



TOWN COUNCIL MEETING AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170
Tuesday, January 10, 2023 | 7:00 p.m.

1. Call to Order

2. Pledge of Allegiance to the Flag of the United States of America

3. Presentations/Reports/Comments

- a. Town Manager Report
- b. Councilmember Comments

4. Comments from the Audience

Members of the public may, for one 3-minute period, provide public comments, requests, consent or general item comments, and comments on matters not included on the agenda.

5. Public Hearings

- a. Ordinance 23-O-01 to approve the abandonment, without removal, of approximately 100 feet of conduit located in Town right-of-way, crossing Worldgate Drive, by Harris Corporation (formerly Excelis, Inc., formerly ITT Corporation), resulting in Town ownership and control of conduit

6. General

- a. Ordinance 23-O-02 to amend Chapter 2 (ADMINISTRATION), Section 2-1 (Meeting schedule) to clarify meeting location and meeting scheduling process

7. Consent

- a. Resolution 23-G-03 to approve and authorize the Town Manager to sign a Memorandum of Agreement between Fairfax County and the Town of Herndon for the service, maintenance, and repair of town owned and operated vehicles and motorcycles
- b. Resolution 23-G-04 to appoint members to the Board of Zoning Appeals
- c. Resolution 23-G-05 to appoint members to the Herndon Building Board of Appeals
- d. Resolution 23-G-06 to appoint members to the Herndon Diversity, Equity, and Inclusion Committee

- e. Resolution 23-G-07 to appoint members to the Pedestrian and Bicycle Advisory Committee
- f. Resolution 23-G-08 to appoint the Town of Herndon's "Principal" and "Alternate" members as Advisory Directors to the Committee for Dulles Board of Directors
- g. Resolution 23-G-09 to appoint the Town of Herndon's "Principal" and "Alternate" members to the Dulles Area Transportation Association Board of Directors
- h. Resolution 23-G-10 to appoint members of the Herndon Town Council to the serve on the Inter-Jurisdictional Committee
- i. Resolution 23-G-11 to appoint the Town of Herndon's "Principal" and "Alternate" Elected Officials to serve on the Northern Virginia Regional Commission
- j. Resolution 23-G-12 to appoint the Town of Herndon's "Principal" member to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTAPCAC)
- k. Resolution 23-G-13 to appoint the Town of Herndon's "Principal" and "Alternate" members to the Phase 2 Dulles Rail Transportation Improvement District Commission Board
- l. October 18, 2022 Town Council Work Session Minutes
- m. October 25, 2022 Town Council Regular Meeting Minutes
- n. November 15, 2022 Town Council Regular Meeting Minutes
- o. December 6, 2022 Town Council Work Session Minutes

8. Adjournment

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 10, 2022

Ordinance – to approve the abandonment, without removal, of approximately 100 feet of conduit located in Town right-of-way crossing, Worldgate Drive, by Harris Corporation (formerly Excelis, Inc., formerly ITT Corporation), resulting in Town ownership and control of conduit.

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

1. The Town Council approves the abandonment of approximately 100 feet of conduit located in the Town right of way, crossing Worldgate Drive, connecting building numbers 12975 and 12930, as depicted in the attached Exhibit “A”, by Harris Corporation (formerly Excelis, Inc., formerly ITT Corporation), installed under franchise agreement dated May 14, 2009, that is now expired.
2. The Town Council approves abandonment of this conduit without removal after franchise agreement expiration, resulting in the Town’s ownership, possession, and control of this abandoned property.
3. The Town may utilize the conduit and its contents for any use consistent with the Code of Virginia.
4. This ordinance shall be effective on and after the date of adoption.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 10, 2023

Ordinance - to amend Chapter 2 (ADMINISTRATION), Section 2-1 (Meeting schedule) to clarify meeting location and meeting scheduling process.

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

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

CHAPTER 2 (ADMINISTRATION)

Article I. In General

Sec. 2-1. – Meeting schedule.

(a) The town council shall meet in regular meetings ~~in the Ingram Council Chambers in the building at 765 Lynn Street, Herndon, Virginia at 7:00 p.m. on the first four~~ **second and fourth** Tuesdays of each ~~calendar~~ month, except June, July, August, **November**, and December when the town council shall meet the first and second Tuesdays of each calendar month. **once per month, or at such other times as may be fixed by resolution; provided that at least one regular meeting per month shall be held as required by Section 3.8 of the Charter.**

(b) The **town council may meet** ~~first and third Tuesday regular or stated meetings shall consist of work sessions to be held in the Ingram Council Chambers at 765 Lynn Street, Herndon, Virginia and the second and fourth Tuesday regular meetings shall consist of public hearings and other public business to be held in the Ingram Council Chambers. For~~ **in work sessions at 7:00 p.m. on the first and third Tuesdays of each month, except** June, July, August, **November**, and December, the work sessions shall be held the first Tuesday and the public hearing meeting shall be held the second Tuesday of the month. There shall be no work session on the first Tuesday in May in even numbered years. Notwithstanding anything to the contrary in this section, in the discretion of the mayor, the town council may convene any, or any part of, a meeting in the Hoover Conference Room

~~at 765 Lynn Street.~~ **when the town council may meet for work sessions once per month, or at such other times as may be fixed by resolution.**

~~(e) The town council may by resolution prescribe any public place other than the Ingram Council Chambers or the Hoover Conference Room, or prescribe a day or time other than those established in this section, for a regular meeting of the town council. This provision shall not apply to special meetings.~~

~~(d) If the day established for a regular meeting falls on a legal holiday, that meeting shall be held on the next Tuesday that is a regular meeting day at 7:00 p.m. in the Ingram Council Chambers.~~

~~(e)(c) If~~ **Should** the conduct of a regular meeting should **be unnecessary due to a lack of items for consideration, or** impossible due to the inability to obtain a quorum, or due to weather or other condition such that it is hazardous for members to attend the regular meeting, as declared in writing by the mayor, the regular meeting shall be continued to the next Tuesday that is a regular meeting day at 7:00 p.m. in the Ingram Council Chambers. The town clerk shall communicate such declaration to the press as promptly as possible. **may be postponed or canceled and notice of such postponement or cancelation, shall be published by the Town Clerk.** All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

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

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to approve and authorize the Town Manager to sign a Memorandum of Agreement between Fairfax County and the Town of Herndon for the service, maintenance, and repair of town owned and operated vehicles and motorcycles.

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

1. The Town Council approves a Memorandum of Agreement (“MOA”) between the County of Fairfax, Virginia, acting through its Department of Vehicle Services (“DVS”), and the Town of Herndon, Virginia for the service, maintenance, and repair of motor vehicles, including motorcycles, owned by the Town and operated by Town agencies, including the Herndon Police Department.
2. The MOA shall become effective when it has been executed by both parties and will remain in effect until terminated by either party with at least thirty days prior written notice.
3. The Town Manager is authorized to sign and deliver this MOA on such form approved by the Town Attorney and any other instrument necessary to evidence or effectuate this MOA.

MEMORANDUM OF AGREEMENT
MOTORCYCLE REPAIR

This Memorandum of Agreement ("Agreement") is entered into by and between the County of Fairfax, Virginia ("County") and the Town of Herndon, Virginia ("Town"), individually a Party and collectively the Parties.

THE COUNTY AND TOWN ARE MUTUALLY AGREED AS FOLLOWS:

1. **PURPOSE.** The purpose of this Agreement is to establish the terms and conditions under which the County, acting through its Department of Vehicle Services ("DVS"), will service, maintain and repair motor vehicles, including motorcycles, owned by the Town and operated by Town agencies, including the Herndon Police Department.
2. **SERVICES.**
 - a. The services provided by the County under this Agreement shall take place at the Newington Maintenance Facility located at 8201 Cinder Bed Road, Lorton, Virginia, and shall include, without limitation preventative maintenance and mechanical repairs.
 - b. Nothing in this Agreement shall require DVS to provide any service, maintenance or repair work, that, in its sole discretion, it is unqualified or unable to perform for any reason.
 - c. The services provided by the County under this Agreement shall be performed in the manner and on the schedule determined by DVS in its sole discretion.
 - d. The Town shall be responsible for delivering its vehicles to the location set forth in subsection a, above, and shall be responsible for picking up its vehicles at such location within five (5) business days following notification that the County has completed the requested services.
3. **PRICING.**
 - a. The County will service, maintain and repair the Town's vehicles at a rate of \$90.15 per hour for labor, and a 31% mark-up for parts, based on the actual cost to the County.
 - b. These rates shall be subject to a periodic review and adjustment by DVS. DVS shall provide the Town thirty (30) days prior written notice of any increase in such rates prior to providing services under this Agreement to the Town at the increased rates.

4. INVOICING AND PAYMENT.

- a. The County shall invoice the Town monthly as the services are provided.
- b. Each invoice shall provide instructions for payment.

5. NOTICES. Notices pertaining to this Agreement shall be sent to the following individuals.

a. To the County:

Marguerite Guarino, Deputy Director
12000 Government Center Parkway, Suite 417
Fairfax, Virginia 22035
703-324-3554
Marguerite.guarino@fairfaxcounty.gov

b. To the Town:

William H. Ashton II
Town Manager
777 Lynn St.
Herndon, VA 20170

6. EFFECTIVE DATE. This Agreement shall become effective when it has been executed by the authorized representative of each Party.

7. TERM AND TERMINATION. Except as otherwise set forth herein, this Agreement shall remain in effect until terminated by either Party with at least thirty (30) days prior written notice.

8. LIABILITY AND DISCLAIMER.

- a. Neither Party shall be liable to the other party for any claims, liabilities, or expenses arising solely out of the acts or omissions of such other party or one of its agents or employees. Neither party shall be obligated to defend or assume the cost of defense of the other party or hold harmless or indemnify the other party for any claim arising from the acts or omissions of one of its own agents or employees. Nothing in this Agreement shall be construed as a waiver of either Party's sovereign immunity.

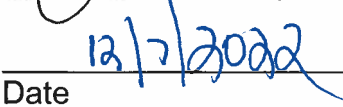
- b. The services provided by the County, including parts and labor, are "as is" and "as available". The County disclaims all guarantees, representations and warranties, express or implied. The County makes no representation, warranty or guarantee regarding the reliability, timeliness, quality, suitability or availability of the services, including parts and labor, provided under this Agreement. The Town agrees that the entire risk arising out of its use of the services provided under this Agreement remains solely with the Town to the maximum extent permitted under Virginia law. Nothing in this section shall prevent the County or the Town from filing warranty claims with any parts manufacturers.

9. GENERAL PROVISIONS.

- a. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, and if any provision of this Agreement is ruled invalid or unenforceable by a court of proper jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- b. This Agreement may not be modified except by a written instrument duly executed by the Parties hereto.
- c. Any financial obligations under this Agreement are expressly subject to annual or periodic appropriations by the Town Council of the Town and the Board of Supervisors of the County and this Agreement shall terminate, without the need for additional action of the Parties, at such time as appropriated funds have been exhausted.

COUNTY OF FAIRFAX, VIRGINIA:


Bryan J. Hill, County Executive


Date

TOWN OF HERNDON, VIRGINIA:

William H. Ashton II, Town Manager

Date

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint members to the Board of Zoning Appeals.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Cari Lyn Pierce** to the Board of Zoning Appeals for a five-year term ending December 31, 2027.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following members to the Board of Zoning Appeals:

- **Stevan Porter**, to fill an unexpired term ending December 31, 2023; and
- **Stephen Mundt**, to fill an unexpired term ending December 31, 2025; and
- **Stephanie Frye**, to a five-year term ending December 31, 2027.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint members to the Herndon Building Board of Appeals.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Paul LeReche** as the 'RDP Architect' member to the Herndon Building Board of Appeals for a five-year term ending December 31, 2027; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Michael Wijdoogen** as the Experienced Real Estate/Experienced Property Manager member to the Herndon Building Board of Appeals for a five-year term ending December 31, 2027.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint members to the Herndon Diversity, Equity, and Inclusion Committee.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Councilmember Pradip Dhakal** to serve as Chair of the Herndon Diversity, Equity, and Inclusion Committee through December 31, 2024.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint members to the Pedestrian and Bicycle Advisory Committee.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Councilmember Cesar del Aguila** to serve as Chair of the Pedestrian and Bicycle Advisory Committee through December 31, 2024.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **William Savage** to serve as the Historic District Review Board representative on the Pedestrian and Bicycle Advisory Committee through August 31, 2024.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint the Town of Herndon's "Principal" and "Alternate" members as Advisory Directors to the Committee for Dulles Board of Directors.

WHEREAS, founded in 1966, the Committee for Dulles, a non-profit organization, is the oldest member-sponsored organization dedicated to achieving the full potential of the Washington Dulles International Airport and its immediate market area; and

WHEREAS, the committee provides the only significant opportunity for businesses, organizations and concerned individuals who depend on the Dulles Economic Corridor to stay current with up-to-the-minute, first-hand knowledge about the issues affecting the airport's daily operation and future prospects, and to play a vital role in the outcomes; and

WHEREAS, the Town of Herndon pays annual membership dues to the committee and appoints one elected official to serve as the Advisory Director on the Board of Directors as the Town's official representative, although all members of council and Town staff may attend monthly luncheons and events.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following members to serve as the Town's representatives to the Committee for Dulles for the 2023-2024 term:

- **Councilmember Keven LeBlanc**, as the Town's "principal" advisory director; and
- **Councilmember Donielle M. Scherff**, as the Town's "alternate" advisory director.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint the Town of Herndon’s “Principal” and “Alternate” members to the Dulles Area Transportation Association Board of Directors.

WHEREAS, the Dulles Area Transportation Association (DATA), a nonprofit, public-private, 501(c)3 non-stock corporation, is dedicated to enhancing transportation mobility and fostering economic vitality and provides a visionary voice for building a transportation network that will accommodate the current and future growth planned for the area, with particular emphasis directed toward transportation issues in the Greater Dulles Area of Northern Virginia (Western Fairfax, Eastern Loudoun, and Northern Prince William Counties); and

WHEREAS, the Town of Herndon has been a member of DATA since its creation in 1988, and in November 1989, by Resolution 89-G-205, the Herndon Town Council approved support of DATA and its efforts; and

WHEREAS, the town pays annual membership dues to the association and appoints an elected official as the town’s ‘principal’ representative and the town manager to serve as an ‘alternate’ representative, although all members of council and staff may attend Board of Directors/Member meetings, events, and seminars.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following members to serve as the town’s representatives to the Dulles Area Transportation Association for the 2023-2024 term.

- **Vice Mayor Clark Hedrick** as the town’s “principal” member; and
- **William H. Ashton II, Town Manager**, to serve as the town’s CAO “alternate” member.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint members of the Herndon Town Council to the serve on the Inter-Jurisdictional Committee.

WHEREAS, the inter-jurisdictional committee was originally formed in January 2008; and reinstated in July 2008, July 2010, July 2012, July 2014, January 2017, January 2019, January 2021, and January 2023, to meet with similar committees formed by Fairfax and Loudoun Counties; and

WHEREAS, the town's inter-jurisdictional committee meets jointly with Fairfax and Loudoun Counties as needed on inter-jurisdictional matters.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reinstates and appoints the following members of the Herndon Town Council to the inter-jurisdictional committee for the 2023-2024 term:

- **Mayor Sheila A. Olem**, as the Town's chief elected official;
- **Councilmember Cesar del Aguila**;
- **Councilmember Donielle M. Scherff**;
- **William H. Ashton II, Town Manager**, to serve as the Town's CAO member; and
- **Lesa J. Yeatts, Town Attorney**, to serve as the Town's legal counsel.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint the Town of Herndon’s “Principal” and “Alternate” Elected Officials to serve on the Northern Virginia Regional Commission.

WHEREAS, the Northern Virginia Regional Commission (NVRC) is a regional council of 13 local governments in Northern Virginia and recognized by the Commonwealth of Virginia as a political subdivision — a government agency; and

WHEREAS, NVRC's programs and policies are established by a 24-member Board of Commissioners composed of elected officials appointed by the governing bodies of NVRC's 13 member localities, which include the Counties of Arlington, Fairfax, Loudoun and Prince William; the Cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park; and the towns of Dumfries, Herndon, Leesburg, and Vienna; and

WHEREAS, the NVRC’s basic roles and functions have focused on providing information, professional and technical services, and a mechanism for regional coordination; and

WHEREAS, the Town of Herndon pays annual membership dues to the commission and appoints one elected official to serve as the town’s representative.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following Town of Herndon elected officials to serve on the Northern Virginia Regional Commission for the 2023-2024 term.

- **Mayor Sheila A. Olem**, as the town’s “Principal” member;
- **Councilmember Donielle M. Scherff**, as the town’s “alternate” member; and
- **Councilmember Naila Alam**, as the town’s “second alternate” member.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution- to appoint the Town of Herndon's "Principal" member to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTA PCAC).

WHEREAS, General Assembly legislation creating the Northern Virginia Transportation Authority (NVTA) calls for the establishment of the Planning Coordination Advisory Committee (PCAC); and

WHEREAS, legislation mandates that the PCAC, 'shall include, but not be limited to, at least one elected official from each town that is located in any county embraced by the Authority and receives street maintenance payments under § 33.1-41.1'; and

WHEREAS, membership of the PCAC is comprised of elected officials who are not members of the NVTA, including one member from the towns of Dumfries, Herndon, Leesburg, Purcellville, Vienna and any town that receives the specified street payment in the future; one member each from the Cities of Fairfax, Falls Church, Manassas and Manassas Park; two members each from the City of Alexandria and Arlington County; three members each from the Counties of Loudoun and Prince William; and four members from Fairfax County; and

WHEREAS, members are appointed annually by their local governing bodies.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Mayor Sheila Olem**, as the Town's elected official to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTA PCAC) for the 2023-2024 term.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 10, 2023

Resolution, to appoint the Town of Herndon’s “Principal” and “Alternate” members to the Phase 2 Dulles Rail Transportation Improvement District Commission Board.

WHEREAS, on November 10, 2009, the Herndon Town Council adopted Resolution 09-G-130 determining that the Town Council wishes commercial, industrial and multi-unit residential property in the town to be included within the proposed Phase 2 Dulles Rail Transportation Improvement District; and

WHEREAS, Virginia Code Section 33.1-432 authorizes the creation of a Phase II District Commission consisting of four members of the Fairfax County Board of Supervisors (appointed by the Fairfax Board); one member of the Herndon Town Council (appointed by the Council); and the Chairman of the Commonwealth Transportation Board or his designee; and

WHEREAS, the Phase II District Commission would take action as permitted by the Virginia Code Act to provide for the funding, acquisition, construction and equipping of the Phase 2 Transportation Improvements including, but not limited to entering in agreements requiring the payment of proceeds from an annual special improvement tax levied and collected as authorized by the Act.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following members of the Herndon Town Council to the Phase 2 Dulles Rail Transportation Improvement District Commission Board for the 2023-2024 term.

- **Councilmember Naila Alam**, as the town’s “principal” member; and
- **Councilmember Keven LeBlanc**, as the town’s “alternate” member.