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HERNDON TOWN COUNCIL
Tuesday
January 11, 2022

The Town Council met in public session on Tuesday, January 11, 2022, 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 Signe Friedrichs; Sean M. Regan; and Jasbinder Singh. Councilmembers Naila Alam and Pradip Dhakal were absent.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Scott Robinson, Director of Public Works; Lisa Gilleran, Director of Community Development; Anne Curtis, Chief Communications Officer; Tammy Chastain, Deputy Director of Public Works; and Amanda M. Kertz, Chief Deputy Town Clerk.

PLEDGE & CALL TO ORDER

Mayor Olem called the meeting to order at 7:00 p.m., all members present, except for Councilmembers Alam and Dhakal who were absent, and 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. 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; 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.

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(public hearing)**

APPROVAL OF MINUTES

**Vote on September 14, 2021
Town Council Public Hearing Minutes**

On motion of Councilmember Friedrichs, seconded by Councilmember Regan, and carried by a 5-0 roll call vote, the minutes of the September 14, 2021, Town Council Public Hearing were approved. The vote was: Councilmembers Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmembers Alam and Dhakal were absent.

ANNOUNCEMENTS

Mayor Olem announced that the year started with a huge boom of snow, and she expressed her appreciation to the Department of Public Works (DPW) for their snow removal efforts and for picking up the trash/recycling and Christmas trees.

Mayor Olem stated she received an email from a concerned constituent regarding some monetary charges they thought a neighbor received. She sent the email to the Town Manager and copied the Herndon Police Department (HPD). As a follow up, HPD had contacted the constituent. Mayor Olem recognized Town Manager William H. Ashton II, to provide additional information.

Mr. Ashton stated the email referenced a \$300 charge from HPD for a stolen vehicle. This related to a stolen van that was found by the police and returned to the owner. According to the email, HPD charged \$300 to the vehicle owners' insurance company, who passed the fee to the owner. This rumor seemed to be running rampant in the neighborhood and during a police presentation at a school, another neighbor who heard about it asked the officer about the incident. The officer replied with a vague answer, that "this would offset fees for the police department."

Mr. Ashton assured the Council, the neighbors, and everybody in town that there was not and there never has been a fee to file a police report in the town. Individuals could file for a copy of a police report anytime, free of charge. He stated there would never be a fee for a victim of a stolen vehicle to obtain a police report. The town does not charge insurance companies for any fees regarding stolen vehicles, and the town does not have the ability to do that. He explained the charge would have come out of the Finance Department and then remitted to the Finance Department, and he emphasized that there was no process to do that.

Mr. Ashton stated that the town recovered the stolen vehicle and towed it back to the HPD at the town's expense. The town does this either if the police need to process it further than at the scene, or if the owner cannot be reached when the then town takes possession of the vehicle. All expenses are incurred by the town, and it is part of doing business in the town. Mr. Ashton did not want to speculate what occurred between the individual and their insurance company or with the towing company. He stated that is a

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private business matter between them. The town paid an invoice to the towing company, and he did not know about anything else that may have occurred.

Regarding the comments the police officer made at the school, Mr. Ashton stated that the Commander of Support Services at HPD reached out the individual who made the complaint to get a better understanding of what occurred. He stated the town took this very seriously and if this were a Herndon Police Officer, the town would make sure the officer adequately understood the process, so they can either refer people to the appropriate person or get them the right answer. It was suspected that the officer in question was a Fairfax County Police Officer. Mr. Ashton stated he was not sure if this were a county officer, but he would let the Council know.

Mr. Ashton summarized his comments, stating that the town does not charge for: taking a police report; victims of stolen vehicles to get copies of their police reports; insurance companies and does not have the means to do so; and he stated that the town incurs the charge of towing vehicles related to this type of activity.

Mayor Olem stated there have been many scams over the years, to include preying on the elderly, individuals that English is not their first language, and others. She asked for those watching to please contact her, anyone on Council, or the police, to make sure no one was taking advantage of them.

3. COMMENTS FROM THE TOWN MANAGER

Mayor Olem asked if Mr. Ashton had additional comments this evening.

Mr. Ashton expressed his appreciation to the DPW for their extraordinary work during two recent snowstorms. He noted that the town was one of the few jurisdictions that did not cancel refuse collection during the snowstorms, only delaying it for a few hours.

Mr. Ashton stated following last week's Town Council work session, staff heard the Council loudly regarding better communications relating to the snow removal in and around the town.

Mr. Ashton provided an update on COVID-19 exposures. He stated that currently, the town has 11 staff out this week, including some that came back last week, and he was waiting to hear back on a report of the returns. Staff was managing this the best they could as a normal part of business.

Questions from Council

Vice Mayor del Aguila asked the Town Manager if he could provide an update on the Comstock project. He stated the public had concerns about delays.

Mr. Ashton stated there was an odd news article from "Reston Now," which stated that the Comstock project was delayed until August. Allegedly, it came from a Comstock

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source; however, no one could trace the individual, no one knew where the date came from, and it was never discussed on either side. He stated the Comstock project was moving ahead and was intensely involved in the building permit process with the DPW; making some minor exterior modifications with Community Development; and were working closely with him and the Town Attorney in putting some trades out for rebid. Comstock was prepared to go to lending once the rebid was solidified. While Comstock may experience some typical supply chain delays, Mr. Ashton saw this moving ahead and stated that they were committed to the project.

Mr. Ashton stated that Comstock reached a major milestone when they submitted their stormwater management permit to the state, which would allow them to add stormwater management fencing and to start excavation work. He stated that Comstock was paying rent on one temporary parking lot, ArtSpace was going to be moved to 397 Herndon Parkway, and the significant milestones were happening.

Vice Mayor del Aguila inquired if there was anything that attributed to the delay from the town, town staff, or Council.

Responding to Vice Mayor del Aguila, Mr. Ashton said no, not to his knowledge, and that Comstock had not expressed that to him.

Vice Mayor del Aguila stated the rumor mill is running amok. He wanted to make sure that no one from staff, leadership, or Council, was responsible for any of the delays. He thought that it was clearly driven by their timing and choice on how they want to proceed.

Mr. Ashton replied to Vice Mayor del Aguila and stated that one of the milestones that took a little longer than anticipated was securing Fairfax County's involvement in the project. That had been slated to happen in the summer and it occurred in December.

Councilmember Singh inquired if Comstock were obligated to providing a construction schedule or a (inaudible), and if so, could Council review it.

Mr. Ashton responded to Councilmember Singh by stating that there was a draft schedule, which was a 22-month build from commencement to substantial completion. Once Comstock solidified the construction start times, they would update the schedule and it would be public information.

4. COMMENTS FROM THE TOWN COUNCIL

Vice Mayor del Aguila: Extended his congratulations to Councilmember Dhakal and his family on the birth of their new baby girl.

Vice Mayor del Aguila echoed expressing appreciation to DPW staff on their snow removal efforts. He thought that was the kind of response the town should have going forward, and he wanted to continue providing that level of service.

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Vice Mayor del Aguila wished everyone a Happy New Year and thought this would be a good year coming out of the COVID crisis. He shared that he got a booster shot and he recommended that everyone get one as well.

Councilmember Singh: Stated that since he was critical of snow removal at last week's work session, he wanted to express appreciation to DPW for doing a good job. When he awoke, was pleased to see that his street had been plowed.

Councilmember Regan: No comments.

Councilmember Friedrichs: Echoed her colleagues' appreciation to DPW and the updated communications from staff about snow removal. She stated that Council typically shared everything that came out of the town's public information office and that it was easy to do this time.

Councilmember Friedrichs also encouraged individuals to get their booster shots. She stated that her mother was in a nursing home that was currently locked down due to a rise in COVID cases. While it was believed that the omicron variant infection was somewhat milder, she stated it was very important because the disease still had a huge impact on everyone.

Mayor Olem: Stated that she understood how frustrating it was to still be wearing masks and that 2020 was a difficult year for many. The highlight for her in 2020 was that her youngest son got married to his longtime girlfriend.

In 2021, Mayor Olem stated that COVID was horrible for everyone and that she lost her mom. She ended the year with a happy note, with her oldest son getting married and she got to officiate the wedding. She shared additional personal comments about her family.

Mayor Olem stated the new 2022 town calendar was out and included the numbers for various departments and organizations that would be useful for residents. She asked residents to continue keep her updated about any issues going on in town.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Olem asked Amanda Kertz, Chief 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 she stated no comments or disclosures had been received disclosures from Council on any items listed on the agenda that evening.

5. COMMENTS FROM THE AUDIENCE

Mayor Olem reminded everyone in the audience that they could comment on any items that were not public hearings at this time. Individuals could comment on the public hearing items when they were called. Mayor Olem reviewed the process for speaking,

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stated this would be the appropriate time to comment on the Consent agenda, and listed those items.

In response to Mayor Olem listing the Consent agenda items, Ms. Yeatts clarified that the first item dealt with a Vivacity License.

The following members of the audience provided comments:

- Pat Voltmer 284 Missouri Avenue, Herndon: Requested that the Council tighten parking regulations throughout the town.
- Stevan Porter, 905 Vine Street, Herndon: Provided written comments about the upcoming FY 2023 budget, which are on file in the Town Clerk's office.

PUBLIC HEARINGS

6. **Ordinance 22-O-01, to approve and authorize the Mayor to sign a Sixth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC, to revise the premises description, approved equipment list, drawings, and monthly rent at the Town's 3rd Street Water Tower.**

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, December 24, 2021, and December 31, 2021, issues.

Mayor Olem recognized Tammy Chastain, Deputy Director of Public Works, who presented the staff report. Ms. Chastain stated this was a sixth lease amendment between the Town and T-Mobile Northeast LLC and would install an emergency generator at the Third Street Water Tank. She had forgotten to mention at last week's work session that staff had discussions with the town's engineering consultant, and it was determined there would be no more antennas added to this water tank. This would allow the cell carriers to continue with amendments as technology changes and they may need to change equipment; however, they could not add additional antennas. The proposed amendment would revise the premises description, approved equipment list, drawings, and monthly rent, which would increase by \$400, if the generator is approved.

Ms. Chastain stated that all equipment changes were subject to and must comply with zoning and building permit process. She reviewed the three additional steps that must occur before construction starts which could not be approved concurrently. Once the building permit was approved, staff would conduct a final zoning and Architectural Review Board compliance review to make sure it complies with everything approved prior. This would be followed by a pre-construction site visit.

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Ms. Chastain reached out to the applicant following last week's work session and relayed the Council's concerns. She stated the generator to be installed would be a 48-kilowatt diesel generator and the applicant would add it to their maintenance team for monthly testing. The testing normally takes 15 minutes during normal business hours between 9:00 a.m. and 5:00 p.m. There is an alarm that is not audible, and if there is a leak detected, the team nearby will come to the site. She mentioned that the applicant noted the generator's noise rating is 65 decibels, which is like a "normal talking level." She stated that the applicant does not have as much to maintain as the other carriers on the water tank; however, they do a regular inspection during normal business hours and try not to come out after-hours unless it is an emergency.

Ms. Chastain stated the applicant was not able to attend tonight's meeting but had submitted their comments for the record, which were provided to Council and are on file in the Town Clerk's office.

For further clarification, Ms. Chastain stated that when the applicant must access the water tank after hours, they contact HPD, who contacts the town's on-call person. Staff discusses the emergency work needed and provides access in a specified timeframe.

Staff recommended approval of the proposed ordinance, as presented.

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

Councilmember Singh asked if this was a different generator than the one that had broken.

Responding to Councilmember Singh, Ms. Chastain clarified that it was the Heating, Ventilation, and Air Conditioning (HVAC) unit for the enclosure that had broken not a generator.

Councilmember Singh provided personal comments about the consistency of generators and testing guidelines.

Mayor Olem provided brief comments about the applicant's letter and the decibel level of the generator.

Mayor Olem asked if there were any public comments on 22-O-01, and seeing none, Mayor Olem closed the public hearing and moved to Council level for discussion and action.

On motion of Councilmember Friedrichs, seconded by Councilmember Singh, and carried by a 5-0 roll call vote, Ordinance 22-O-01, authorizing the Mayor to sign a Sixth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC, to revise the premises description, approved equipment list, drawings, and monthly rent at the Town's 3rd Street Water Tower, was

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approved as presented. The vote was: Councilmembers Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmembers Alam and Dhakal were absent.

Ordinance 22-O-01, to approve and authorize the Mayor to sign a Sixth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC, to revise the premises description, approved equipment list, drawings, and monthly rent at the Town's 3rd Street Water Tower.

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

1. The Town Council approves this Sixth Amendment to Deed of Lease Agreement dated January 11, 2022. This instrument amends the original deed of lease dated September 1, 1994, as amended by the Revival and Extension of the Deed of Lease Agreement dated November 18, 1999, as amended by the Second Revival and Extension of the Deed of Lease Agreement dated March 15, 2005, as amended by the Third Revival and Extension of Deed of Lease Agreement dated July 28, 2014, as amended by the Fourth Amendment to Deed of Lease dated May 12, 2015, and as amended by the Fifth Amendment to Deed of Lease dated January 26, 2021.
2. This instrument updates the premises description, approved equipment list, drawings, and monthly rent.
3. This instrument approves revising the equipment list to the following: 4 Equipment Cabinets, up to 63" H x 34" W x 26" D, 1 Generator 103"L x 35"W x 90"H, 1 Generator Enclosure 13' x 13' x 3', 12 Antennas up to 96.5"H x 24"W x 9"D, 8 RRUs (Remote Radio Units) up to 17"H x 14"W x 11"D, 8 Coax and/or Fiber Hybrid Cables up to 1 5/8"D, 1 T-Mobile Meter up to 38"H x 13"W x 4.84"D, 1 T-Mobile Disconnect up to 45.5"H x 23"W x 7.5"D, 1 T-Mobile SPD up to 4.5"H x 7"W x 7.35"D, and 1 T-Mobile Panel Board up to 30"H x 21"W x 7"D.
4. Monthly rent shall be increased by \$400.00 to \$6,070.29 per month and shall escalate each year as provided in paragraph 2(a) of the Deed of Lease.
5. In all other respects the original lease remains in effect.
6. The Mayor is authorized to sign and deliver the lease amendment and any ancillary instruments necessary to evidence or effectuate the lease amendment, provided they are consistent with this ordinance and on such form approved by the Town Attorney.

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7. This ordinance shall be in effect on and after the date of its adoption.

[Note: Attached for reference is the Sixth Amendment to Deed of Lease Agreement dated January 11, 2022, b/n the Town and T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC.]

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SIXTH AMENDMENT TO DEED OF LEASE AGREEMENT

This Sixth Amendment to Deed of Lease Agreement ("Sixth Amendment") is dated this 11th day of January 2022, made by and between Town of Herndon ("Lessor") and T-Mobile Northeast LLC, a Delaware limited liability company, successor-in-interest to Omnipoint Communications CAP Operations, LLC ("Lessee").

WHEREAS, Lessor and Lessee entered into that certain Deed of Lease Agreement dated September 1, 1994, as amended by the Revival and Extension of Deed of Lease Agreement dated November 18, 1999, as amended by the Second Revival and Extension of Deed of Lease Agreement dated March 15, 2005, as amended by the Third Revival and Extension of Deed of Lease Agreement dated July 28, 2014, as amended by the Fourth Amendment to Deed of Lease Agreement dated May 12, 2015, as amended by the Fifth Amendment to Deed of Lease dated January 26, 2021 (collectively referred to herein as the "Lease"), whereby Lessor leased to Lessee a portion of the property and on the Water Tank located on the 3rd Street Water Tower located at 806 3rd Street, Herndon, Virginia 20170; and

WHEREAS, Town and Lessee hereby affirm that, as of the date hereof: (i) no breach or default by Town or Lessee has occurred; and (ii) the Lease, and all the terms, covenants, conditions, provisions and agreements thereof, except as expressly modified by this Sixth Amendment are in full force and effect, with no defenses or offsets thereto; and

WHEREAS, Town and Lessee desire to amend the Lease as follows: and

NOW THEREFORE, in consideration of the mutual covenants contained in the Lease and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Lessee hereby agree as follows:

1. All capitalized terms shall have the meaning ascribed to them in the Lease unless otherwise defined in this Sixth Amendment.
2. "Exhibit A dated November 17, 2020" is hereby deleted in its entirety and replaced with "Exhibit A dated January 11, 2022", "Exhibit B dated November 17, 2020" is hereby deleted in its entirety and replaced with "Exhibit B dated January 11, 2022", "Exhibit C, Pages 1-4, dated November 17, 2020" is hereby deleted in its entirety and replaced with "Exhibit C, Pages 1-4, dated January 11, 2022", all of which are attached hereto and incorporated herein.
3. Lessee shall have the right to modify its Equipment as described in "Exhibit C, Pages 1-4 dated January 11, 2022", attached hereto and incorporated herein. In consideration of the modification of the Equipment as shown in Exhibit C, Lessee shall pay the Town an additional Four Hundred Dollars (\$400.00) per month ("Additional Rent"). The new monthly rent shall be Six Thousand Seventy and 29/100 Dollars (\$6,070.29), commencing on the first day of the month following the date of this agreement, and shall escalate each year as provided in paragraph 2(a) of the Deed of Lease.
4. Except as specifically amended herein, the remaining terms of the Lease shall remain in full force and effect. To the extent any provision contained in this Sixth Amendment conflicts with the terms of the Lease, the terms and provisions of this Sixth Amendment shall prevail.

Site Number: 7WAC057A
Site Name: Herndon Water Tank
Market: Baltimore/Washington

7WAC057A_NLG-4405_AMD_Herndong Natonsl_BK 2021_514424_41562

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LESSOR

TOWN OF HERNDON



By: Phil C. Allen

Name: Sheila H. Allen

Title: Mayor

ATTEST

By: Margie C. Tucci

Name: Margie C. Tucci

Title: Acting Town Clerk

LESSEE

T-Mobile Northeast LLC

By: JAMES SIMON

Name: JAMES SIMON

Title: Director

APPROVED AS TO FORM

TMO Signature Level: Low

By: Lesa J. Yeatts

Name: Lesa J. Yeatts

Title: Town Attorney

Site Number: 7WAC057A
Site Name: Herndon Water Tank
Market: Baltimore/Washington

7WAC057A_NLG-4485_AMD_Hardening National_JIC 2021_11/14/2021_41562

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Exhibit A
January 11, 2022

The property lies in the Town of Herndon, Virginia and is described as follows:

1. 806 3rd Street Herndon, VA 20170
2. Fairfax County Tax Map Number 10-4-2-45A

The geodetic coordinates of the Property are as follows:

North Latitude: 38° 58' 50"

West Longitude 77° 22' 59"

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Exhibit B
January 11, 2022

The premises shall consist of the following:

1. Ground Space, consisting of approximately 441 square feet for placement of equipment cabinets, a back-up generator and associated concrete pad.
2. Space on the Tower sufficient to accommodate the placement, installation, operation and maintenance of the equipment (listed on Exhibit "C").
3. The Access easement.
4. The Utility Easements.
5. The premises are depicted on the attached drawings.

Nothing in this legal description shall convey to Lessee any rights in the Property other than what are specifically described in this Deed of Lease as to the Premises.

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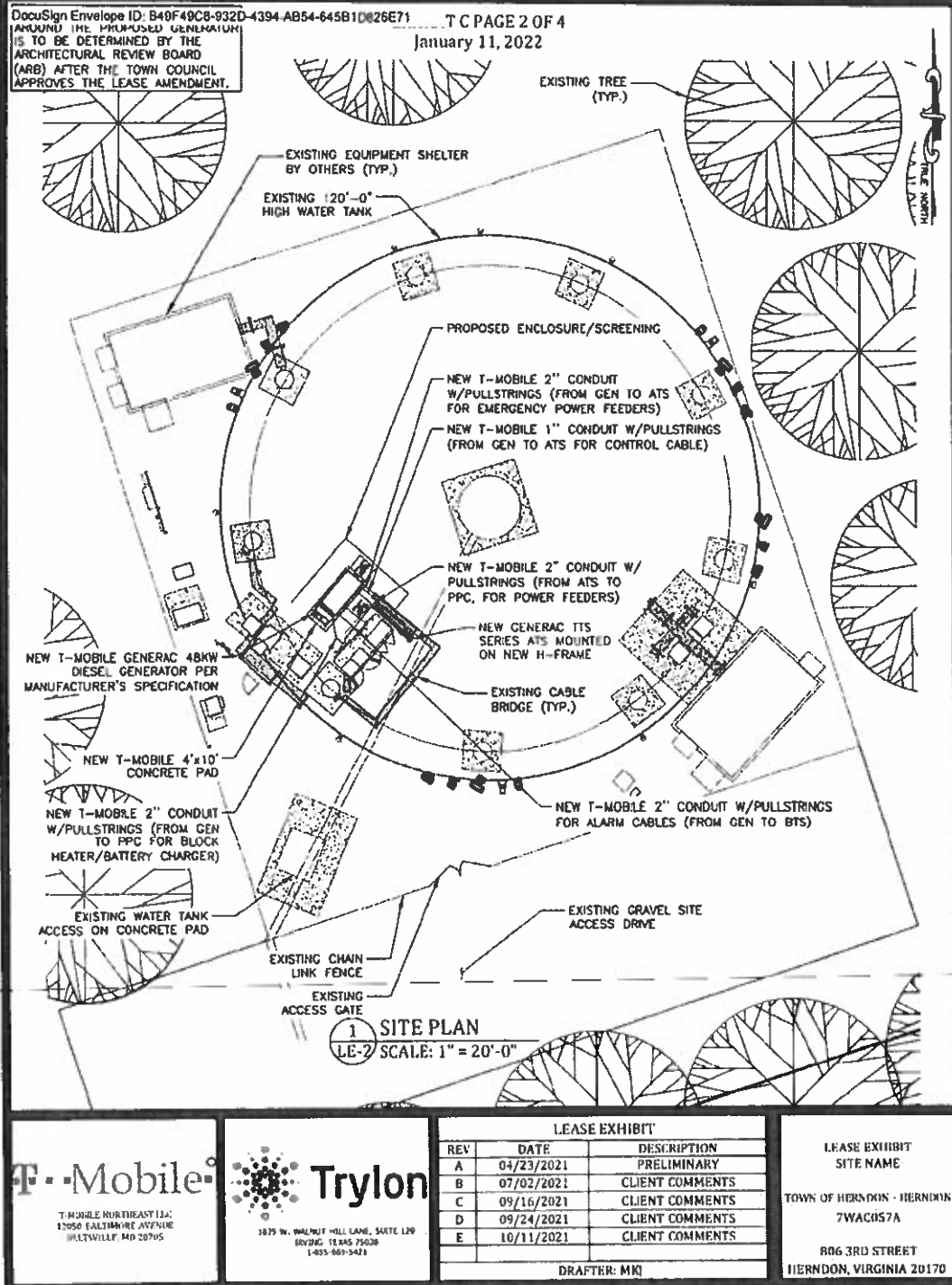
Exhibit C

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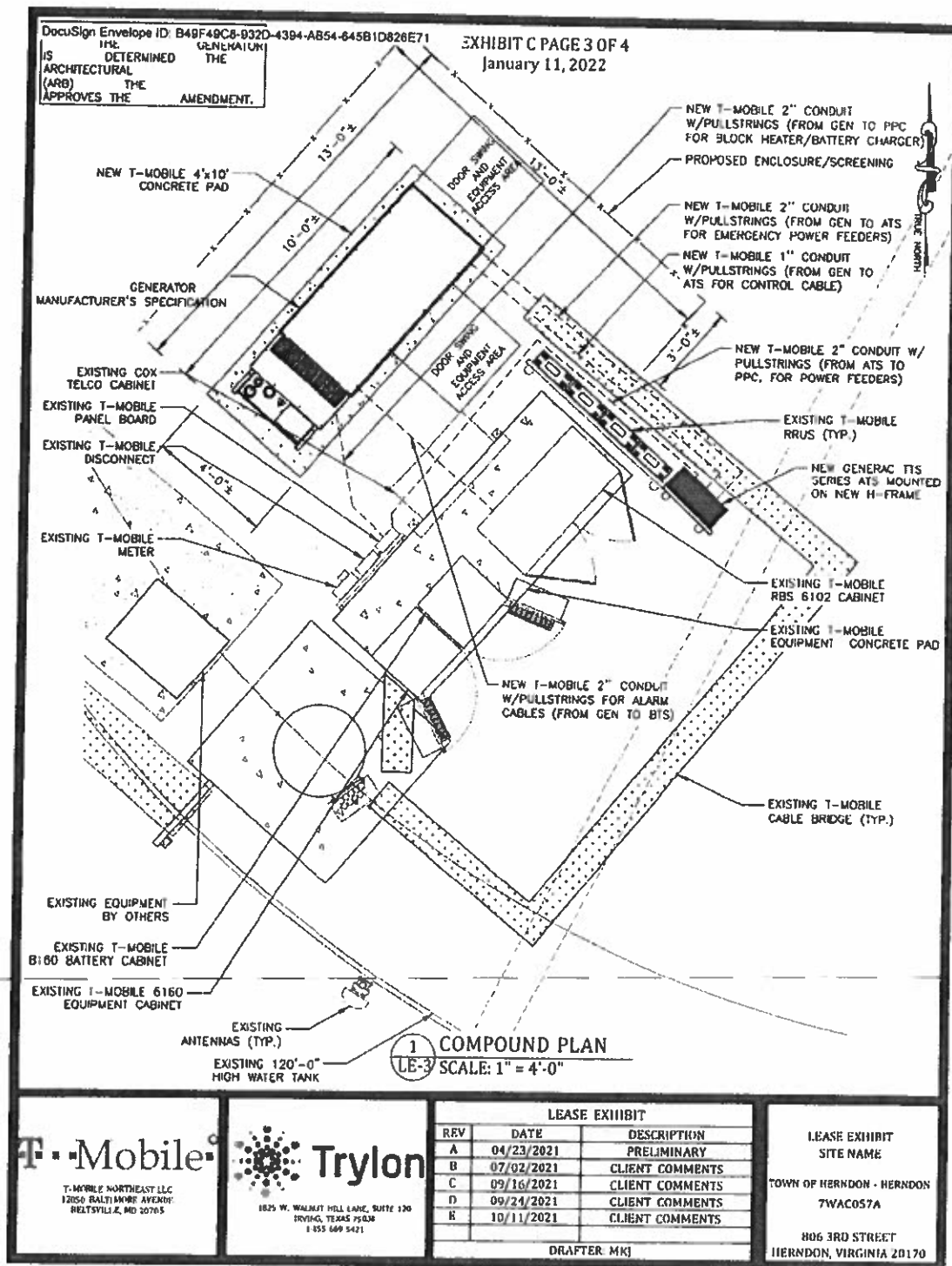
The following equipment together with any associated wires, cables, pipes, conduits and supporting structures associated with the equipment shall be located on the Third Street Water Tank or ground space as generally shown on the attached drawings.

<u>Quantity</u>	<u>Type</u>	<u>Approximate Size</u>
4	Equipment Cabinets	up to 63" H x 34" W x 26" D
1	Generator	103" L x 35" W x 90" H
1	Generator Enclosure	13' x 13' x 3'
12	Antennas	up to 96.5" H x 24" W x 9"
8	Remote Radio Units (RRU's)	up to 17" H x 14" W x 11" D
8	Coax and/or Fiber Hybrid Cables	up to 1-5/8" in Diameter
1	T-Mobile Meter	up to 38" H x 13" W x 4.84" D
1	T-Mobile Disconnect	up to 45.5" H x 23" W x 7.5" D
1	T-Mobile SPD	up to 4.5" H x 7" W x 7.35" D
1	T-Mobile Panel Board	up to 30" H x 21" W x 7" D

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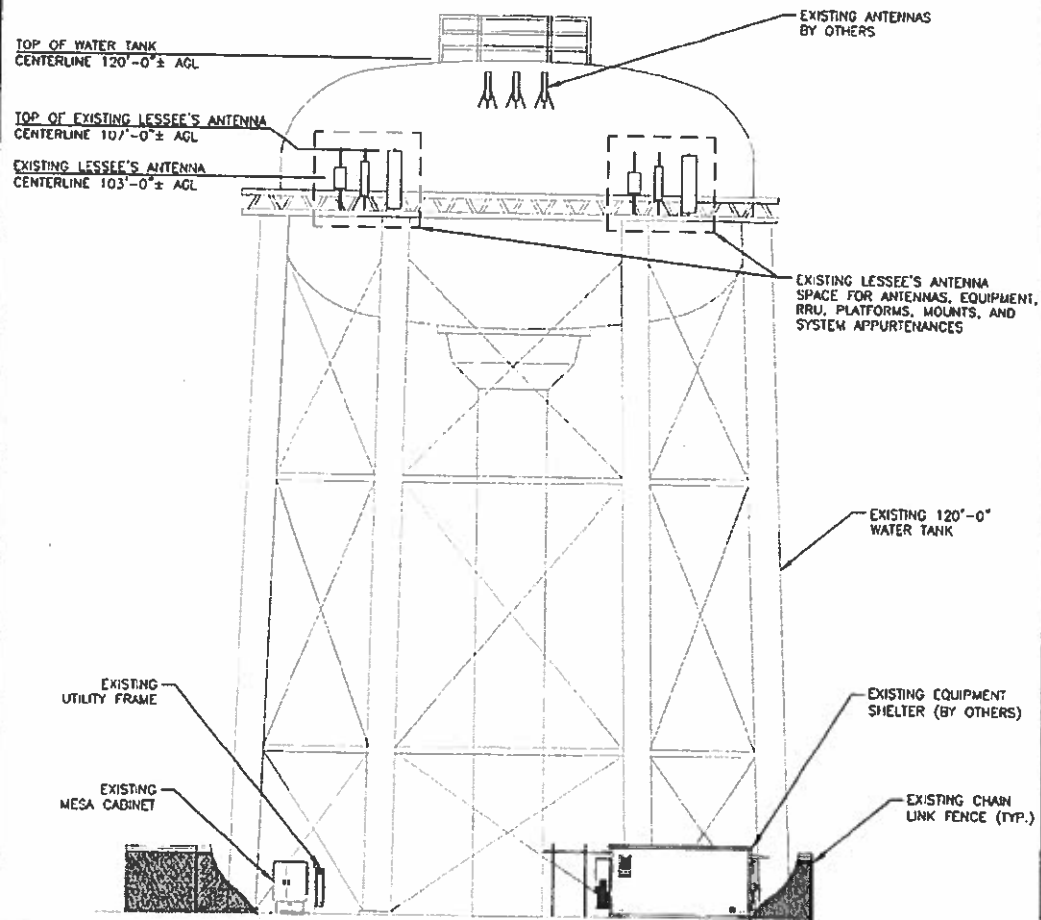
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AROUND THE PROPOSED GENERATION
IS TO BE DETERMINED BY THE
ARCHITECTURAL REVIEW BOARD
(ARB) AFTER THE TOWN COUNCIL
APPROVES THE LEASE AMENDMENT.

EXHIBIT C PAGE 4 OF 4
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1 ELEVATION VIEW
I.F. 4 SCALE: 1" = 20'-0"

T-Mobile
T-MOBILE NORTHEAST LLC
17050 BALTIMORE AVENUE
HERTSVILLE, MD 21705

Trylon
1825 W. WALNUT HILL LANE, SUITE 120
DRYDOL, TEXAS 75038
1-855-669-5421

LEASE EXHIBIT		
REV	DATE	DESCRIPTION
A	04/23/2021	PRELIMINARY
B	07/02/2021	CLIENT COMMENTS
C	09/16/2021	CLIENT COMMENTS
D	09/24/2021	CLIENT COMMENTS
E	10/11/2021	CLIENT COMMENTS

DRAFTER: MKJ

LEASE EXHIBIT
SITE NAME
TOWN OF HERNDON - HERNDON
7WAC057A
806 3RD STREET
HERNDON, VIRGINIA 20170

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7. **Ordinance 22-O-02, to amend and reenact Chapter 42 (MOTOR VEHICLES AND TRAFFIC), of the Code of Herndon, Article IV (Stopping, Standing, Parking), Division 4 (Residential Permit Parking), Section 42-223 (Designated Residential Parking Zones), to designate a new residential parking zone to be known as the "Madison Street Zone".**

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, December 24, 2021, and December 31, 2021, issues.

Mayor Olem recognized William H. Ashton II, Town Manager, to present the staff report. Mr. Ashton presented the staff report and PowerPoint, dated January 11, 2022, which are on file in the Town Clerk's office.

Mr. Ashton reviewed the Madison Street parking history. As he stated at last week's work session, the Residential Parking Permit Program (RPP) is inexact, but it is a tool in the toolbox. He stated the conditions existed for several years and staff has tried to solve some of issues before establishing an RPP. For example, staff added "No Parking" on the one side of the street to ease traffic flow in and out of the cul-de-sac, which would include refuse trucks and fire trucks; and restricting parking next to driveways. He stated the residents of Madison reviewed the Town Code and formally decided to request a RPP zone in their neighborhood.

Mr. Ashton outlined the following parking issues in the neighborhood:

- Inability and difficulty to obtain adequate curbside parking to the (neighborhood's) residences;
- Concern for rescue and fire emergency services to be able to navigate Madison Street and within the cul-de-sac;
- Inability and difficulty to obtain town services such as trash, recycle, snow, and leaf removal;
- Blocking of driveways and cars abandoned for weeks/months causing multiple calls to law enforcement;
- Illegal parking in no parking areas on Madison Street;
- Blocking of mailboxes preventing mail delivery;
- Trash, refuse dumped at the curbside; and

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- The need to preserve, protect, and promote the characteristics, peace, comfort, convenience, and welfare of the residents of Madison Street.

On November 15, 2021, the Town Manager's office received a petition from the Madison Street residents, which gave staff 60 days to conduct a formal study to bring forward for Council consideration. Pursuant to the Town Code, staff conducted a survey on the proposed zone. Staff determined that under current code, 14 legal spaces exist in the defined area. Staff observed that during evening hours, a time when the situation is at its worst, more than 65 percent of the available spaces are occupied. Further, neighbors confirmed that almost all of the occupied spaces were taken by vehicles not registered to the neighborhood.

Mr. Ashton stated that the study indicated that their request for the RPP was consistent with Town Code requirements. The ordinance would authorize the Town Manager to establish a residential parking permit zone for the legal spaces along the 400 block of Madison Street from 12:00 a.m. to 7:00 a.m. daily. Mr. Ashton further requested that the Council instruct staff to continue to monitor the area and expand the zone if the identified problems shift to another section of Madison Street or Madison Ridge Lane. Staff recommended approval of the proposed ordinance, as presented.

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

Responding to queries from Councilmember Singh about the number of homes that signed the petition, Mr. Ashton clarified it was all the homes who signed the petition and that the 65 percent pertains to the number of available spaces. Staff looked at an engineer drawing of the street to see how many parking spaces could be allowed legally on that street. He further explained if 65 percent were parked, they would then meet that requirement. However, in this case, it exceeded that requirement.

Councilmember Singh provided personal comments about the number of vehicles he saw parked on the street. He would like a better definition on the distance in and around the driveway that would constitute a violation throughout the town. He stated for him it was an enforcement issue and that signage should be posted not to park, whether resident or non-resident. He could see that was a safety issue and stated that the RPP is a good program; however, it needed to be reviewed for other elements.

Mr. Ashton stated that many of the parking issues have been brought to Council's attention over the last several months. Staff would bring forward some parking changes soon for Council's consideration. The proposed item was a stand-alone zone that would prohibit parking in this area unless you have a permit, and that the town's parking official would enforce it. This is like the Old Dranesville Hunt Club RPP that controlled high school parking in the neighborhood during the school's hours. He further stated there would be a softer enforcement process to warn individuals that the RPP is there and as time goes on, tickets would be issued that have to be paid.

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Councilmember Singh requested staff to notify the residents of the townhomes next to Madison Street that this was coming, and Mr. Ashton stated staff would notify the townhome neighborhood.

Vice Mayor del Aguila supported this item and stated it was a “minimal viable product” that addressed what is inevitably coming ~ that the parking issues were only going to get worse. He stated this was a good trial to see how it would unfold and he would like to see it in the upcoming budget, not as an enforcement piece, but on a larger scale. He assumed that this was larger than just this one neighborhood and he estimated that half the neighborhoods have parking issues. Vice Mayor del Aguila expressed his appreciation to the residents for bringing this forward and stated it was a good start. Vice Mayor del Aguila then asked the Town Manager for clarification on his ability to move a zone.

Responding to Vice Mayor del Aguila, Mr. Ashton stated when he initially inherited the RPP part of the code it was during the Old Dranesville Hunt Club parking issue with the students from Herndon High School. Staff worked with the community to put in the zone; however, at that time only the Council could establish the zone. He clarified that at that time, if the problem shifted, he would have to go through the petition process again and have the Council establish a zone. Staff then requested the Council to continue to establish the zone, but to provide staff the latitude to move it as it evolves, so staff could move the zone in weeks verses months and be more proactive rather than reactive. Mr. Ashton expressed his appreciation to all the neighbors from Madison Street.

Councilmember Friedrichs also echoed her appreciation to the residents. She asked if there was a function by which the town could have permit parking all over town, or if it could only be done in small neighborhoods.

Responding to Councilmember Friedrichs, Mr. Ashton stated that currently it is neighborhood by neighborhood. He stated that it was manageable in a smaller segmented way where the town could establish various zones. He explained that residents pay a \$25 administrative fee to get placards through the Finance Department. He agreed with Vice Mayor del Aguila’s comments about parking becoming an issue in neighborhoods, such as the Downs, when Metro opens. He hoped to solve the parking problems comprehensively from a safety perspective. He would work with the residents in other cases as well.

Councilmember Friedrichs had heard from residents in Hunters Creek about parking. She asked if that would be too large of an area and could they apply for an RPP.

Responding to Councilmember Friedrichs, Mr. Ashton stated it could be done, noting that Old Dranesville Hunt Club zone is about 75 percent (75-80 homes) in the zone.

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Mr. Ashton pointed out that under the ordinance, it was often difficult for neighborhoods to meet the 65 percent number. Staff has looked at other ways to get to that number, but they have not been able to do so. In Runnymede Manor, there is a long curb line in one side of the neighborhood, which is included in the available parking that staff must count when a zone is being set up. Regarding Madison Street, staff would continue to work with the neighborhood as the problems shift.

Mayor Olem inquired if Madison Street had a Homeowners Association (HOA) and if neighborhoods needed an HOA to get this program.

Responding to Mayor Olem, Mr. Ashton stated that while Madison Street did not have an HOA, having an HOA would make the RPP easier. When he was working with Old Dranesville Hunt Club, the President of their HOA did a lot of the heavy lifting and presented the information to him.

Mayor Olem asked if it would be a lot more work for staff to address parking problems street by street, or should the town look at overall parking ordinances.

Responding to Mayor Olem, Mr. Ashton stated that initially there would be more administrative overhead for town-wide parking enforcement. However, it would be less of a burden in the long term, as opposed to having various zones around town with individual characteristics.

Responding to Mayor Olem's concerns over emergency vehicle access, Mr. Ashton stated that he has certain powers to "no park" a street if citizens are complaining that an emergency vehicle cannot get through. He takes this power very seriously and likes to run it through a process that would include speaking to the town's traffic engineers and public safety experts to tell him whether this is appropriate or not. He asked those that were experiencing issues with getting emergency equipment through their street to contact staff.

Responding to queries from Councilmember Singh, Mr. Ashton stated the times in the proposed ordinance were requested by the residents, since those were the core hours where the overparking occurred.

Mayor Olem asked if there were any public comments on item 22-O-02, and the following members of the audience provided comments supporting the proposed ordinance:

- Dawn Ruffin, 402 Madison Street, Herndon;
- Cynthia Walk, 400 Madison Street, Herndon;
- Jaqueline Hayes, 404 Madison Street, Herndon; and

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- Stevan Porter, 905 Vine Street, Herndon, who provided written comments for the record that are on file in the Town Clerk's office.

Seeing no other comments, Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Councilmember Friedrichs moved to approve Ordinance 22-O-02, amending and reenacting Chapter 42 (MOTOR VEHICLES AND TRAFFIC), of the Code of Herndon, Article IV (Stopping, Standing, Parking), Division 4 (Residential Permit Parking), Section 42-223 (Designated Residential Parking Zones), to designate a new residential parking zone to be known as the "Madison Street Zone," as presented.

Vice Mayor del Aguila seconded the motion.

Councilmember Friedrichs was glad that the residents of Madison Street brought specific and actionable items to the Council. She stated the residents have articulated everything that the Council would need to know, and she could not imagine anyone not supporting this item. She extended her apologies for what the residents have been dealing with and hoped that the Council would approve this item.

Vice Mayor del Aguila thought that this issue began in 2006, which he said was too long to wait to address it. He apologized for previous Councils not addressing their issues and stated that this Council would address it. He said there was a bigger issue here and the Council must start somewhere. He stated this could part of the Town Council Strategic Planning Initiatives along with other traffic calming solutions. He fully supported this item and stated that Council could tweak it as it moves along.

Councilmember Regan stated there was a Town Council Strategic Initiative Planning item on this topic. He reminded Council and staff that at the December 2, 2021, Town Council Strategic Planning Initiatives Meeting, there was a map that showed areas that may be affected once Metro arrives. He had intended to share more information at the next Town Council Strategic Planning Initiatives Meeting in March. However, if the Council would like to move forward on this now at an upcoming work session, he would not have an issue. He stated he was not talking about the Madison Street item, but more broadly across the town.

Councilmember Singh expressed support for this item and stated this was a good example of issues that arise. However, if the Council wanted to do this all over the town, he has several reservations about it. He stated that many places are overbuilt and do not provide enough parking. He stated the livelihoods of those residents would be affected if the town does not do something to provide more parking spaces for these residents.

Mayor Olem also expressed support for this item. She stated Council should be more comprehensive and review what staff has provided in the two previous work sessions to address the parking issues, which are frustrating for the neighborhoods.

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The question was called on the motion, which carried by a 5-0 roll call vote. The vote was: Councilmembers Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmembers Alam and Dhakal were absent.

Ordinance 22-O-02, to amend and reenact Chapter 42 (MOTOR VEHICLES AND TRAFFIC), of the Code of Herndon, Article IV (Stopping, Standing, Parking), Division 4 (Residential Permit Parking), Section 42-223 (Designated Residential Parking Zones), to designate a new residential parking zone to be known as the "Madison Street Zone."

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

1. Chapter 42, Motor Vehicles and Traffic, Article IV, Stopping, Standing, Parking, Division 4, Residential Permit Parking of the Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Section 42-223. Designated Residential Permit Parking Zones

Madison Street Zone. Parking by permit only 12:00 a.m. to 7:00 a.m. Madison Street from its intersection with Madison Ridge Lane and continuing eastward to cul-de-sac where Madison Street ends.

Old Dranesville Hunt Club Zone. Parking by permit only 8:00 a.m. to 3:30 p.m. Monday through Friday on Huntsman Place from its intersection with Old Hunt Way to 715 Huntsman Place and Old Hunt Way from 735 Old Hunt Way to 669 Old Hunt Way and Crest Drive from its intersection with Old Hunt Way to Herndon Parkway.

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

CONSENT

8. **Resolution 22-G-01, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between Vivacity Networks, LLC and the Town of Herndon, Virginia in order to extend the expiration date to June 30, 2022; and**
9. **Resolution 22-G-02, to award Contract #B-22-05, Herndon Parkway Water Main Replacement Project.**

On motion of Councilmember Singh, seconded by Councilmember Friedrichs, the Consent Agenda items were approved by a 5-0 roll call vote, without comment. The vote was: Councilmembers Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmembers Alam and Dhakal were absent.

**January 11, 2022
(public hearing)**

Resolution 22-G-01, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between Vivacity Networks, LLC and the Town of Herndon, Virginia in order to extend the expiration date to June 30, 2022.

WHEREAS, the parties entered into a License Agreement dated June 30, 2019, as amended by the First Amendment dated December 10, 2019, for the use of designated public property and public right-of-way; and

WHEREAS, the License Agreement would have expired on December 31, 2021; and

WHEREAS, Town and Vivacity desired to extend the term of the Agreement to expire on June 30, 2022; and

WHEREAS, the Extension of License was signed by the Town Manager pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Extension of License dated December 15, 2021 signed by the Town Manager between Vivacity Networks, LLC and the Town of Herndon, Virginia in order to extend the license expiration date to June 30, 2022.

[Note: Attached for reference is the Extension of License dated December 15, 2021, b/n the Town and Vivacity Networks, LLC.]

**January 11, 2022
(public hearing)**

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated December 15, 2021, hereby extends the December 31, 2021 termination date of the existing License between the Town of Herndon, a Virginia municipal corporation (Town) and Vivacity Networks, LLC, a Delaware limited liability company, the successor to Vivacity DC, Inc. ("Vivacity") a Delaware corporation, dated June 30, 2019, as amended by the First Amendment dated December 10, 2019 for equipment and facilities (the License) for a period of 6 months (the Extension).

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

1. The License is incorporated by reference.
2. Unless otherwise agreed in writing by the parties Vivacity shall remove all its equipment and facilities at the termination of this license.
3. The License shall terminate on **June 30, 2022**.
4. In all other respects, the License is confirmed.

**January 11, 2022
(public hearing)**

VIVACITY NETWORKS, LLC

By: Sarah L. Murphy
Authorized Representative
Name: Sarah L. Murphy
Title: Chief Financial Officer

TOWN OF HERNDON, VIRGINIA

William H. Ashton II

William H. Ashton II
Town Manager

APPROVED AS TO FORM:

Lesa J. Yeatts

Lesa J. Yeatts
Town Attorney

**January 11, 2022
(public hearing)**

Resolution 22-G-02, to award Contract #B-22-05, Herndon Parkway Water Main Replacement Project.

WHEREAS, the Herndon Parkway Water Main Replacement Project is in the Capital Improvement Program; and

WHEREAS, Contract #B-22-05, Herndon Parkway Water Main Replacement Project, was advertised on October 28, 2021; and

WHEREAS, the following bids were received and opened on November 23, 2021:

<u>Contractor</u>	<u>Bid</u>
Franco's Liberty Bridge, Inc.	\$ 298,945.00
A&M Concrete Corporation	\$ 467,825.00
Anchor Construction	\$ 520,560.00
Sagres Construction Corporation	\$ 743,000.00
Fort Meyer Construction Corporation	\$ 874,500.00
Old Line Construction, Inc.	\$ 1,461,520.00
RP Group LLC	\$ 1,840,000.00; and

WHEREAS, Franco's Liberty Bridge, Inc. 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 \$29,895, which is approximately 10 percent of the bid, be authorized; and

WHEREAS, funds to support this contract are available in the Capital Projects Account 002-08-88-000-480020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-22-05, Herndon Parkway Water Main Replacement Project, to Franco's Liberty Bridge, Inc., in the amount of \$298,945.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes a contingency of \$29,895.

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.

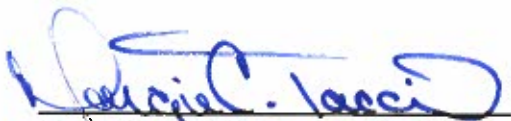
**January 11, 2022
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ADJOURNMENT

Councilmember Friedrichs moved to adjourn the meeting of the January 11, 2022, public hearing at 8:23 p.m., and Councilmember Singh seconded the motion. The question was called on the motion which carried by a 5-0 roll call vote. The vote was: Councilmembers Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmembers Alam and Dhakal were absent.



**Sheila A. Olem
Mayor**



**Margie C. Tacci
Deputy Town Clerk**



Minutes approved by Town Council: April 26, 2022.

**January 11, 2022
(public hearing)**

NOTE:

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