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**HERNDON TOWN COUNCIL
Work Session
Tuesday, January 18, 2022**

At a regular meeting of the Town Council of the Town of Herndon, Virginia, held in the Herndon Police Department Community Room, 397 Herndon Parkway, Herndon, Virginia, on Tuesday, January 18, at 7:00 p.m., there were present:

- Mayor Sheila A. Olem, presiding;
- Vice Mayor Cesar del Aguila;
- Councilmember Signe Friedrichs; and
- Councilmember Sean M. Regan (arrived at 7:03 p.m.); and
- Councilmember 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; Chief of Police, Maggie DeBoard; Robert Tang, Director of Finance; Elizabeth Gilleran, Director of Community Development; Scott Robinson, Director of Public Works; Cindy Roeder, Director of Parks and Recreation; John Irish, Deputy Director of Community Development; David Stromberg, Zoning Administrator; Mark Duceman, Transportation Program Manager; Richard Smith, Senior Civil Engineer; Ahmad Zaki, Lead Planner, Captain Steve Pihonak; Howard Scott, Parking Enforcement Official; Maria Lee, Budget Manager; Dave Bracamonte, IT Operations Manager and Margie Tacci, Town Clerk.

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CALL TO ORDER

1. Roll Call & Determination of Quorum

Mayor Olem called the public hearing to order at 7:00 p.m. and asked the Deputy Town Clerk to call the roll for attendance. She asked each member of Council to indicate they were present. Following the roll call for attendance, Mayor Olem confirmed there was a quorum present, with Councilmembers Alam and Dhakal being absent and Councilmember Regan had not yet arrived.

Mayor Olem asked Council 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.

AMEND THE AGENDA

Mayor Olem stated that Councilmember Dhakal was absent this evening and the item on the discussion portion of the agenda was a matter that he brought forward. With the concurrence of Council, the discussion item was removed from that night's agenda, and the agenda was so amended.

ANNOUNCEMENTS

Mayor Olem offered a huge thank you to the Department of Public Works (DPW) for their efforts during several recent winter storms. She stated that information on snow removal operations was posted on the town's website, and she suggested that residents follow the town's Facebook page for updates.

Mayor Olem stated that the collection of yard waste and special collections, aside from those that were already scheduled, had been temporarily suspended due to staffing shortages on the DPW crews. This information was also posted on the town's website.

COMMENTS & DISCLOSURES

Mayor Olem asked the Deputy Town Clerk if there were any comments or disclosures for the record that evening. The Deputy Clerk stated that comments were provided to council and entered into the record on item #2, proposed

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Ordinance 22-O-03 to amend and reenact Chapter 42, with regard to parking on town streets and towing. The Clerk did not receive disclosures from Council on any item listed on the agenda that evening.

PUBLIC HEARINGS

2. Ordinance 22-O-03, to amend and reenact Chapter 42 (MOTOR VEHICLES AND TRAFFIC), Article I (Definitions), Article IV (Stopping, Standing, Parking), and Article V (Vehicles), with regard to parking on town streets and towing.

Mayor Olem recognized the Chief of Police, who presented the staff report and PowerPoint presentation dated January 18, which are on file in the Town Clerk's office. Parking issues were previously discussed over the last several months with the Town Council. With the Chief of Police that evening was the town's Parking Enforcement Official. He would be able to answer any daily operational questions. She stated that in her absence next week, Captain Pihonak would be continuing the discussion at the public hearing.

The Chief of Police outlined the timeline on the parking issues and how the police department has been addressing them. The town's first Parking Enforcement Official, Chuck Foster, noticed the disparities all around the town and how the issues and complaints had continued to increase during his time with the town.

The Chief of Police stated it became apparent around the same time that many provisions of the parking code needed to be updated to address now significant disparities between the town and the two adjoining counties. This resulted in a significant number of long-term parking issues, abandoned vehicles, and commercial vehicles being parked on our streets that were illegal in the neighboring jurisdictions.

Both Fairfax and Loudoun County have placed restrictions on the type of vehicle that could park in residential areas and on public streets, and they have identified specific locations where vehicles were restricted from parking. In addition, the lack of town code language effectively addressing abandoned and inoperable vehicles; oversized commercial vehicles in residential areas; motor homes, trailers, and recreational vehicles; parking a sufficient distance from private driveways/mailboxes; and blocking curb ramps, have created unsafe conditions for both drivers and pedestrians.

The proposed amendments in the draft ordinance would address the parking issues identified by staff and as discussed with Town Council, along with addressing other necessary housekeeping amendments in Chapter 42.

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The following recommended amendments would make the town's parking code more consistent with both Fairfax and Loudoun County. This would address safety issues and help prevent residents and non-residents from using the town's public streets to park vehicles here that were illegal to park elsewhere:

- 42.1(b) Amends and clarifies the definition of a commercial vehicle and defines a utility trailer [includes the height, weight and length of the vehicle, including trailers];
- 42-152(b) Prohibits parking in front of or within 10 feet of a driveway;
- 42-152(b) Prohibits parking so as to prevent the use of curb ramps;
- 42-160 Adds and prohibits the parking of recreational vehicles in residential zones; and
- Article V. Amendments address the definition of an abandoned or inoperable motor vehicle, procedures for removal, and payment of fines.

The Chief of Police recognized the Town Attorney for comments.

The Town Attorney stated she did not have anything further to add unless individuals have specific questions on the proposed amendments. These amendments were meant to be consistent with the state code in terms of definitions and specific terms that are used therein

Staff recommends approval of the proposed ordinance, as presented.

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

Councilmember Singh expressed concern over how residents would be affected by this ordinance. He agreed that it was a good idea to get rid of some of the offenses/violations and that were addressed that night. He was interested in what would be the effect in public parking in certain neighborhoods. He questioned how many spaces would be removed and would residents stay in their neighborhoods. Councilmember Singh stated he observed an issue on Third Street and Cavalier Street. He stated that first, the Town Council needed to get a feel for the problem and the cost. The second issue was the work trucks and how he thought the town should create more spaces for them in the neighborhoods.

Councilmember Singh indicated that he would bring the Town Manager two cases where the town could create extra spaces in those neighborhoods. This would allow work trucks to park in an area without the worry of getting towed. He feels that the issues he brought up have not been addressed.

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Responding to Councilmember Singh, the Chief of Police thought that it would solve some of the major issues if the area were cleaned up of commercial vehicles. The impact of that is yet to be seen; however, this would significantly help in some of the neighborhoods. She stated many of the commercial vehicles have Maryland and D.C. license plates. Because the town does not have restrictions, the individuals who own commercial vehicles know this and park on town streets. She stated it was the Council's decision on how to proceed, but the police department receives numerous complaints on a daily basis from residents of the neighborhoods that are affected by this.

Vice Mayor del Aguila stated he believed it was asked last year when the issue was brought forth about the impact be of going to five feet versus 10 feet from the driveway in certain neighborhoods. He indicated that he has not heard that explanation. He suggested to certainly apply some of these requirements and do the updates; but consider the impact and the Town Council could address it when they had more time.

The Town Manager addressed Vice Mayor del Aguila's comment and asked what neighborhoods he would like to see. Vice Mayor del Aguila stated the Town Manager knows the neighborhoods better than him.

The Town Manager stated when staff was trying to get their heads wrapped around the issue it came down to which neighborhoods. The staff could cherry pick them, but he asked which ones, as there were 3,042 single-family homes in the town.

Vice Mayor del Aguila stated he would provide him neighborhoods. He asked them to look at Precinct two – Herndon two, which was a dense area. He suggested starting with the cul-de-sacs and then going on from there. He thought there had been enough concern by several councilmembers (some are not here), on the impact of the neighborhoods.

Councilmember Regan asked what happens to oversized commercial vehicles in residential verses nonresidential areas and where in town were the nonresidential areas.

The Chief of Police responded to Councilmember Regan and stated her understanding was that any street that adjoins a residential area, has access to a residential area is a residential area. She asked the Town Attorney for clarification.

Regarding residential areas, the Town Attorney stated it was defined in the code section in the zoning ordinance. It includes multi-use neighborhoods, and a lot of the zoning downtown would be considered residential, because it has a multi-

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family/residential as part of it. She looked to the Zoning Administrator or the Director of Community Development for further explanation and stated that there were very few purely commercial areas in the town.

Mayor Olem stated her questions were based on comments from citizens. She asked why the town had not passed an ordinance like Fairfax and Loudoun County. She asked if the town currently allowed recreational vehicles in either the driveway or on street parking except for maintenance of the vehicle. She also asked about the weight limit. For example, she asked about a trailer that is attached to a vehicle with or without tags.

The Chief of Police responded to Mayor Olem and stated the town's ordinance would be similar to the counties, with the exception of the recreational vehicles where they can park for 72 hours. For commercial vehicles, the language was identical and there were the same restrictions such as the driveways and the curb ramps.

The Town Attorney asked Mayor Olem if she was asking currently or as amended. Mayor Olem stated currently.

The Chief of Police stated currently, there was no restriction on recreational vehicles other than the 72 hours for maintenance. The new proposed definition will include all recreational vehicles, boats, trailers exceed the size. This needed to be clear, in that those vehicles would not be allowed to park there any longer. The trailer attached to a vehicle was also being addressed in the code.

There was brief discussion between Mayor Olem and the Chief of Police.

Councilmember Singh would like to see the ordinance evaluated in one or more neighborhoods, and then see what happens and what the issues are in the neighborhood. He stated that staff could pick the neighborhoods at random.

Responding to Councilmember Singh's request, the Chief of Police stated that she would defer to the Town Attorney; however, that could not be done. Once an ordinance is passed it applies to all neighborhoods and no one is excluded.

Responding to the discussion, the Town Attorney stated that our constitution allows equal protection of the laws for all citizens, and that would be a violation of that.

Councilmember Singh stated that he had not asked the right question. He was asking that a study be done before it was considered. Similar to how the staff showed the vehicles that were in violation in the presentation, his suggestion could also be done with a study.

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Mayor Olem thanked Councilmember Singh and stated that the Town Council would hear from the public next week. She stated at next week's public hearing the Council could decide to approve or to deny this ordinance. She had been hearing a lot of interest to get this done.

There was a brief exchange between Mayor Olem, Councilmember Singh, and Vice Mayor del Aguila about moving onto the next item.

Councilmember Singh asked if he could continue with another question, and Mayor Olem said they were moving to the next item.

Vice Mayor del Aguila called a Point of Order, and he stated that Councilmember Singh did not get to ask his second question.

Mayor Olem declined the Vice Mayor de Aguila's request for Point of Order. She stated that Councilmember Singh did not ask a question.

Vice Mayor del Aguila stated that he did not get a chance to speak, and Councilmember Singh stated that neither did Mayor Olem, who he said, "made statements after statements."

Mayor Olem thanked Councilmember Singh and tried to move on to the next item.

Vice Mayor del Aguila asked if he could ask one question, and Mayor Olem stated that he already made his statements.

Vice Mayor del Aguila stated that "Councilmember Singh got a chance to do two rounds, so I think it's fair. If you're going to discriminate, just say you want to discriminate, and not let me ask a question too."

Mayor Olem stated that "no one's discriminating."

Vice Mayor del Aguila again asked if he could ask a question.

Mayor Olem said that Vice Mayor del Aguila could bring up his question at the end of the meeting.

3. Resolution 22-G-03, to consider Special Exception application SE #21-03, 1315 and 1317 Monroe Street, to allow the placement of fill in order to construct two new single-family dwellings on two existing single-family lots within the FPO, Floodplain Overlay District.

Mayor Olem recognized the Zoning Administrator, who presented the staff report and PowerPoint dated January 18, 2022, which are on file in the Town Clerk's office. He stated the applicant is proposing to demolish the existing home at

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1317 Monroe Street and then use fill to regrade the front of each lot to construct two new single-family dwellings, one on each lot. The proposed grading and placement of fill on the front of the two lots would create building pads that were located outside of the floodplain. The rear portions of the lots, closer to Folly Lick Branch, will not be altered.

The Zoning Administrator reviewed the location, size, and existing conditions of the lots, which have existed in the town since at least 1960 ~ predating the establishment of the first flood map in 1979. The Special Flood Hazard Area runs across both properties and a portion of the existing house.

The Zoning Administrator discussed the application, as proposed and with conditions recommended by staff, which would not adversely impact adjacent properties per the review by qualified professional engineers. After construction and prior to occupancy, as-built plans must be reviewed by the town and FEMA.

Staff recommends approval of the proposed resolution of Special Exception, SE #21-03 in accordance with Alternative #2, provided in the agenda and with the staff report.

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

There was a brief question and answer session between Councilmember Singh and the Zoning Administrator. Councilmember Singh indicated he had another question but would send it separately by email to the Zoning Administrator.

There was a brief question and answer session between Councilmember Friedrichs and the Zoning Administrator.

Vice Mayor del Aguila asked Mayor Olem to be consistent, stating that if she allows two rounds of questions, she should provide that to everyone.

In response to queries from Mayor Olem about the Planning Commission's vote and public comment received, the Zoning Administrator stated that the votes were four 'ayes,' one 'no,' and one 'present.' There was one individual that spoke who requested additional information, and both the applicant's agent and town's engineer spoke on how the floodplains work. He stated that a citizen provided written comments opposing the special exception.

There was a brief question and answer session between Councilmember Singh and the Zoning Administrator.

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GENERAL

4. Resolution 22-G-04, to provide to the Town Manager, Town Council Guidance on the FY 2023 Budget.

Mayor Olem recognized the Director of Finance, who presented the staff report dated January 18, 2022, which is on file in the Town Clerk's office. He stated this resolution provides budget guidance parameters, as decided upon by the Town Council, to guide staff in their preparation of the FY 2023 Budget. It represents the starting point for the annual budget process.

The Director of Finance provided an outline of the proposed resolution by the Council's direction:

- Preparing a balanced annual budget at current revenues using the current tax rates.
- Preparing a balanced annual budget that addresses the rising costs associated with maintaining competitive workforce, rising fuel cost, continuing funding for the town-wide service delivery and capital projects along with the additional revenue appropriations needed to meet them.
- Include in both options: Market-driven compensation analysis and retention forecast and Cost containment and cost redirection measures.
- Continuing forward looking budget preparation in anticipation of future impacts associated with the ongoing pandemic, supply chain challenges, and downtown redevelopment project.
- Emphasizing the funding of life cycle maintenance that provides a comprehensive assessment of the town's overall exposure along with the revenue stream needed to properly maintain town assets.

The Director of Finance provided a general overview of the proposed budget timeline.

Staff recommends approval of the proposed resolution.

Vice Mayor del Aguila stated he did not see that the proposed resolution was in line with the Town Council's Strategic Planning Initiatives Meeting. He stated his reason for asking is would that not have an impact on some of the line items.

The Director of Finance responded to Vice Mayor del Aguila and stated it could potentially have an impact; however, the strategic initiatives can be brought up during the Town Council's individual meetings with the Town Manager.

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Vice Mayor del Aguila asked when the next Strategic Planning Initiatives Meeting is.

The Town Manager responded to Vice Mayor del Aguila and stated staff is hoping to have next Strategic Planning Initiatives Meeting in March and is currently working on getting facilitators.

Vice Mayor del Aguila asked if we need facilitators, and the Town Manager stated in the affirmative.

Vice Mayor del Aguila stated they needed to hold a Strategic Planning Initiatives Meeting in March. Otherwise, he thought they would run the risk of not funding the Council's incentives. The Town Manager responded to Vice Mayor del Aguila and stated not necessarily.

Vice Mayor del Aguila again asked when the next Strategic Planning Initiatives Meeting would be, if that would that give the Council enough time to identify the items the Council wants to fund for this coming year.

The Director of Finance stated in the past, staff has budgeted certain line items specifically for the Town Council's strategic initiatives. He stated staff could put a set amount specifically for the initiatives. Once the Council agreed on the strategic initiatives, then the funding would already be allocated there.

Vice Mayor del Aguila asked what the line number was looking like, and the Town Manager responded that the amount was in the red at approximately \$3.8 million.

Vice Mayor del Aguila stated the Town Council's strategic initiatives would add to that number, and the Town Manager answered in the affirmative. However, he stated at this stage he was not worried about the \$3.8 million being in the red.

The Director of Finance stated to move forward with the budget process, the resolution would need to be adopted with the guidance.

Vice Mayor del Aguila stated he supports the resolution; his question and concern was the sequencing and the timing if the Strategic Planning Initiatives Meeting is not held in March.

The Town Manager reiterated to Vice Mayor del Aguila that staff was having an issue in identifying a facilitator. He clarified that staff is trying to get a facilitator that would be acceptable to the Town Council.

Vice Mayor del Aguila stated any facilitator at this point would be better than not having one going into the meeting.

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The Town Manager stated there have been facilitators in the past, which several members of Council had experienced, that had not been particularly good. He did not want that happening again.

Vice Mayor del Aguila stated this was a different Council and that it was to hold a Strategic Planning Initiatives Meeting. He stated going into that meeting without a facilitator was less desirable; however, not have a meeting in March was not optional.

Councilmember Singh stated there was nothing to say that they could not have the Strategic Planning Initiatives Meeting at the end of February with or without a facilitator.

Councilmember Friedrichs stated that in prior year, there had been a danger that the budget was not going to get passed on a specific date, and there had been a great deal of outcry. She asked for clarification May 10 or April 26 was the last day the Council could adopt the budget. She wanted to know if there was a cutoff date that the Council needed to be aware of in advance.

In response to Councilmember Friedrichs, the Director of Finance stated the last day was June 30.

The Town Manager added there is the legal aspect that must be observed. By the law, the budget must be adopted by the end of June. He stated there are only two sets of meetings in the month of June. Practically, staff has to be ready to load the budget, make it operational, and it should be adopted by the first weeks in June. There was an issue of concern if there is major impasse on the Town Council that cannot get the tax rates adopted. Because there has to be a super majority to pass the real estate tax rate and the other tax rates, if there was an impasse, they could not appropriate the other revenues in order. If the town gets to that point and the budget is not going to be adopted by June, then they were slipping into uncharted territory. If that were to happen, the town does not have the legal authority for payroll or anything else.

The Town Manager stated that if everyone is on board and it has been a collaborative effort then June would be fine; however, he did not want to be fearful that 265 employees would not get paid.

Councilmember Friedrichs recalled one year the budget had to be taken to a meeting in New York, of which she had not been aware. She wanted to make sure the Town Council was aware of anything that might come up.

The Town Manager responded to Councilmember Friedrichs and stated that year there was a bond review and as of right now, he was unaware of any bond reviews this year.

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Councilmember Regan stated the budget timeline was helpful to him, and he requested staff to provide a one-or-two-page handout that showed the annual cycle of everything the Town Council does. This would include the non-profit grant applications in November or December. He thought that format would be beneficial to him and others.

Mayor Olem reminded the Town Council to be on the lookout for an email from the Town Manager's office in the next couple of weeks for their upcoming budget meeting with him.

The Town Manager stated the Executive Assistant Judy Fry would be contacting the Town Council for their appointments.

5. **Resolution 22-G-05, to Award a Contract for Planning, Architectural and Engineering Services for the planning of the Transit-Related Small Area Plan, RFP #22-05.**

The Town Manager introduced Ahmad Zaki; the town's new Long Range Planner. He joined the town last summer he has served as a consultant for Sasaki and Associates as well as other governmental positions regarding Urban Affairs and Development in Afghanistan. Prior to that he was an assistant associate professor at Kabul University, College of Architecture and Engineering.

The Lead Planner presented the staff report dated January 18, 2022, which is on file in the Town Clerk's office. He outlined the Transit Related Growth Small Area (TRG), which was comprised of approximately 94 acres extending along the northside of the Herndon Parkway from Van Buren Street to Spring Street and on the southeast side of the Herndon Parkway. The planning effort for the TRG was part of the Metrorail Station Area Plan and incorporated into the 2030 Comprehensive Plan. The town's comprehensive plan classifies the TRG plan area as Regional Corridor Mixed-Use, but the existing zoning is limited to non-residential uses with a maximum by-right FAR of 0.4 to 0.7 with additional density potential through legislative action in some cases.

To develop a small area plan reflecting the vision of the comprehensive plan, the town solicited proposals to assist with the development of a small area plan. The request for proposals (RFP) #22-05 was issued on October 12, 2021, with a deadline of November 12, 2021. The RFP elaborated on all the required steps and phases to plan redevelopment of the TRG into a new mixed-use and vibrant center. The required budget for the contract implementation was provided by certain owners of properties located in the TRG, based on a funding agreement between the town and the owners, for an amount up to \$500,000.

The RFP solicited services for an initial 18-month contract period with an option of four one-year mutual optional renewals. The Lead Planner stated that eleven proposals were received on November 12, 2021, and all were deemed responsive.

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Staff recommends awarding the contract to Skidmore, Owings & Merrill, LLP (SOM) in the amount of \$466,250, and any customary reimbursables for the solicited services. Staff recommends approval of the proposed resolution.

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

Councilmember Singh asked if there was any background information on the RFP that could be provided to the Town Council that showed specifically what the tasks are and how they are to be achieved. He would like to comment on those tasks even if it has been awarded. He asked the Town Manager if he had discussed the RFP with him directly, and the Town Manager replied that he had not discussed this with him.

Councilmember Singh stated he meant the Council, not him personally, and the Town Manager stated historically, the Council does not get involved at the granular level on procurements. This was not discussed with the Town Council as this is a professional staff question.

Councilmember Singh thanked the Town Manager and requested if he could have a copy of the RFP.

There was a brief question and answer session between Councilmember Singh and the Lead Planner.

There was a brief question and answer session between Councilmember Friedrichs the Lead Planner and the Town Manager.

Mayor Olem stated it was her understanding this was brought forward by the landowners to start a plan sooner than later. She stated that one of the landowners had already moved in knowing that the Metro was coming soon, and they supplied the funding since the town had not yet budgeted for it. She asked the Town Manager if that was correct.

The Town Manager responded to Mayor Olem that her statement was correct. He stated there were other projects ahead of this, the property owner spoke to the adjacent property owners, and they decided to produce the consortium to pay \$500,000 so it would not have to compete with resources from the town. They got together as a group and entered into an agreement with the town, which his Council ratified in October 2021. Before the Council now was the RFP for which the group would be paying.

Mayor Olem stated the town was moving forward with the oversight that was normally done.

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It was Councilmember Singh's opinion that the contractor selected was known for not representing the public and only representing the developer. He was concerned for the surrounding neighborhoods, and he hoped that they would be represented well.

The Town Manager stated he cannot say or deny the opinions of the developers. However, he said that the property owners had zero say in the selection, which was done completely by town staff. There was no developer or property owner input.

Councilmember Regan stated he has reviewed the RFP. He wished this had happened two years ago, but he is glad to see it now.

Mayor Olem asked for the concurrence of Council to place this on the Consent agenda for next week's meeting.

Mayor Olem, Councilmembers Friedrichs and Regan stated 'yes,' Councilmember Singh stated 'no,' and Vice Mayor del Aguila did not comment.

Mayor Olem stated Resolution 22-G-05 would stay on the General portion of the agenda for next week's meeting.

6. **Resolution 22-G-06, authorizing an application to the Regional Jurisdiction and Agency Coordinating Committee (RJACC) of the Northern Virginia Transportation Authority (NVTA) for federal Regional Surface Transportation Program (RSTP) transportation funding for fiscal year 2028.**

Mayor Olem recognized the Transportation Program Manager, who presented the staff report and PowerPoint dated January 18, 2022, which are on file in the Town Clerk's office. The proposed resolution would direct staff to submit a project application to the RJACC of the NVTA for RSTP funding for Federal Fiscal Year 2028. This application was in addition to the RSTP/CMAQ (Congestion Mitigation Air Quality) resolution that was approved by the Town Council on December 14, 2021. Since then, the Virginia Department of Transportation (VDOT) recommended that the town seek additional RSTP funding in the amount of \$1.6 million for the East Elden Street Project. Current funding considerations and project details were provided in the staff report. There was no local match requirement or town contribution needed under the RSTP funding program. Staff recommends approval of the proposed resolution, as presented.

There was a brief question and answer session between Vice Mayor del Aguila the Transportation Program Manager and the Town Manager.

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Vice Mayor del Aguila asked about the worst-case scenario and if the town has a short fall, would there be an option for bonding.

In response to Vice Mayor del Aguila, the Town Manager stated the situation was better than that. He reminded Council that as stated by the auditors, while the town's policy was to have 20 percent of the undesignated fund balance, they currently were at 50 percent. One of the reasons that the town built that up was because he expected shortfalls on the East Elden Street and Spring Street projects and other cash outlet opportunities.

The Town Manager stated he wanted to put that option on the table, or if the Council decided to bond, that option would also be on the table. The town currently had a \$2.0 million restricted reserve on Capital and there was a \$2.0 million cushion for Capital projects in addition to the 50 percent of the undesignated fund balance. Staff had been planning for this when they saw the trends about four to five years ago. When staff saw that the town was going to get big hits on the East Elden Street and Spring Street projects, they worked to try to get ahead of that curve. If there was an opportunity for funds in another form, the town should try to do that, and free up the additional funds for something else.

Vice Mayor del Aguila was concerned because there were always changes in these institutions where funding may not always be there. He was comfortable with what is being proposed and he stated that it made sense; however, he was glad the town had other options just in case.

The Transportation Program Planner stated that this was VDOT's proposal, and he would not thought of this strategy. In the past, jurisdictions have transferred funds from the RSTP and the other sister program CMAQ. The difference in this scenario was the funding application was happening at the same time, which does not occur often.

In response to queries from Councilmember Singh, the Transportation Program Manager stated it is his understanding from VDOT that inflation factors were built into their cost estimates. There were other contingencies and some of them could include five, 20 percent, or more in contingency amounts depending on the project. Aside from that, unforeseen circumstances could arise, like right-of-way costs and utility relocation costs that may not have been included in the funding scheme. VDOT stated that this issue was being seen throughout the commonwealth. He stated that the Deputy Director of Public Works may be able to provide additional information.

Responding to the discussion, the Deputy Director of Public Works stated this was not the first time that the town has been made aware of costs that have increased on this project or any other VDOT administered project. VDOT typically updates their estimates on a regular basis.

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Responding to Councilmember Singh's question about the \$20.2 million cost, he stated that inflation would factor into that. During his five years with the town, back in 2018, it was \$18.0 million. Over time, VDOT provides estimates and refines them based on actual information, which could include the right-of-way acquisitions and utility relocations. He agreed with the Transportation Program Manager comments and stated that since these were VDOT-administered projects, it was their obligation to provide the estimates and the information.

The Deputy Director of Public Works responded to the Town Manager's query about looking above the \$20 million estimate and stated that the bidding would go sometime in the first quarter of this year unless the timeframe changed. He stated they were looking to go out and receive the bid within the next three to six months.

The Town Manager stated that the town was surer of the \$20 million for this project than the \$55 million for the East Elden Street project, which was a couple of years out.

The Deputy Director of Public Works agreed with the Town Manager's comments.

Councilmember Friedrichs shared Vice Mayor del Aguila's concern over the funding. She stated with the new administration in Richmond, it seemed that they were looking at removing the tax/monies that the town and others have relied on to fund road projects. She asked if staff had heard anything from VDOT about this.

Responding to the discussion, the Transportation Program Manager reviewed the legislative priorities and funding sources for VDOT and NVTA. The two organizations were strongly advocating for funding at the state level. He stated that has spoken with the staff at VDOT about federal monies that could filter down to the RSTP and CMAQ programs. However, he was not optimistic about that happening under this application. However, VDOT thinks that some of the funding would filter into this year's programs.

In response to the Town Manager's question about when the award would take place, the Transportation Program Manager stated it would be in March. He also stated the estimated pot of funds that was reserved was based on last year's estimate and if the federal funds come into play, then the estimate increases for the next cycle, which begin this fall.

Following discussion and with the concurrence of Council, Mayor Olem asked staff to place this item on the Consent agenda for next week's meeting.

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7. **Resolution 22-G-07, to award Contract #B-22-06, Herndon Parkway & Van Buren Street Intersection Improvement Project.**

Mayor Olem recognized the Deputy Director of Public Works, who presented the staff report dated January 18, 2022, which is on file in the Town Clerk's office. He stated the proposed resolution would award a contract for the Herndon Parkway and Van Buren Street Intersection Improvement project. This project is in the Capital Improvements Program (CIP), and it consists of reconstruction of the existing intersection to provide significant transportation improvements to relieve congestion and improve safety. The project would add turn lanes, improves pedestrian facilities at the intersection by revising the crosswalks and adding pedestrian signals, and would improve stormwater runoff drainage.

On November 9, 2021, Contract #B-22-06, Herndon Parkway and Van Buren Street Intersection Improvement Project, was advertised. A pre-bid conference was held on November 29, 2021 and was attended by one firm. On December 16, 2021, a public bid opening was held, and four bids were received. The apparent lowest bidder, A&M Construction Corporation, was found responsive and responsible in the amount of approximately \$3.56 million. The reimbursement of funds up to 100 percent of total construction costs, including contingency costs, was available through a combination of agreements that the town holds with the VDOT and NVT. Staff recommends approval of the proposed resolution.

Following discussion and with the concurrence of Council, Mayor Olem asked staff to place this item on the Consent agenda for next week's meeting.

CONSENT

8. **Resolution 22-G-08, to reappoint Jeffrey J. Fairfield as the Town of Herndon representative to the Phase II Dulles Rail Transportation Improvements Tax District Advisory Board;**
9. **Resolution 22-G-09, to ratify an Extension of Sublicense pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between Town of Herndon and Arts Herndon, Inc., to extend the expiration date to June 30, 2022;**
10. **Resolution 22-G-10, to ratify a Lease Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended, between the Town and the Honorable Irene Shin, Member of the House of Delegates, for space at 397 Herndon Parkway; and**

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11. **Resolution 22-G-11, to ratify an Extension of Sublicense pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between Town of Herndon and The Elden Street Players to extend the expiration date to June 30, 2022.**

Vice Mayor del Aguila asked about Consent agenda item number nine, if the Arts Herndon sublicense through June was a good sign. He also asked if there were any delays, either by staff, Town Council, or the applicant that should impede the downtown development.

Town Manager responded to Vice Mayor del Aguila and stated that the Arts Herndon extension to June was at the far end and it was good. Regarding the downtown development he stated that the applicant is rebidding several of their trades.

DISCUSSION

12. **Town of Herndon Diversity, Equity, and Inclusion Committee**

As stated earlier in the meeting, with the concurrence of Council, the agenda was amended to remove this discussion item from that's night's meeting.

ROUNDTABLE

1. **Vice Mayor del Aguila:** No comments.
2. **Councilmember Singh:** No comments.
3. **Councilmember Regan:**

Commercial Vehicle Parking in Neighborhoods

Councilmember Regan asked if, instead of waiting for the next Town Council Strategic Planning Initiatives meeting in March to discuss the commercial vehicle parking in neighborhoods, would they want to bring it forward as a work session agenda item. He felt that this item was more urgent and should be acted on now than waiting.

Councilmember Friedrichs asked Councilmember Regan if this was in addition to or instead of his strategic planning initiative item. She asked if he would expand on the creative ideas that he had for commuter parking.

Councilmember Regan responded to Councilmember Friedrichs and stated that there were three parts to his strategic planning initiative item. He stated prior to writing the strategic planning initiative item, he spoke with staff to see what they

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were presently doing. Based on his discussion, one of the items was cut-through commuter traffic, which the Town Council could discuss at a later time. However, the other issue was taking a holistic look at commuter parking as it effects neighborhoods nearby the Metrorail Station. Some of the ideas were to have a zone parking, demand driven parking costs, and charge for parking in places. Noting that town residents could parking inexpensively in their neighborhoods while making it more expensive for those who do not live in the neighborhoods to park there.

Councilmember Singh requested Councilmember Regan to briefly explain his proposal.

Councilmember Regan responded to Councilmember Singh and stated what was proposed was that the town is going to have major issues with parking when the Metro arrives, and it was the Town Council's responsibility to work on it and figure out what needs to be done.

Mayor Olem stated that last week's approval of Madison Street parking zone was the beginning of helping neighborhoods with permit parking and assisting them with parking issues.

Vice Mayor del Aguila stated he was in favor of moving this forward and bringing it to next week's work session.

Mayor Olem asked the Town Manger if it would be feasible to have this at the next work session. The Town Manager stated it would be best to do it at next week's work session, as March was a busy month.

Councilmember Regan would reach out to the Town Manager in the morning to further discuss.

Herndon Festival

Councilmember Regan asked if there was going to be a Herndon Festival this year.

The Director of Parks and Recreation stated the Herndon Festival Committee would meet tomorrow evening and on Friday, there was a meeting with Northwest Federal Credit Union. A more formal decision would be made following those meetings. Currently, the plan was to have a very modified version. There have been challenges with the volunteer groups who play a critical role in the festival. Of the three groups that normally assist, one group has declined, and one was unsure. Staff reached out to multiple groups who have also declined. Another challenge has been to get entertainers to commit months out during this time. Sponsorship agreements have been slow and late to any events throughout the region, and again they would not commit. Staffing has also been

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difficult and at this late in the game hard to get a full festival to fruition. She confirmed that there would be a carnival.

4. Councilmember Friedrichs:

Department of Public Works

Councilmember Friedrichs expressed her appreciation to DPW.

Food Drive

Councilmember Friedrichs stated that her organization was doing a food drive this Saturday from 10:00 am to noon at ArtSpace Herndon and asked everyone to pass the information along. They were collecting food for the LINK food bank and female hygiene products for FAITH.

Massage Therapists

Councilmember Friedrichs had a phone call from a business owner who was a massage therapist regarding a drastic increase in her BPOL bill. In years past, she understood that the tax was for \$50, but during a review in the code by the staff in Finance, it was uncovered that they were to be charged \$1,000 a year instead. This has become an issue. She stated that the business owner has already spoken to staff, who were assisting her and others. There were currently 43 massage therapists in town, and she was hoping that they do not leave to go elsewhere. She stated this code was set up in 1990 and up until a few weeks ago, no one was being charged the full amount and therefore it was not being collected.

Vice Mayor del Aguila asked the Town Attorney if the town could legally not charge businesses what they owe and could the town change the code for the next budget year.

The Town Attorney responded to Vice Mayor del Aguila and stated not for this budget year; however, moving forward possibly.

Councilmember Friedrichs was hoping for assistance for this budget year.

There was a brief question and answer discussion with Council and the Director of Finance.

Mayor Olem stated this matter needed further discussion and review.

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5. Mayor Olem:

Dulles Regional Chamber of Commerce

Mayor Olem stated while Joe Martin is out due to some health issues, John Boylan was coming back as interim President and CEO, to assist the chamber.

Biergarten

Mayor Olem stated she has spoken with the individuals from the Biergarten, and they told her that they are pacing themselves and are still planning to open in Herndon.

ADJOURNMENT

On motion of Vice Mayor del Aguila seconded by Councilmember Singh, and carried by 5-0 vote, the meeting of the January 18, 2022, work session was adjourned at 9:18 p.m. 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.

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NOTE:

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