have health reasons not to, and to wear masks.

4. COMMENTS FROM THE TOWN COUNCIL

Vice Mayor del Aguila: Thanked everyone attending and watching. He acknowledged Council's commitment to the public and said the past week was busy with National Night Out, a work session, and the Strategic Planning Meeting. He again acknowledged his colleagues and their dedication to the public interest.

**August 10, 2021
(public hearing)**

He stated Councilmember Singh had the most Strategic Initiatives approved by Council with seven initiatives. Vice Mayor del Aguila said he was trailing by three, and Councilmembers Regan and Dhakal both had one a piece. He said things were getting done and he would like to get more input from the public.

Councilmember Dhakal: No comments.

Councilmember Friedrichs: Councilmember Friedrichs acknowledged Mayor Olem's beloved mother passing away. She shared that Mayor Olem drove to Alabama for the funeral and returned to Herndon the day after for National Night Out, which is a beloved community event. The following night, she presided over the Town Council's Work Session, and the next night she ran the Strategic Planning Meeting. She called out and publicly thanked Mayor Olem for always putting the town's needs ahead of her own.

Councilmember Friedrichs wished a speedy return to health and to Council to Councilmember Alam and a happy belated birthday to Ms. Tacci, the Deputy Town Clerk.

Mayor Olem thanked Councilmember Friedrichs for her kind comments.

Councilmember Regan: No comments.

Councilmember Singh: Said he was pleased to have written Council initiatives. He said the process was started by Vice Mayor del Aguila well before the election, and he did not know he was in a race. He indicated he would do whatever was necessary and put more ideas forward. He thought this was a unique opportunity in this Council to take full advantage of.

Mayor Olem: Thanked Councilmember Friedrichs and everyone for kind emails and the outpouring of love. She indicated Bob Boxer, the former Director of Public Works stopped by, and she appreciated it.

Mayor Olem shared that former Mayor, Steve DeBenedittis' father passed away the day of her mom's funeral, and his funeral would be that week.

Mayor Olem stated National Night Out was awesome. She provided positive comments about seeing everyone and the officers seeing the joy and admiration of parents and children. She shared that Sergeant Bragg got a lot of attention, and she appreciated HPD taking Council with them and letting them participate. It was a success.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Olem stated she did receive one comment from the Four Seasons HOA that they visited with HPD, and they had nothing but praise.

**August 10, 2021
(public hearing)**

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 Chief Deputy Town Clerk stated Comments were entered into the record for Comments from the Audience, regarding traffic calming, and Ordinance 21-O-20, to amend Chapter 42. The Clerk had not received disclosures from Council on any items listed on the agenda that evening.

5. COMMENTS FROM THE AUDIENCE

Mayor Olem reminded everyone they could comment on any items that were not public hearings and stated they could comment on any public hearing items during the public hearings. Mayor Olem reviewed the process for speaking and comments.

The following members of the audience provided comments:

- Ann Vayda Null, 631 Oak Street, Herndon: Gave condolences to Mayor Olem and former Mayor Debeneditis for their respective losses. Ms. Null provided comments on Strategic Initiatives, information provided to Mr. Ashton, Council's fiduciary responsibility, and contributing structures.
- Jennifer Kerner, 618 Legacy Pride Drive, Herndon: Ms. Kerner provided comments about community policing and law enforcement.
- Sherri Blanton, 549 Florida Avenue, Apt. T3: Ms. Blanton provided comments about vaccinations, the Delta variant, and the ordinance to prohibit firearms.
- Hilary Spring, 12134 Stirrup Road, Reston: Ms. Spring commented on Ordinance 21-O-10 and applauded the state for allowing localities to prohibit guns in public places.
- Bessie Denton, 496 Virginia Avenue, Herndon: Provided comments expressing thanks to DPW, HPD, and EMS who saved her after a fall. She also provided comments about citizen police academies as learning opportunities.

PUBLIC HEARINGS

6. **Resolution 21-G-66, to authorize the Reserve of Fiscal Year (FY) 2021 funding for on-going operations & maintenance, Capital Projects, and outstanding Encumbrances at June 30, 2021 for FY 2022 Adopted Budget; and**
7. **Ordinance 21-O-16, to amend the Fiscal Year 2022 Adopted Budget by recognizing the outstanding encumbrances, reserved amounts, and re-appropriate funds for FY2021 as appropriated amounts for FY2022.**

**August 10, 2021
(public hearing)**

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing items had been advertised in the Friday, July 30, 2021 issue.

Mayor Olem recognized Robert Tang, Director of Finance to present concurrent staff reports on these items.

Mr. Tang stated the first item was a resolution to authorize reserves and outstanding encumbrances from FY2021 to be carried over to FY2022. He stated there were three schedules in the staff report. Schedule One was Operations and Maintenance reserves totaling about \$12.8 million, and the majority of this made up the first installment of the American Rescue Plan act funds received June 30, 2021.

Schedule Two was Capital Reserves (Capital Projects Fund, Water and Sewer Fund, and Downtown Parking Fund).

Schedule Three was the estimate of outstanding encumbrances as of June 30, 2021 broken out by fund.

The second item was an ordinance to amend the FY2022 adopted budget by recognizing outstanding encumbrances, reserved amounts, and re-appropriated funds for FY2021 for FY2022.

He added that a salary Market Rate Adjustment (MRA) for employees was included as an appropriation.

Staff recommended approval.

Vice Mayor del Aguila asked if anything had changed since the work session, and Mr. Tang confirmed there had been no changes.

Councilmember Friedrichs asked, for clarification, if they were authorizing the reserves and encumbrances, and amending the budget to reflect that. Mr. Tang confirmed.

Ordinance 21-G-66, to amend the Fiscal Year 2022 Adopted Budget by recognizing the outstanding encumbrances, reserved amounts, and re-appropriate funds for FY 2021 as appropriated amounts for FY 2022.

Mayor Olem asked if there were any public comments on 21-G-66, seeing none, Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Councilmember Dhakal moved to approve Resolution 21-G-66, to authorize the Reserve of Fiscal Year (FY) 2021 funding for on-going operations & maintenance, Capital Projects, and outstanding Encumbrances at June 30, 2021 for FY 2022 Adopted Budget.

**August 10, 2021
(public hearing)**

Councilmember Friedrichs seconded the motion.

There was no discussion.

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

Ordinance 21-O-16, to amend the Fiscal Year 2022 Adopted Budget by recognizing the outstanding encumbrances, reserved amounts, and re-appropriate funds for FY 2021 as appropriated amounts for FY 2022.

Mayor Olem asked if there were any public comments on 21-O-16, seeing none, Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Vice Mayor del Aguila moved to approve Ordinance 21-O-16, to amend the Fiscal Year 2022 Adopted Budget by recognizing the outstanding encumbrances, reserved amounts, and re-appropriate funds for FY2021 as appropriated amounts for FY2022.

Councilmember Friedrichs seconded the motion.

There was no discussion.

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

Resolution 21-G-66, to authorize the Reserve of Fiscal Year (FY) 2021 funding for on-going operations & maintenance, Capital Projects, and outstanding Encumbrances at June 30, 2021 for FY 2022 Adopted Budget.

WHEREAS, the Town of Herndon closes its fiscal year on June 30, 2021; and

WHEREAS, the FY 2021 Annual Budget and subsequent amendments to the annual budget authorized and appropriated various monies for specific activities which were expected to be concluded at the close of the fiscal year; and

WHEREAS, it is the intent of the Town Council to reserve, encumber and re-appropriate these funds into the next fiscal year; and

WHEREAS, staff have reviewed the various accounts and balances and recommends the establishment of the estimated encumbrances and reserves as listed on the attached Schedules.

August 10, 2021
(public hearing)

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby establishes and re-appropriates the reserved or encumbered amounts for the fiscal year ended June 30, 2021, as listed on the attached Schedules.

BE IT FURTHER RESOLVED that this resolution is effective retroactively to June 30, 2021.

**August 10, 2021
(public hearing)**

Schedule 1 – Operations & Maintenance Reserves

Fund	Department	Cost Center	Amount	Description
General Fund	ARPA	0019394	\$12,761,973	First installment of the American Rescue Plan Act
General Fund	Non-departmental	0019797	\$80,000	Community donations
General Fund	HPD	0010770	\$21,478	Vehicle/Vehicle Equipment Back Order
Total O&M			\$12,863,451	

**August 10, 2021
(public hearing)**

Schedule 2 – Capital Reserves

Fund	Account Number	Description	Amount (\$)
Capital Projects Fund	0150880-491710	Stream Restoration	1,206,096
Capital Projects Fund	0150884-491590	Town-wide Security Initiative	300,000
Capital Projects Fund	0150885-491050	Gateway/Wayfinding/Historical	51,865
Capital Projects Fund	0150885-491860	Bicycle Facilities/Accommodation	62,000
Capital Projects Fund	0150886-491470	Hern Pk/Spring St to Fx Co Pkwy	1,549,000
Capital Projects Fund	0150886-491630	Sidewalks & Minor Trails	247,950
Capital Projects Fund	0150886-491640	Central Elden Walkability	1,087,000
Capital Projects Fund	0150886-491650	Elden-Center St Intersection	564,996
Capital Projects Fund	0150886-491740	H Parkway/VanBuren Intersection	3,057,675
Capital Projects Fund	0150886-491780	Trails to Herndon Metro	589,270
Capital Projects Fund	0150886-491790	Veh/Ped Access to Metro	1,732,061
Capital Projects Fund	0150886-491800	Sterling/HP Inter-70%	45,496
Capital Projects Fund	0150886-491810	Van Buren Complete Streets	2,351,141
Capital Projects Fund	0150886-491830	Elden/Monroe Intersection	2,612,852
Capital Projects Fund	0150886-491840	Van Buren-Hern Pk to S Town Ln	2,630,000
Capital Projects Fund	0150886-491850	Sterling Road Improvements	50,000
Capital Projects Fund	0150886-491910	Traffic Signal UPS	50,000
Capital Projects Fund	0159999-490080	Storm Drain Improve	479,096
Capital Projects Fund	0159999-490360	Bready Pk Court Ren	125,000
Capital Projects Fund	0159999-490650	Downtown Improve	523,195
Capital Projects Fund	0159999-490670	DT U&L Underground	840,000
Capital Projects Fund	0159999-491900	Parking & Arts Center	462,500
Total Capital Projects Fund			\$20,617,193
Water & Sewer Fund	0020887-480020	Capital Projects	2,299,318
Water & Sewer Fund	0020887-480030	Vehicle/Equipment	30,036
Water & Sewer Fund	0020887-480090	Microcomputer/Peripherals	1,200
Water & Sewer Fund	0020887-480190	Sewer Facility Repair	522,525
Water & Sewer Fund	0020887-480410	Utility Capacity Study	15,000
Water & Sewer Fund	0020887-481100	SCADA	19,099
Water & Sewer Fund	0020888-480020	Capital Projects	2,133,486
Water & Sewer Fund	0020888-480070	Water Meters	9,983
Water & Sewer Fund	0020888-480090	Microcomputer/Peripherals	4,200
Water & Sewer Fund	0020888-480350	Water Tank Pumps & Tank Rehab	31,850
Total Water & Sewer Fund			\$5,066,697
Downtown Parking Fund	0088005-480320	Downtown Parking Garage	200,000
Total Downtown Parking Fund			\$200,000
Total Capital Reserves			\$25,883,890

**August 10, 2021
(public hearing)**

Schedule 3 – Estimated Outstanding Encumbrances at June 30, 2021

General Fund	\$785,534
Water & Sewer Fund	\$2,092,839
Chestnut Grove Cemetery Fund	\$10,700
Capital Projects Fund	\$3,260,064
Downtown Parking Fund	\$30,213
Total	\$6,179,350

**August 10, 2021
(public hearing)**

Ordinance 21-O-16, to amend the Fiscal Year 2022 Adopted Budget by recognizing the outstanding encumbrances, reserved amounts, and re-appropriate funds for FY 2021 as appropriated amounts for FY 2022.

Recital

In adopting this ordinance, the Town Council has considered the Town Manager's recommended budget modifications as described in Attachment A, FY 2022 Budget Amendment Number 1.

BE IT ORDAINED by the Council of the Town of Herndon, Virginia, that the financial adjustments to the FY 2022 Budget, as described in Attachment A, Budget Amendment FY 2022, Number 1 to this ordinance, are hereby approved. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is 'Attachment A, FY 2022 Budget Amendment Number 1.']

**August 10, 2021
(public hearing)**

**Attachment A
Page 1 of 2**

**TOWN OF HERNDON, VA
FY 2022**

BUDGET AMENDMENT NUMBER 1

The following appropriations and revenue sources are proposed for amendment:

General Fund	
Increase Expenditure Appropriations:	
Estimated Outstanding Encumbrances at June 30, 2021	\$785,534
ARPA – American Rescue Plan Act Funding	\$12,761,973
Authorized Reserves at June 30, 2021	\$101,478
Salaries – Market Rate Adjustment	\$265,000
Total General Fund Appropriation Increase:	\$13,913,985
Increase Revenue Account Budgets:	
Federal Grant – ARPA	\$12,761,973
General Fund Designated Reserves	\$1,152,012
Total General Fund Revenue Increase	\$13,913,985

Water & Sewer Fund	
Increase Expenditure Appropriations:	
Estimated Outstanding Encumbrances at June 30, 2021	\$2,092,839
Authorized Reserves at June 30, 2021	\$5,066,697
Total Water & Sewer Appropriation Increase:	\$7,159,536
Increase Revenue Account Budgets:	
Water and Sewer Fund Designated Reserves	\$7,159,536

CHESTNUT GROVE CEMETERY FUND	
Increase Expenditure Appropriations:	
Estimated Outstanding Encumbrances at June 30, 2021	\$10,700
Authorized Reserves at June 30, 2021	\$0
Total Chestnut Grove Cemetery Fund Appropriation Increase:	\$10,700
Increase Revenue Account Budgets:	
Cemetery Fund Designated Reserves	\$10,700

**August 10, 2021
(public hearing)**

**Attachment A
Page 2 of 2**

DOWNTOWN PARKING ENTERPRISE FUND	
Increase Expenditure Appropriations:	
Estimated Outstanding Encumbrances at June 30, 2021	\$30,213
Authorized Reserves at June 30, 2021	\$200,000
Total Downtown Parking Enterprise Fund Appropriation Increase:	\$230,213
Increase Revenue Account Budgets:	
Downtown Parking Enterprise Fund Designated Reserves	\$230,213
CAPITAL PROJECTS FUNDS	
Increase Expenditure Appropriations:	
Estimated Outstanding Encumbrances at June 30, 2021	\$3,260,064
Authorized Reserves at June 30, 2021	\$20,617,193
Total Capital Projects Funds Appropriation Increase:	\$23,877,257
Increase Revenue Account Budgets:	
Capital Projects Designated Reserves	\$23,877,257

August 10, 2021
(public hearing)

8. Ordinance 21-O-17, to authorize the American Rescue Act (ARPA) Allocation Plan and appropriating ARPA funds for FY2022.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing item had been advertised in the Friday, July 30, 2021 issue.

Mayor Olem recognized Robert Tang, Director of Finance for the staff report.

Mr. Tang presented a PowerPoint dated August 10, 2021 which is on file in the Town Clerk's office. During the presentation, he outlined the American Rescue Plan Act. He provided information about background, eligibility requirements, challenges the town may face, and the town's initial plan.

Mr. Tang stated on March 10, 2021, Congress passed, and the President signed the American Rescue Plan Act (ARPA) of 2021. This Act provided funding for several different programs to address the COVID-19 pandemic. A primary component of the ARPA was ~\$350 billion in assistance for eligible state, local, territorial, and Tribal governments for the direct impact of the COVID-19 pandemic through the establishment of the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF). Virginia received ~\$633,753,549 for Non-entitlement Units (NEUs) from the Coronavirus Local Fiscal Recovery Fund. Non-entitlement Units are local governments typically serving a population under 50,000. The Town of Herndon would be allocated a total amount estimated at ~\$25,523,946 in two installments. The Town of Herndon received the first installment as of June 30, 2021 in the amount of approximately \$12.7 million. The second installment was expected in the summer of 2022. The total expected amount was ~\$25,523,946.

The program allowed for use of the funds received as direct payment from the Commonwealth of Virginia under section 601(b) of the Social Security Act to be used to cover the costs that: support public health expenditures, address negative economic impacts caused by the public health emergency, replace lost public sector revenue, provide premium pay for essential workers, or invest in water, sewer, and broadband infrastructure.

All funds must be obligated from March 3, 2021 to December 31, 2024 and funds must be used by December 31, 2026.

Challenges anticipated included the US Treasury Guidance being vague and allowing flexibility on judgement of eligibility requirements. Mr. Tang stated improperly spent or unused funds must be repaid. Additionally, guidance and FAQs were constantly being updated and changed, and staff needed to stay on top of that. Mr. Tang clarified that revenue loss would be recalculated because the town's fiscal year was July to June, but the revenue loss was calculated with the calendar year. This would create additional administrative burden along with reporting and monitoring requirements, with the first being due October 31, 2021. There would be procurement documentation and retention

**August 10, 2021
(public hearing)**

requirements and funds would need to be used before 2026. To get back on track, staff suggested supporting O&M Capital Maintenance Projects from FY2020 and FY2021 and preparing for any future economy challenges. The focus would be on addressing negative impacts, supporting staff and operations, replacing lost public sector revenue, and water and sewer projects.

Councilmember Friedrichs clarified that staff was asking Council to allow the town to allocate and budget these funds, and Mr. Tang confirmed.

Councilmember Regan indicated a lot of these items were deferred maintenance. He asked if they could look at larger capital projects later. Mr. Tang confirmed they could do future re-appropriations and amendments in the future as needed.

Mayor Olem asked if there were any public comments.

Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Councilmember Friedrichs moved to approve Ordinance 21-O-17, to authorize the American Rescue Act (ARPA) Allocation Plan and appropriating ARPA funds for FY2022.

Councilmember Dhakal seconded the motion.

Councilmember Singh said he thought all of Council was interested in how funds would be allocated. He said they have the benefit of the Town Manager presenting the budget. He felt confident after Mr. Ashton's presentation and that they would spend the money wisely.

Mayor Olem indicated she sat on many of the virtual calls with Senators and Congressmen going over how important it was to carefully allocate funds. She provided further comments on planning and approving the final.

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

Ordinance 21-O-17, to authorize the American Rescue Act (ARPA) Allocation Plan and appropriating ARPA funds for FY2022.

Recital

In adopting this ordinance, the Town Council has considered the Town Manager's recommended appropriations for FY 2022 Adopted Budget as described in ARPA Allocation Plan.

**August 10, 2021
(public hearing)**

BE IT ORDAINED by the Council of the Town of Herndon, Virginia, that the financial adjustments to the FY 2022 budget, as described in the ARPA Allocation Plan are hereby approved. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference, at the end of the minutes, is 'Town of Herndon ARPA Allocation Plan.']

- 9. Ordinance 21-O-18, to consider zoning ordinance text amendment, ZOTA #21-02, to amend Chapter 78 (ZONING), Article V (Planned Development Districts), Section 78-51.1 (PD-UR – Planned Development Urban Residential), to allow for an increase in permitted density up to 28 dwelling units per acre when a zoning map amendment includes adaptive reuse of existing buildings for residential dwelling units.**

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing item had been duly advertised in the Friday, July 23, 2021 and Friday, July 30, 2021 issues.

Mayor Olem recognized Town Attorney, Lesa Yeatts and Zoning Administrator, David Stromberg for the staff report.

Ms. Yeatts provided a brief reminder about the purpose of this Zoning Ordinance Text Amendment (ZOTA). She stated these generally changed the actual text and did not rezone the property. Such changes might include changing uses that are allowed by-right to properties, or as with this ZOTA, permitting an increase in density. Changes were necessary to keep the zoning ordinance current, adjust to changes in the Code of Virginia or prevailing case law, to implement new policies, and ensure the zoning ordinance furthers its purpose for the town for health, safety, and general welfare of the public. This zoning ordinance was a text amendment to allow an increase in permitted density from 20 to 28 dwelling units per acre on a property zoned or to be rezoned to PD-UR when it includes adaptive reuse of existing buildings for residential dwelling units.

This text amendment followed the proper procedures required by state and local law, was originated by Council on May 25, 2021, was considered and approved by the Planning Commission on June 28, 2021 and was back for Council's final consideration and approval that night. This was all pursuant to Virginia State Code.

Mr. Stromberg then, outlined the purpose of the ZOTA which was to permit the repurposing of existing structures to obtain workforce housing while limiting potential adverse impacts. He then reviewed the key provisions that needed to be met to be eligible for increased density including items like being along transit routes, within 0.5 miles of commercial, and being mindful of water and sewer capacity concerns.

Mr. Stromberg then provided information about various benefits and potential concerns including those brought up by Council at the work session including things like the loss

**August 10, 2021
(public hearing)**

of transient occupancy taxes and enforcing proffers. He indicated the rezoning process itself protected the town. Ultimately, each request would need to be considered and approved or denied by Council.

Mr. Stromberg then outlined the process and events that led to ZOTA #21-02.

Following public hearing and deliberation, the Planning Commission recommended approval of ZOTA #21-02 on June 28, 2021.

Staff recommended approval of ZOTA #21-02 as proposed and in accord with the Planning Commission recommendation.

Mayor Olem asked Mr. Stromberg to share the questions sent to him by Councilmember Singh.

Mr. Stromberg summarized that Councilmember Singh requested additional information about what was allowed for the existing property at 315 Elden Street. Mr. Stromberg indicated he would need some additional information from Fairfax County, or it may be more appropriate for the applicant to answer during the rezoning. Answering follow up questions from Councilmember Singh, Mr. Stromberg commented on someone's ability to build an office at 315 Elden Street and how that would affect tax revenue. Mr. Stromberg then responded to further questions about workforce units. He indicated, from the latest information staff had, about half the units would be workforce (unofficially).

Councilmember Dhakal thanked Mr. Stromberg for providing more detail and asked to go back to slide #3. He inquired about every application in this rezoning process being individually approved and whether the criteria were included. Mr. Stromberg indicated Council would have those criteria. Councilmember Dhakal provided further questions about criteria and whether it came from Fairfax County. Mr. Stromberg said, specifically as it related to workforce housing, these would be proffers. He further clarified that the town did not require a certain amount of workforce units.

Councilmember Friedrichs thanked Mr. Stromberg for his staff report. She emphasized that they were creating an opportunity for people to request this. Mr. Stromberg clarified that they were changing the text to allow rezoning to occur and providing the opportunity. There was further confirmation from Mr. Stromberg that nobody was gaining any entitlement that night, and the change was contained in the zoning ordinance itself.

Councilmember Regan asked Mr. Stromberg to explain the definition of Adaptive Reuse. Mr. Stromberg said every building had a primary use and an accessory use. If more than 50 percent was changing, then it would fall under the adaptive reuse definition in the zoning ordinance. There was further discussion about theoretical property being allowed 20 units per acre and being allowed 28 units per acre for adaptive reuse. Councilmember Regan provided further inquiries about what it meant for the structure

**August 10, 2021
(public hearing)**

to "stay." Mr. Stromberg clarified they could not tear the building down, but they could do renovations. There was further discussion about what could be done to a building before applying for this.

Vice Mayor del Aguila asked if this would position Council to address workforce housing in a broader sense, and Mr. Stromberg confirmed. Vice Mayor del Aguila provided positive feedback about Mr. Stromberg's presentation.

There was a brief question and answer session between Councilmember Singh and Mr. Stromberg about the proposed zoning changes.

Councilmember Singh said he looked at this differently, and he did some of the tax calculations. He felt there were two options. One was changing regulations to suit what was there. There was brief discussion between Councilmember Singh and Mr. Stromberg about existing units and the text amendment.

Councilmember Singh then asked about building similar buildings and the difference in tax revenue for the town. He wanted the town to do better about getting higher taxes at locations. He indicated his second problem was that he thought they should consider the income level of people at this location. He said this was the only location he saw in Herndon where it would be surrounded by an industrial area, and he was not sure it was the right place for that to happen.

Mayor Olem said she was sorry to see the Residence Inn departing, and there did not seem to be anyone looking to redevelop it.

Mayor Olem asked for public comment, seeing none, she closed the public hearing and moved to Council level for discussion and action.

Councilmember Regan moved to approve Ordinance 21-O-18, zoning ordinance text amendment ZOTA #21-02, to amend Chapter 78 (ZONING), Section 78-51.1, to allow for an increase in permitted density up to 28 dwelling units per acre when a zoning map amendment includes adaptive reuse of existing buildings for residential dwelling units.

Motion seconded by Vice Mayor del Aguila.

All members of Council provided brief comments about this item.

The question was called on the motion, which carried by 5-1 roll call vote. The vote was: Councilmembers Dhakal, Friedrichs, Regan, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Singh voting "No." Councilmember Alam was absent.

August 10, 2021
(public hearing)

Ordinance 21-O-18, to consider zoning ordinance text amendment, ZOTA #21-02, to amend Chapter 78 (ZONING), Article V (Planned Development Districts), Section 78-51.1 (PD-UR – Planned Development Urban Residential), to allow for an increase in permitted density up to 28 dwelling units per acre when a zoning map amendment includes adaptive reuse of existing buildings for residential dwelling units.

Sec. 78-51.1. - PD-UR - Planned development urban residential district.

(a) *Purpose and intent.* The intent of the PD-UR district is to encourage harmonious and creative new residential development that allows for a mix of housing types and creates attractive and appropriate transitions between commercial, commercial mixed-use, and existing adjacent residential districts. PD-UR districts provide buffers to existing adjacent residential development while creating thoughtful interfaces with potential commercial redevelopment and mixed-use. The district regulations are designed to ensure cohesive residential developments that provide a diversity of housing types at different price points. PD-UR districts provide multimodal options and connections allowing residents to benefit from non-motorized vehicle connections to adjacent commercial areas and access to transit. PD-UR development will provide safe, well-integrated parking, circulation patterns, building massing, and appropriately located open spaces and site amenities. Applications for zoning map amendments and generalized development plans implement the policies of the comprehensive plan and adopted small area plans. The following concepts should be addressed in applications in addition to the adopted policies.

- (4) *Adaptive reuse.* Projects that are reusing an existing building(s) for residential use may be eligible for increased density as specified in table 78-51.1(e). Sites for adaptive reuse should be located along a minimum of one existing transit route and within 0.5 miles of an existing commercial node.
- (5) *Affordable dwelling units.* Projects should provide a percentage of dwelling units available to those earning low to moderate incomes for the Washington Standard Metropolitan Statistical Area.

(e) *Dimensional standards.* Structures in the PD-UR zoning district are subject to the dimensional standards set forth in Table 51.1(e).

TABLE 78-51.1(e): PD-UR DIMENSIONAL STANDARDS	
STANDARD	ALL USES
Density, maximum	
1 housing type	15 dwelling units per acre

**August 10, 2021
(public hearing)**

2 housing types	20 dwelling units per acre
<i>Adaptive reuse for residential dwelling units</i>	<i>28 dwelling units per acre</i>

- (g) Site planning and building design in PD-UR. The following standards apply to sites and buildings within the PD-UR district:

(11) *Water and sewer. Adaptive reuse of an existing building(s) shall result in a less than or neutral impact on water and sewer demand than the present use.*

(h) *Modifications to dimensional standards. Projects that are reusing an existing building(s) may be entitled to modifications pursuant to the modification review standards of Section 78-50.2(d).*

Section 78-180. – Definitions

Adaptive reuse. Rehabilitation or renovation of existing building(s) or structures for any use(s) other than the present use.

GENERAL

10. **Ordinance 21-O-20, to amend Chapter 42 (MOTOR VEHICLES AND TRAFFIC), Article IV (Stopping, Standing, Parking), Division 1 (Generally), Section 42-152(b) (Parking prohibited; fines imposed) by adding thereto a new subsection prohibiting parking in front of or within ten feet of a driveway and the fine imposed.**

Mayor Olem recognized Chief of Police, Maggie DeBoard for the staff report.

Chief DeBoard provided information about out-of-date parking ordinances that were also not aligned with other nearby localities which caused significant issues. She indicated they were preparing to come to Council for a comprehensive look at parking ordinances. There would be more discussion as they put that presentation together. In the meantime, they were proposing to fix some safety, sightline, and refuse pickup problems in front of homes. This item proposed a 10-foot leeway on either side of

**August 10, 2021
(public hearing)**

driveways so people could not park there. Chief DeBoard stated it was very difficult for many residents to get in and out of their driveways safely and to get trash out to be picked up. This proposal would be in line with Fairfax County's 10-foot rule for the entire county. It would be one piece of the comprehensive look they planned to take with the Town Attorney.

Responding to Mayor Olem's inquiry about a location that used to be lined with trucks, and whether Loudoun County had changed their ordinance, Chief DeBoard indicated she was not sure when Loudoun County had enacted their ordinance. She added that HPD was ready to look at other ordinances, including parking of commercial vehicles and parking of different vehicles in communities, that create safety and sightline issues.

Vice Mayor del Aguila asked how many parking spaces would be impacted and what neighborhoods would be impacted the most. Mr. Ashton indicated they did not have an overall number. It would mainly affect single-family home neighborhoods and some townhome neighborhoods. Mr. Ashton mentioned the idea of deferring this and combining it with the rest of the overhaul they intended to bring to Council with that data. He commented on the number of complaints he got about these issues. If Council wanted more qualitative data, Mr. Ashton indicated they could try to provide that with the comprehensive review.

Vice Mayor del Aguila asked if it would make sense to see how this might overlap with both his and Councilmember Regan's Strategic Initiatives. He indicated he did not have enough data to decide and wanted more information.

Councilmember Dhakal said this needed more discussion and fact-finding. He provided comments about safety and unintended consequences and asked Ms. Yeatts about tabling it. Ms. Yeatts indicated it could be deferred indefinitely with direction for staff to bring more information back at a later point.

Councilmember Singh indicated they would need a motion, and Mayor Olem confirmed they would need one after questions.

Councilmember Friedrichs provided comments about parking in her neighborhood and children playing. She had many concerns and indicated there was a mixed response from residents. She agreed with doing this comprehensively and sending it back to staff for more information. Councilmember Friedrichs briefly inquired about a short-term fix before indicating they should send it back to staff for study.

Mayor Olem provided comments about DPW's issues with trash pickup. She agreed with deferring this and encouraged people to check out of state tags.

Councilmember Singh moved to "defer indefinitely" Ordinance 21-O-20, to allow time for staff to obtain additional information.

Motion seconded by Councilmember Friedrichs.

**August 10, 2021
(public hearing)**

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

CONSENT

11. **Resolution 21-G-71, to Award a Contract for Financial Budget Planning System/Software, RFP #21-11;**
12. **Ordinance 21-O-19, to amend and reenact Chapter 54 (PERSONNEL), Article I (In General), Article II (Pay), Article III (Leave), and Article VI (Benefits);**
13. **Resolution 21-G-67, to award Contract #B-21-03, Historic Herndon Streetscape Project - Phase III;**
14. **Resolution 21-G-68, to approve a temporary license agreement to use a designated public space in the alley adjacent to Jimmy's Old Town Tavern for outdoor seating for an event;**
15. **Resolution 21-G-69, to approve a Temporary License Agreement pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town and Dulles Regional Chamber of Commerce d/b/a Herndon Chamber of Commerce for use of Town-owned municipal parking lot spaces for portable toilets and an ice machine for Friday Night Live events;**
16. **Resolution 21-G-70, to approve and authorize the Mayor to sign a 3-year license agreement 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;**
17. **Resolution 21-G-72, to appoint the Town of Herndon's "Principal" member to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTAPCAC); and**
18. **Resolution 21-G-73, to appoint William Savage as the 'Virginia State Bar' member to the Architectural Review/Historic District Review Boards.**

On motion of Councilmember Friedrichs, seconded by Councilmember Singh, the Consent Agenda items were approved by 6-0 roll call vote, without comment. The vote was: Councilmembers Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Alam was absent.

**August 10, 2021
(public hearing)**

Resolution 21-G-71, to Award a Contract for Financial Budget Planning System/Software, RFP #21-11.

WHEREAS, the Request for Proposal process was used to solicit offers from software contractors; and

WHEREAS, the request for proposal solicited services for an initial five-year contract with an option of five one-year renewals; and

WHEREAS, the Request for Proposal was posted April 29, 2021, on the eVA Commonwealth of Virginia procurement website, Town's Website and DemandStar Website to maximize fullest competition; and

WHEREAS, six proposals were received on May 28, 2021, at 3:00 p.m. and the proposal award was based on the best solution for the Town with the results as follows:

1. ClearGov
2. OpenGov
3. Neubrain
4. turED
5. Vigilant Technologies, LLC.
6. GNC Public Sector; and

WHEREAS, it is the staff's recommendation to award the contract to the best proposal that fits the Town's needs, ClearGov; and

WHEREAS, funds to support the work with proposal costs established by the contract are available in the following account: I.T. Budget 001/0225/420790.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby awards a five-year contract, RFP #21-11, to **ClearGov** for the Financial Budget Planning System/Software, in the amount of \$29,400 for the initial setup and annual fees followed by \$25,000 annually for the annual subscription and that the contract may be renewed to up to five one-year agreements.

[Note: Attached for reference, at the end of the minutes, is Ordinance 21-O-19, to amend and reenact Chapter 54 (PERSONNEL), Article I (In General), Article II (Pay), Article III (Leave), and Article VI (Benefits).]

**August 10, 2021
(public hearing)**

Resolution 21-G-67, to award Contract #B-21-03, Historic Herndon Streetscape Project-Phase III.

WHEREAS, the Historic Herndon Streetscape Project-Phase III is in the Capital Improvement Program; and

WHEREAS, Contract #B-21-03, Historic Herndon Streetscape Project-Phase III, was advertised on May 3, 2021; and

WHEREAS, a pre-bid conference was held on May 13, 2021 and was attended by one firm; and

WHEREAS, the following bids were received and opened on June 3, 2021 at a public bid opening:

<u>Contractor</u>	<u>Bid</u>
Sagres Construction Corporation	\$477,740.00
Fort Myer Construction Corporation	\$553,549.78
Ashburn Contraction Corporation	\$580,385.00

WHEREAS, the Sagres Construction Corporation submitted the lowest bid which was found to be responsive and responsible; and

WHEREAS, staff recommends in addition to the contract that a contingency of \$47,774.00, which is approximately 10 percent of the bid, be authorized; and

WHEREAS, funds to support this contract are available in the Capital Projects Account Number #015-9999-490650; and

WHEREAS, reimbursement of funds up to \$382,192 or 80% of total construction costs are available through a Virginia Department of Transportation (VDOT) agreement between the Town of Herndon and VDOT.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-21-03, Historic Herndon Streetscape Project-Phase III, to Sagres Construction Corporation, in the amount of \$477,740.00.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes a contingency of \$47,774.00.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Town Manager's designee to approve contract modifications (change orders) that increase project scope and costs, utilizing the project contingency.

**August 10, 2021
(public hearing)**

Resolution 21-G-68, to approve a temporary license agreement to use a designated public space in the alley adjacent to Jimmy's Old Town Tavern for outdoor seating for an event.

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

1. The Town Council approves a temporary license agreement dated August 10, 2021 between the Town of Herndon as licensor and JOTT, INC. d/b/a Jimmy's Old Town Tavern (Jimmy's) as licensee. The license allows Jimmy's to use designated public alley space adjacent to Jimmy's for outdoor seating during an event on September 5, 2021. The license agreement may contain other terms agreed to by the Mayor and is on file in the office of the Town Attorney.
2. The Mayor is authorized to sign and deliver this license agreement and any other instrument to evidence or support the license agreement
3. This resolution shall be effective on and after the date of its adoption.

[Note: Attached for reference is the temporary license agreement dated August 10, 2021 between the town and JOTT, INC. d/b/a Jimmy's Old Town Tavern (Jimmy's).]

**August 10, 2021
(public hearing)**

TEMPORARY LICENSE AGREEMENT

This Agreement ("Agreement") is made this 10th day of August 2021 by and between JOTT, INC. d/b/a Jimmy's Old Town Tavern ("Jimmy's") and the TOWN OF HERNDON, VIRGINIA, ("Town").

WHEREAS Jimmy's represents that they have a Temporary Use Permit to conduct an event in the Town of Herndon on September 5, 2021 represented in "Exhibit A" attached hereto ("Permit") and that Jimmy's would like to use the Town's property behind Jimmy's Old Town Tavern Restaurant as shown on the Permit and known as the "Alley";

WHEREAS the Town desires to permit the use of the Alley by Jimmy's on the date as described in the Permit (on September 5, 2021 only).

Now therefore the parties agree as follows:

1. The Town hereby grants Jimmy's authorization to temporarily use the Alley for purposes described in the Permit
2. Jimmy's shall comply with the terms of the Permit, this License, and all applicable town, state and federal laws and regulations obtaining and maintaining at all times any other permit(s) required under applicable law for this use.
3. The parties expressly agree and contract that there shall be no fee for the use of the Town property on this occasion only.
4. The permission to use the property granted by this agreement is nonexclusive in nature, and the Town reserves the right to make concurrent use of the Property.
5. Jimmy's hereby assumes all risk of damage by reason of its occupation of the Alley caused by any defects therein or activity occurring thereon, whether caused by the negligence of the Town, its officers, agents, or employees, or otherwise, and Jimmy's hereby agrees to hold harmless and indemnify the Town, its officers, agents and employees, from and against any such liability for such damage or injury to the extent permitted under the laws of the Commonwealth of Virginia.
6. Jimmy's shall secure, provide and maintain insurance to protect the Town of such type and in such amount as is described below naming the Town as an additional insured. This Agreement shall not take effect until evidence of insurance is provided to the Town and the Town gives Jimmy's written confirmation that the type and amount of insurance is accepted.

Insurance limits shall not be less than the following amounts:

Liability - Coverage totaling \$5,000,000.00. All policies shall be endorsed to name the Town of Herndon as an additional insured

**August 10, 2021
(public hearing)**

The insurance required hereunder shall be maintained in effect during the duration of this Agreement. Insurance Policy(s) shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without giving thirty (30) calendar days advance written notice thereof to the Town.

7. Termination: The Town may terminate this Agreement upon 24 hours notice to Jimmy's for cause.

8. This Agreement, having been executed in the Commonwealth of Virginia, the construction and performance thereof or any dispute shall be governed by the laws of Virginia. Venue shall be proper in the County of Fairfax, Virginia.

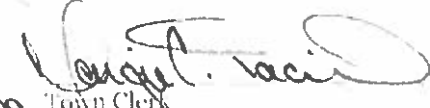
9. This Agreement contains the entire and only agreement between the parties, and it supersedes and merges all pre-existing agreements. Any representations, understandings, promises and any conditions not expressly incorporated herein shall not be binding upon either party or their respective successors in interest.

JOTT, INC.

d/b/a Jimmy's Old Town Tavern

By 
James C. Cirrito, President

ATTEST:

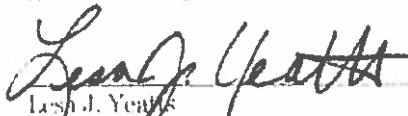

Cheryl H. Vacin
Town Clerk

TOWN OF HERNDON, VIRGINIA

By 
Sheila A. Olem, Mayor



APPROVED AS TO FORM:


Leah J. Yeatts
Town Attorney

**August 10, 2021
(public hearing)**

Resolution 21-G-69, to approve a Temporary License Agreement pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town and Dulles Regional Chamber of Commerce d/b/a Herndon Chamber of Commerce for use of Town-owned municipal parking lot spaces for portable toilets and an ice machine for Friday Night Live events.

WHEREAS, the Town of Herndon is the owner of the municipal parking lot adjacent to the Herndon Municipal Center; and

WHEREAS, Dulles Regional Chamber of Commerce d/b/a Herndon Chamber of Commerce represents that they have a Special Event Contract to conduct Friday Night Live events in the Town of Herndon on July 2, 9, 16, 23, 30, August 6, 13, 20, 27, September 3, 10, 17, 24 of 2021 as represented in Exhibit A; and

WHEREAS, pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended, the Town Manager was authorized to approve temporary license agreements for use of public property or public right-of-way.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Temporary License Agreement dated July 8, 2021 between the Town of Herndon and Dulles Regional Chamber of Commerce d/b/a Herndon Chamber of Commerce for use of town-owned public property or public right-of-way for placement of portable toilets and ice machine for Friday Night live events.

[Note: Attached for reference is the temporary license agreement dated July 8, 2021 between the town and Dulles Regional Chamber of Commerce d/b/a Herndon Chamber of Commerce.]

August 10, 2021
(public hearing)

TEMPORARY LICENSE AGREEMENT

This Agreement ("Agreement") is made this 8th day of July, 2021 by and between DULLES REGIONAL CHAMBER OF COMMERCE d/b/a Herndon Chamber of Commerce, a Virginia corporation ("Chamber") and the TOWN OF HERNDON, VIRGINIA, a municipal corporation ("Town").

WHEREAS Chamber represents that they have a Special Event Contract to conduct Friday Night Live events in the Town of Herndon on July 9, 16, 23, 30, August 6, 13, 20, 27, September 3, 10, 17, 24 of 2021 as represented in the Application and Contract attached hereto and incorporated by reference ("Exhibit A") and that Chamber desires to use the Town's property for portable toilets and an ice machine, also as described in Exhibit A;

WHEREAS the Town desires to permit the use of the Town's property for portable toilets and the ice machine on these dates and as described in Exhibit A.

Now therefore, the parties agree as follows:

1. The Town hereby grants Chamber authorization to temporarily use Town parking spaces for portable toilets and an ice machine as described in Exhibit A.
2. Chamber shall comply with the terms of the Contract and this License and all applicable town, state and federal laws and regulations and obtain and maintain at all times any other permit(s) required under applicable law for this use.
3. The parties expressly agree and contract that there shall be no fee for the use of the Town property for this purpose on these dates.
4. The permission to use the property granted by this agreement is nonexclusive in nature, and the Town reserves the right to make concurrent use of the Property.
5. Chamber hereby assumes all risk of damage by reason of its occupation of the parking spaces caused by any defects therein or activity occurring thereon, and Chamber hereby agrees to hold harmless and indemnify the Town, its officers, agents and employees, from and against any such liability for such damage or injury to the extent permitted under the laws of the Commonwealth of Virginia.
6. Chamber shall secure, provide and maintain insurance to protect the Town of such type and in such amount as is described below naming the Town as an additional insured. This Agreement shall not take effect until evidence of insurance is provided to the Town and the Town gives Chamber written confirmation that the type and amount of insurance is accepted.

Insurance limits shall not be less than the following amounts:

Commercial General Liability – Combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate. Policy shall be endorsed to name the Town as an additional insured.

**August 10, 2021
(public hearing)**

The insurance required hereunder shall be maintained in effect during the duration of this Agreement. Insurance Policy(s) shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without giving thirty (30) calendar days advance written notice thereof to the Town.

7. Termination: The Town may terminate this Agreement upon 24 hours notice to Chamber for cause.
8. The ice machine must remain securely and safely locked when not retrieving ice from the machine. The lock should be secured tightly so that the doors will not open. The portable toilets and the ice machine must be removed following the last event but in no event no later than October 4, 2021.
9. This Agreement, having been executed in the Commonwealth of Virginia, the construction and performance thereof or any dispute shall be governed by the laws of Virginia. Venue shall be proper in the County of Fairfax, Virginia.
10. This Agreement contains the entire and only agreement between the parties and it supersedes and merges all pre-existing agreements. Any representations, understandings, promises and any conditions not expressly incorporated herein shall not be binding upon either party or their respective successors in interest.

DULLES REGIONAL CHAMBER OF COMMERCE
d/b/a HERNDON CHAMBER OF COMMERCE

By *[Signature]* *Spec & CEO*
Name: Joseph MARTIN
Title: President & CEO

TOWN OF HERNDON, VIRGINIA

[Signature]
William H. Ashton II
Town Manager

APPROVED AS TO FORM:

[Signature]
Lesa J. Yeatts
Town Attorney

**August 10, 2021
(public hearing)**

Resolution 21-G-70, to approve and authorize the Mayor to sign a 3-year license agreement 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.

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

1. The Town Council approves a license agreement dated August 10, 2021 between the Town of Herndon as licensee and Nafis Peter Ahmed and Ruth Llabres Ahmed as licensor. The license agreement allows for the Town use of the lot at the corner of Lynn and Station Streets for public parking and other public purposes for a term of 3-years beginning on September 1, 2021 and expiring on August 31, 2024. The rent will be \$1450.00 per calendar month.
2. The license agreement may contain other terms agreed to by the Mayor and is on file in the office of the Town Attorney.
3. The Mayor is authorized to sign and deliver this license agreement and any other instrument to evidence or support the license agreement.
4. This resolution shall be effective on and after the date of its adoption.

[Note: Attached for reference is the license agreement dated August 10, 2021 between the town and Nafis Peter Ahmed and Ruth Llabres Ahmed.]

**August 10, 2021
(public hearing)**

LICENSE AGREEMENT

This License dated August 10th, 2021, by and between the TOWN OF HERNDON, VIRGINIA, a municipal corporation (Town) and NAFIS PETER AHMED and RUTH LLABRES AHMED (Ahmed).

Recitals

Ahmed is the owner of a lot improved with a parking lot at the corner of Lynn Street and Station Street, Herndon, Virginia, Fairfax County Tax map number 0162-02-0290, as described, and subject to noted title and use restrictions on "Boundary & Physical Survey, Property of Nafis Ahmed," dated July 26, 1991, by Charles R. Johnson Consulting Engineer and Land Surveyor. This plat is incorporated by reference. This lot may be referred to as "the land."

Ahmed and Town propose that Ahmed shall grant Town a license to use the lot for public purposes for five years after the commencement date of this license.

THEREFORE, the parties agree as follows in consideration of the mutual covenants in this agreement:

1. Commencement and Ending Date of Term. Beginning September 1, 2021, Ahmed grants to Town an exclusive license to use the land according to the terms of this agreement. Each party has the right to terminate this agreement upon 30 days prior written notice to the other. The license shall expire August 31, 2024.

2. Consideration. Town shall pay Ahmed \$1,450.00 per calendar month for the license. Consideration for a partial month will be prorated.

**August 10, 2021
(public hearing)**

3. Use of the Land. Town may use the land for public purposes, including provision of public parking. The land shall assume the character of a public street during the life of this agreement.

4. Liability Insurance. Town will provide Ahmed evidence of its insurance coverage for lot during the term.

5. Hold Harmless. Each party shall hold each other harmless for any claim, cause of action, or judgment growing out of Town's act or omission under this agreement.

6. Default. A party shall be in default upon failure to perform any term of this agreement for more than five days after written notice of such failure shall have been given by the other. Upon default, the nondefaulting party may exercise rights and powers provided by general law.

7. Changes to the land. Town may make minor improvements to render the land safe, such as replacement of curb bumpers and steel bumper guards, restriping, and minor asphalt patching; and may erect appropriate signage on the land to control its operation.

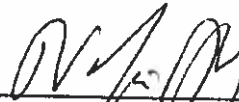
8. Surrender of Premises. At the expiration or termination of the term of this agreement, Town shall surrender the land to Ahmed.

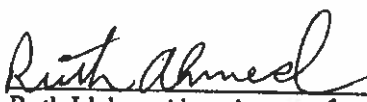
9. Binding on Successors/Assigns. All of the terms of this agreement shall bind the successors and assigns of Town and Ahmed. This agreement is assignable.

Signatures on following page

August 10, 2021
(public hearing)

NAFIS PETER AHMED and RUTH LLABRES AHMED


Nafis Peter Ahmed

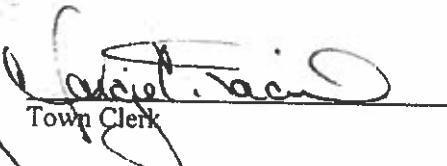

Ruth Llabres Ahmed *By: [Signature]*
w/ permission

TOWN OF HERNDON, VIRGINIA

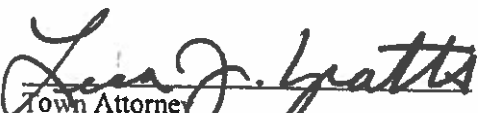

Sheila A. Olem, Mayor



ATTEST:

Ackling 
Town Clerk

APPROVED AS TO FORM:


Town Attorney

August 10, 2021
(public hearing)

Resolution 21-G-72, to appoint the Town of Herndon's "Principal" member to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTAC).

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints Councilmember Signe Friedrichs, as the Town's elected official to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTAC) **for the remainder of the 2021-2022 term.**

Resolution 21-G-73, to appoint William Savage as the 'Virginia State Bar' member to the Architectural Review/Historic District Review Boards.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints William Savage as the 'Virginia State Bar' member to the Architectural Review/Historic District Review Boards for a three-year term ending August 31, 2024, effective September 1, 2021.

ADJOURNMENT

Vice Mayor del Aguila moved to adjourn the meeting of the August 10, 2021 public hearing at 8:44 p.m., and Councilmember Dhakal seconded the motion. The question was called on the motion which carried by 6-0 roll call vote. The vote was: Councilmembers Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Alam was absent.


Sheila A. Olem
Mayor




Jessica Sizemore
Legislative Assistant

Minutes approved by Town Council: December 14, 2021.

TOWN OF HERNDON, VIRGINIA**ORDINANCE****AUGUST 10, 2021**

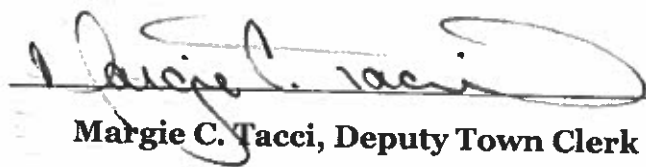
Ordinance, to authorize the American Rescue Act (ARPA) Allocation Plan and appropriating ARPA funds for FY2022.

Recital

In adopting this ordinance, the Town Council has considered the Town Manager's recommended appropriations for FY 2022 Adopted Budget as described in ARPA Allocation Plan.

BE IT ORDAINED by the Council of the Town of Herndon, Virginia, that the financial adjustments to the FY 2022 budget, as described in the ARPA Allocation Plan are hereby approved. This ordinance shall be effective on and after the date of its adoption.

This is certified to be a true and accurate copy of Ordinance 21-O-17 adopted at a legally convened meeting of the Town Council of the Town of Herndon on August 10, 2021.


Margie C. Tacci, Deputy Town Clerk



Attached for reference is 'Town of Herndon ARPA Allocation Plan.'

21-O-17

Town of Herndon ARPA Allocation Plan			
Project	Description	FY2022 Appropriation	Total ARPA Funding
Fire Alarm System at HMC	Upgrades to the fire alarm system at Herndon Municipal Center	\$ 200,000.00	\$ 1,700,000.00
Building Assessment	Assessment of buildings in Town of Herndon	\$ 60,000.00	\$ 60,000.00
HCC Back Log	Herndon Community Center backlog maintenance items	\$ 300,000.00	\$ 700,000.00
HCC Pool ColdPak	The dual Pool Pak units serving the natatorium are reaching the end of their life cycle and have significant repairs that are in need, plus removal of the old units, curbing, design specifications and contingency.	\$ 525,000.00	\$ 525,000.00
HPD HVAC	The Police Department has dedicated server rooms and a communications room that houses physical servers, telephone/data lines, and other crucial equipment to store, power, and support critical data and computer systems necessary for police operations. Due to environmental failures of the current server and communications rooms, a need exists for new air conditioning units. The project includes removal of a current aging HVAC unit and installation of new air conditioning units to service three rooms housing this equipment. Additionally, due to current and future server requirements a need exists for additional server space. The project would require subsequent redesign, expansion and build-out of the existing server room, and relocation of the Information Technology office across the hall	\$ 400,000.00	\$ 400,000.00
HPD Parking Lot Expansion	The police department facility has limited secure parking spaces available for employee and police vehicles and equipment. This project involves initiating a study to determine the best option for increasing the number of secure parking spaces and to determine a budget for expansion of the parking lot including projected operational costs.	\$ 500,000.00	\$ 500,000.00
Information Technology and Infrastructure	Upgrade aging network switching infrastructure to the latest stable release hosted on new hardware and preserve the existing system configuration. Increase reliability, performance, security, expansion, and flexibility in Network Infrastructure. Many switches are end of life and need to be replaced to support increased network utilization, cyber security, bandwidth, throughput, latency, network packet delay and improve error rate and data flow.	\$ 35,000.00	\$ 69,000.00
Park Equipment Replacement Program	This project accounts for any playground replacement or significant improvements in Town parks. With the loss of a large, mature shade tree at Haley Smith Park several years ago, the picnic experience needs enhancement with installation of a pavilion	\$ 85,000.00	\$ 555,000.00
Sports Field & Park Improvements	The expected increase in use of Bready Park and the Community Center warrant the expansion of the parking lot by adding 30 spaces between Ferndale Ave. and the tennis courts. This section would be connected to both the softball drive and the community center drive to improve traffic flow, estimated at 2019 costs. The tennis court lights in Bready Park are nearing their end of life value. The poles were originally installed in the 1980's and the light fixtures were updated in 1999. Replacement with LED fixtures and new poles will enhance efficiency and output significantly. This estimate includes pre-cast concrete bases, galvanized steel poles, remote electrical component enclosures, pole length wire harnesses and factory-aimed and assembled luminaires, plus estimated installation costs. It does not include the cost of a new electrical transformer. It assumes standard soil conditions.	\$ 85,000.00	\$ 565,000.00
Tennis Courts & Bubble	The project replaces the inner membrane of the air structure as well as the lighting system (including conversion to LED's for improved efficiency and longevity, thus meeting our sustainability objectives), mechanical system and other identified repairs. Pricing is based on 2020 estimates, plus a 10% contingency amount. The air structure is over 20 years old, and has exceeded its expected lifespan by more than five years.	\$ 784,000.00	\$ 784,000.00

Town Security Upgrades	The initial most critical town building security improvements or upgrades as identified by the security consultant.	\$ 500,000.00	\$ 1,250,000.00
Vehicle Replacement	vehicle replacement for the Town	\$ 1,500,000.00	\$ 5,500,000.00
HMC/ Chamber Backlog	Herndon Municipal Center and Chamber backlog items for maintenance	\$ 250,000.00	\$ 1,250,000.00
1479 Backlog - Linked to 1481	This project provides for the design and construction of the replacement of the roof and four HVAC units for the building located at 1481 Sterling Road. The existing roof has many leaks contributing to the deterioration of the underlying poured gypsum decking as well as damage to the interior of the facility. The current HVAC units were installed circa 1986 and require extensive maintenance to keep them operational. Both the roof and HVAC units have greatly exceeded their life expectancies.	\$ -	\$ 440,000.00
397 Improvements		\$ 300,000.00	\$ 300,000.00
Convert Building Drawings to AutoCAD	Convert current building drawings into AutoCAD format for better efficiency and planning	\$ -	\$ 100,000.00
Old Town Hall, Caboose, Depot Backlog		\$ -	\$ 250,000.00
W&OD Trail Lighting - Downtown	Final phase to illuminate the length of the trail through the town, from Van Buren to the connection with the Sugarland Run Trail, east of the Herndon Parkway bridge	\$ 75,000.00	\$ 715,000.00
HPD Garage	Construction of a permanent exterior garage facility (30' x 40') is needed to expand storage capacity for police bicycles, bulky emergency readiness equipment and supplies, adverse weather equipment and other agency property where space is not available nor suitable for storage inside the police facility. The garage will also support an area to perform technology maintenance associated with police vehicles and equipment. Adding an exterior garage will alleviate haphazard storage of bulky operational equipment inside and around the police facility and provide defined workspace to properly access, maintain, utilize and store the property and equipment.	\$ -	\$ 1,700,000.00
Purchase "Your Speed" Signs (10/ year)	Traffic Engineering Improvement Committee project	\$ 100,000.00	\$ 200,000.00
HPD Equipment	Herndon Police body camera replacement and forensic computer equipment	\$ 1,042,660.80	\$ 1,042,660.80
Community Development Positions	Community Development Positions that needed to be filled but was not due to the pandemic	\$ 200,000.00	\$ 200,000.00
Community Grants	Grants that were not awarded in Fiscal year 2021 due to the covid-19 pandemic	\$ 195,499.00	\$ 195,499.00
Water Pump Station and Vaults	Coordinated preliminary design for a new Fairfax Water pump station to enhance the Town's water system capacity o This project will ensure system demands are met as development occurs in the Downtown and HTOC areas	\$ -	\$ 3,150,000.00
Sewer Pump Station	This project will provide for conveying most of the future growth in wastewater flows to the Fairfax County sewer system. The design concept consists of a new pumping station near the Sugarland Run Interceptor, along with a combination of a force main and gravity sewer heading east that would transport wastewater to their collection system and treatment plant.	\$ 1,480,000.00	\$ 1,480,000.00
Folly Lick Sewer Improvements	This project is designed to meet the increase in system conveyance capacity associated primarily with the Comstock project, along with other development that feeds into this portion of the system	\$ 1,116,000.00	\$ 1,116,000.00

TOWN OF HERNDON, VIRGINIA

ORDINANCE

AUGUST 10, 2021

Ordinance, to amend and reenact Chapter 54 (PERSONNEL), Article I (In General), Article II (Pay), Article III (Leave), and Article VI (Benefits).

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

1. The following sections or provision of the Herndon Town Code (2000), as amended, are amended and re-ordained as follows:

CHAPTER 54 (PERSONNEL)

Article I. In General

Sec. 54-1. Applicability of chapter; administration.

~~(a) The rules, regulations, policies and procedures in this chapter constitute the "Town of Herndon Personnel Policies and Procedures," and they are for use by the town council, supervisory personnel and employees of the town.~~

~~(b) The rules, regulations, policies and procedures apply to all nonappointed employees of the town except as otherwise provided; provided further, however, that officers and deputy and assistant officers of the town, including, without limitation, the heads and directors of departments and officers and their named deputies, appointed by the town manager, may be removed or suspended by the town manager without regard to the rules, regulations, policies and procedures of this chapter, and the town manager, the town attorney and the deputy town attorney may be removed or suspended by the town council without regard to the rules, regulations, policies and procedures of this chapter.~~

~~(e)~~ (a) The town manager is responsible for the administration of the provisions of this chapter and has the authority to take appropriate action in dealing with cases of violations of this chapter.

~~(d)~~ (b) In implementing this chapter, The town manager is authorized to prepare administrative regulations on personnel management not inconsistent with this chapter. Administrative regulations may be promulgated by the town manager and will generally itemize or detail specifics relating to a personnel management subject. They may be implemented in conjunction with this chapter. Administrative regulations will be posted on the town's website, and on an

internal electronic location available to employees. ~~A paper copy of all current regulations will be kept in the human resources department. In addition to these regulations, employees may be subject to departmental regulations and policies.~~

(e) ~~(c)~~ ~~In addition to these regulations, employees may be subject to administrative regulations of the town manager and to departmental regulations and policies. The town manager maintains final responsibility for personnel administration. The director of human resources, subject to the direction of the town manager, is responsible for administering personnel rules and regulations.~~

Sec. 54-3. Definitions.

Time paid means all hours paid, to include time worked, ~~types of paid leave taken, and holidays an employee may be paid for, excluding compensatory time used.~~ **and types of paid leave taken, as defined in administrative regulation, and in accordance with state and federal laws.** Synonyms include "hours paid".

Article II. Pay

Sec. 54-25. Overtime pay.

(a) Employees who are subject to the overtime provision of the Fair Labor Standards Act (non-exempt personnel) who perform **approved** necessary and assigned overtime work shall have their schedules adjusted within the same work period or shall be compensated for overtime work on an overtime ~~or compensatory time basis as determined by the supervisor or department head.~~ **pay basis.** Overtime pay shall be at the rate of 1½ times the regular rate of pay. Overtime should be kept to a minimum and used to relieve occasional excessive workloads or to address emergencies and not to provide for recurring requirements. Classified employees must work necessary and assigned overtime work as directed by their supervisor. ~~For purposes of calculating overtime pay, all time paid as defined in the definitions section, is included in determining eligibility.~~ **Overtime pay will be calculated in accordance with town administrative regulations and in compliance with state and federal law.**

(b) Employees who are covered by the overtime provisions of the Fair Labor Standards Act, (non-exempt personnel), shall receive overtime pay for time paid over 40 hours, or in the case of sworn police officers, for time paid over 80 hours within the work periods as defined below. The regular work period for employees other than sworn police officers shall begin on Saturday at 12:01 a.m. and continue for seven calendar days ending on Friday at midnight. The regular work

period for sworn police officers shall be 14 consecutive calendar days, beginning on Saturday at 12:01 a.m. and continuing 14 calendar days ending on Friday at midnight. ~~The number of hours worked during the 14-day work period will be established by the chief of police and may vary depending on shift schedules and department needs.~~ Work periods exceeding 40 or 80 hours respectively, should be adjusted, as much as possible as directed by the supervisor, to avoid overtime. No overtime or compensatory time shall be earned on days in which any type of leave is taken. ~~For non-exempt employees: The total number of hours worked in a day where paid or unpaid leave is used, may not exceed the regularly scheduled hours for that work day. The employee shall offset the number of leave hours taken by the number of excess hours worked.~~

Article III. Leave

~~Sec. 54-51. Annual leave.~~

- ~~(a) — Employees are eligible to use annual leave as soon as it is accrued, with appropriate supervisory approval in accordance with administrative regulation.~~
- ~~(b) — Annual leave shall be accrued in accordance with the administrative regulation concerning leave, which may be changed in accordance with state or federal law, or in accordance with town operational necessity.~~
- ~~(c) — Department heads, the town manager and the town attorney will receive an additional amount of 2.47 hours of annual leave per pay period.~~
- ~~(d) — For positions that are critical to the town's mission and for which the town has significant difficulty attracting or retaining qualified employees, the town manager may provide certain annual leave benefits as incentives to accept or continue employment. The town manager may grant, at his/her discretion a higher accrual rate, not to exceed a total of eight hours per pay period to new or existing employees. The town manager may grant up to 80 hours of additional annual leave during a leave year to a new employee as an incentive to accept employment or to a current employee as an inducement to continue employment with the town.~~
- ~~(e) — Former employees rehired within one year of their separation date shall retain their time in service for annual leave accrual purposes.~~
- ~~(f) — Former employees rehired within one year of their separation date shall retain their time in service for annual leave accrual purposes.~~
- ~~(g) — Procedural information pertaining to annual leave is outlined by administrative regulation.~~
- ~~(h) — Annual leave may be accumulated up to a maximum of 300 hours of such leave and carried into the next year. Department heads, the town attorney and the town manager may accumulate up to 320 hours of such leave and carry it into the next year. Each employee can carry over an accrued annual leave balance up~~

~~to such maximum accrued leave from year to year during continuous service. Excess leave deducted may be donated to the sick leave bank or the catastrophic leave program. Proper notice, in accordance with administrative regulation should be given for known sick outages.~~

~~Sec. 54-52. Sick leave.~~

~~(a) Regular status full time or regular part time town employees accrue sick leave in accordance with the administrative regulation concerning leave, which may be changed in accordance with state or federal law, or in accordance with town operational necessity. Sick leave does not accrue when an employee is on leave without pay, injury leave, disability leave, or catastrophic leave for at least a full pay period. Employees are eligible to use sick leave as soon as it is accrued. Employees shall give proper notice, in accordance with administrative regulation for known sick outages.~~

~~(b) Employees may take sick leave for the following purposes:~~

~~(1) Personal illness or injury.~~

~~(2) A temporary disability related to pregnancy, miscarriage or childbirth.~~

~~(3) Serious illness of the immediate family where the employee's attendance is required. This may be utilized with the Family and Medical Leave Act, as contained in section 54-55.~~

~~(4) Doctor, dental or other health care appointments for the employee or immediate family members for whom the employee is responsible.~~

~~(c) No limits are placed on the accumulation of sick leave for regular status part time employees or employees covered under the Virginia Retirement System Plan 1 or Plan 2. The maximum accrual for employees covered under the Virginia Retirement System Hybrid Retirement Plan is 600 hours. Upon an employee's retirement under the Virginia Retirement System, the town shall pay to the retiring employee an amount in dollars up to 25 percent of the dollar amount balance of unused sick leave, with a maximum possible payment of \$10,000.00. In the event of the death of an active employee covered under the Virginia Retirement System who had at least five years of continuous service the town will pay out to the deceased employee's personal representative or estate, an amount in dollars up to 25 percent of the dollar amount balance of unused sick leave with a maximum possible payment of \$10,000.00. Upon termination (except for dismissals), a payment of 25 percent of the balance of unused sick leave with a maximum possible payment of \$2,500.00 for non probationary employees shall be paid to the employee. No such payment shall be made for probationary employees or employees who are dismissed.~~

~~Sec. 54-53. Disability leave.~~

~~In the case of an extended illness or non-work-related injury, an employee may be eligible to utilize the disability leave insurance or sick leave bank program in accordance with the administrative regulation in effect.~~

~~Sec. 54-54. Leave without pay.~~

~~An employee may be granted no more than two consecutive weeks of leave without pay at the discretion of the appropriate department head. Procedures are outlined by administrative regulation.~~

~~Sec. 54-55. Family and medical leave.~~

~~An eligible employee may request leave in accordance with the Family and Medical Leave Act of 1993, as amended. Procedures and eligibility are outlined by administrative regulation and by federal law.~~

~~Sec. 54-56. Military leave.~~

~~(a) — All regular status employees who leave the town's service to join the armed forces of the United States or are drafted into the military service may be placed on military leave without pay in accordance with the Uniformed Services Employment and Reemployment Act of 1994. Such leave will extend through a date 90 days after the employee is relieved from such service. Such employees shall be restored to the position they vacated, or to another position of the same class, provided that they make application within 90 days after the date of honorable discharge and are physically and mentally capable of performing the work of the position. If the employee is not qualified to perform the duties of such position by reason of disability sustained during military service, but is qualified to perform the duties of any other position, every effort will be made to place such employee in such other position, the duties of which the employee is qualified to perform as will provide the employee like seniority, status and pay, or the nearest approximation thereof, consistent with the circumstances in the case.~~

~~(b) — A regular status employee who is a member of the National Guard, Virginia Defense Force, or an organized military reserve of the United States will be allowed to attend training not to exceed 15 calendar days during any one fiscal year. Such employees will be paid at their regular hourly rate for no more than 120 hours per fiscal year. If the time of such training is optional, the time allocation shall be designated at the discretion of the town manager upon recommendation of the department head.~~

~~(c) — Regular status employees who are activated to federal or state federally funded duty in the case of a war or other national or state emergency declared by the President, Congress or the governor will be paid a military pay differential (MPD) which will be the difference between (i) the gross base pay such employee would have earned during such period as a town employee (gross base town pay) and (ii) the gross base military pay, provided that the gross base town pay is greater than the gross military pay actually earned. The MPD will begin on the~~

~~first day of activation and will persist until the earlier of deactivation or one year after activation. Gross base military pay includes all forms of military pay and allowances in money whether taxable or non-taxable.~~

~~(d) Employees absent from work due to military duty may elect to remain on the town health insurance plan while serving on active military duty. The employee must continue to pay the employee portion of the premium; the town will pay the employer portion.~~

~~(e) The programs outlined in this section may be detailed by administrative regulation.~~

~~(f) "Employee" includes officers of the town who maintain regular status employment.~~

Sec. 54-57. Civil leave.

~~A regular employee shall be given time off without loss of pay and without charge to any type of leave when performing jury duty; when subpoenaed to appear before a court, public body or commission in connection with town business; when performing emergency civilian duty in connection with national defense; when needed for the purpose of voting (not to exceed one hour); and when serving on an electoral board at a polling place as an officer of election for any election.~~

Sec. 54-58¹. Holiday leave.

The following holidays are observed by the town and shall be granted to regular employees with pay and to temporary and part-time flexible employees without pay, unless such employees are required to be on scheduled duty:

New Year's Day

Martin Luther King Jr. Day

Presidents' Day

Memorial Day

Juneteenth

Independence Day

Labor Day

~~Columbus Day~~

Veterans Day

Thanksgiving Day

Friday after Thanksgiving Day

Christmas Eve (half-day)

Christmas Day

If an approved holiday falls on Saturday, the previous Friday will be considered **observed** as the holiday. If the holiday falls on Sunday, it will be observed on Monday. ~~Employees will be granted holiday leave or pay in accordance with the number of hours regularly scheduled to work on the day the holiday is observed as a town holiday.~~

Sec. 54-592. Compensatory time off.

(a) ~~Subject to their supervisor's approval, nonexempt, non-sworn personnel who work more than 40 hours in a work period may elect to take compensatory time off in lieu of payment therefor.~~ Subject to their supervisor's approval, **eligible nonexempt sworn police officers employees** who work more than 80 hours in a **hours over their respective** work period may elect to take compensatory time off in lieu of payment therefor. Such compensatory time off will be earned on a time and one-half basis. The town reserves the right to pay overtime wages in lieu of compensatory time. Compensatory time earned should be used before annual leave. Supervisors may deny the request to use comp time if the use of compensatory time will disrupt the department's operations. ~~Supervisors can require an employee to take compensatory time off to manage the accrual limitation.~~

(b) ~~Exempt employees may earn compensatory time off on an hour for hour basis for authorized overtime work in accordance with the current administrative regulation. Exempt employees may be paid for accrued compensatory time up to the amount stated by administrative regulation. Once the threshold is met, any additional time worked will be unpaid.~~

(e)(b) All eligible employees can carry an accrued **a** compensatory time off balance of no more than 120 hours, in accordance with the administrative regulation that applies to leave. Effective January 1, 2019, compensatory time balances shall not exceed 120 hours at any point in a calendar year. Non-exempt employees who have reached the maximum balance of 120 hours, may not earn additional compensatory time and shall be paid overtime compensation in their regular pay check for overtime hours. For exempt employees, once the comp time threshold is met, any additional time will be unpaid. **in accordance with town administrative regulation.**

Sec. 54-60. Injury leave.

~~An employee who is injured while performing the duties of his or her position, and such injury is accepted as compensable under Virginia's Workers' Compensation Act, shall be granted injury leave in accordance with the workers compensation administrative regulation.~~

Sec. 54-61. Administrative leave.

(a) ~~The town manager may excuse employees from duty for short periods of time with pay and without charge to leave when the town manager determines it is in the best interest of the town. This leave may be limited to specific shifts, times, groups of employees or to an individual employee.~~

(b) ~~The chief of police may grant administrative leave to sworn personnel involved in an officer related shooting.~~

(c) ~~An immediate supervisor may grant administrative leave to employee to donate blood or platelets, not to exceed four hours.~~

(d) ~~Procedures are outlined by administrative regulation.~~

Sec. 54-62. Bereavement leave.

~~All regular town employees may be granted bereavement leave for a death in the immediate family. The maximum number of hours granted per occurrence for full-time employees shall be 40 for the death of employee's spouse, natural or adopted children or parents, and 24 hours for the death of the employee's brother, sister, grandparents, parents in law or other dependents residing in the household who qualify as a dependent for federal income tax purposes. Hours granted per occurrence shall be pro-rated for part-time employees according to the ratio that the number of hours designated to be worked bears to a full-time 40 hour workweek.~~

Sec. 54-63. Catastrophic leave.

~~All regular status full and part-time employees may participate in the catastrophic leave program. This leave provides for the voluntary transfer of annual leave benefits to an eligible co-worker who has suffered either a non-work-related catastrophic illness or injury or whose dependent family member has suffered a catastrophic illness or injury, which may result in the loss of income. This program is detailed by administrative regulation.~~

Sec. 54-64. Restricted leave.

~~An employee who has established a pattern of abuse of leave privileges, may be placed on restricted leave status by the department head for a period not to exceed six months. Restricted leave is not a disciplinary action and does not remove the employee's eligibility to use accrued leave benefits. Procedures are outlined by administrative regulation.~~

Sec. 54-53. Additional Leave.

~~The Town Manager may provide for additional leave through town administrative regulations.~~

Article VI. Benefits

~~Sec. 54-137. Credit union.~~

~~The town may participate with a credit union. Employees of the town are eligible to become members, subject to eligibility criteria of the credit union.~~

Sec. 54-1387. - Educational assistance.

Subject to conditions listed by administrative regulation, eligible employees may be reimbursed all or a portion of the cost of approved educational or training programs.

Sec. 54-1398. - Travel.

Employees required to travel or use personal conveyances on official businesses for the town may be reimbursed for such expenses as food, lodging and transportation incurred while on such official business of the town at rates set forth by administrative regulation.

Sec. 54-14039. - Employee assistance program.

The town will provide all regular status employees with an employee assistance program.

Sec. 54-1410. - Flexible benefit program.

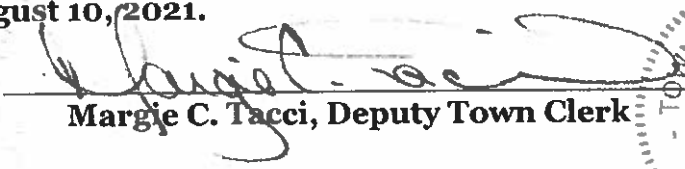
The town will provide a flexible benefit program and fund the administrative fee for premium conversion and spending accounts.

Sec. 54-1421. - Recreational benefits.

Recreational benefits of town facilities will be provided to employees in accordance with administrative regulation.

2. This ordinance shall be effective on and after the date of its adoption.

This is certified to be a true and accurate copy of Ordinance 21-O-19 adopted at a legally convened meeting of the Town Council of the Town of Herndon on August 10, 2021.


Margie C. Tacci, Deputy Town Clerk

