



Copies of video recordings of the Herndon Town Council public hearing meetings are available on request by contacting HCTV at 703-689-2323.

This does not represent a verbatim transcript of the Town Council meeting. Visit www.herndon-va.gov "Webcasts" to view agendas.

HERNDON TOWN COUNCIL
Work Session
Tuesday, May 20, 2014

At a regular meeting of the Town Council of the Town of Herndon, Virginia, held in the Herndon Council Chambers Building, at 765 Lynn Street, Herndon, Virginia, on Tuesday, May 20, 2014, at 7:00 p.m., there were present:

- Vice Mayor Connie Haines Hutchinson, presiding;
- Councilmember Dave A. Kirby;
- Councilmember Sheila A. Olem;
- Councilmember Charlie D. Waddell; and
- Councilmember Grace Han Wolf.
- Mayor Lisa C. Merkel and Councilmember Melissa Jonas were absent.

Others present during the meeting were: Arthur A. Anselene, Town Manager; Richard B. Kaufman, Town Attorney; Colonel Maggie A. DeBoard, Chief of Police; Anne P. Curtis, Chief Communications Officer; Elizabeth M. Gilleran, Director of Community Development; Linda Simmons, Director of Human Resources; Robert B. Boxer, Director of Public Works; Dennis Holste, Economic Development Manager; Dana Heiberg, Senior Planner; and Amanda M. Kertz, Deputy Town Clerk I.

ANNOUNCEMENTS

Vice Mayor Hutchinson called the meeting to order and announced that Mayor Merkel was out of town and would not be present at tonight's meeting. She stated that Councilmember Jonas would be late arriving (note: Councilmember Jonas did not make it to the work session).

*May 20, 2014
(work session)*

PRESENTATIONS

1. Presentation by the Council for the Arts of Herndon to the Scholarship Winners; and
2. Certificates of Congratulations, 2013-2014 Herndon High School Business Management Virtual Enterprise Team.

There was no discussion. These presentations were scheduled for the May 27, 2014 Town Council public hearing.

PUBLIC HEARINGS

3. Ordinance 14-O-16, Zoning Map Amendment ZMA #14-101, Downtown Master Plan Blocks D and E Rezoning.

Vice Mayor Hutchinson announced that prior to tonight's meeting, the Council received comments from the public on this item, which were entered into the record.

The Director of Community Development presented the staff report and PowerPoint, which are on file in the Town Clerk's office. She stated that the land for discussion would be blocks D and E in the Downtown Master Plan (DTMP) and is located between Center and Station streets. The proposed ordinance would include approximately 2.9 acres currently zoned Central Commercial (CC) to be rezoned as Planned Traditional Downtown (PD-TD). She reviewed the modifications that would be included in the proposed rezoning, along with each of the proffers, in detail. The proffers and modifications would include greater flexibility in the Generalized Development Plan (GDP), would allow heights of 54 feet and English basements. She also reviewed Exhibit A, which would be part of the proposed ordinance and would enhance the town's pattern book.

The Director of Community Development stated that the Planning Commission examined whether the or not proffers would be appropriate in the proposed rezoning. She stated that the concept of the town rezoning and including proffers was unique, but was determined appropriate because they would inform future developers of the type of development and level of quality that the town was looking for in this area. She stated that the contract would be separate and while developers would be bound by the proffers, the town could look at adding other stipulations during contract negotiations.

During the review of the proffers, the Director of Community Development pointed out several minor editorial changes that staff would revise administratively.

In response to queries from Council, the Director of Community Development confirmed that the proffers would prohibit any use that necessitated security measures, such as bars or security blinds on the ground floor. She stated that

*May 20, 2014
(work session)*

staff would look at how to phrase this language so that businesses like jewelry stores would not be discouraged from opening in the downtown. She stated that if a business added a security feature after it was built, that would constitute a zoning violation. She stated that because the town is currently reviewing downtown parking, the proffers regarding parking would refer to the language in the zoning ordinance at the time of site plan.

In response to Council's discussion, the Senior Planner stated that the development for these two blocks would likely happen at the same time.

In response to queries from Council, the Director of Community Development stated that the garage could be built on either side of the culvert, but would likely be built on the west side. She confirmed that the architecture proffer would provide for public art and that the potential water feature was part of the open space proffer. She stated that the proposed amount of open space was in the middle of amounts the town had used before and staff had determined the amount with the Director of Parks and Recreation. She stated that the proffers would be by-right if the proposed ordinance were passed by Council. She stated that if a developer wanted to add a minor adjustment, it may not be required to go through the proffer amendment process. However, if a developer wanted to add a major change, they would have to come before the Planning Commission and Town Council. She stated that an additional 14 feet would be allowed in the zoning ordinance for the HVAC unit, elevator or similar structure. She stated the height limits were based on staff's research and discussions with architects. She stated that she could provide the list of structures that would be permitted to exceed the height limit to the Council. She stated that the English basement, if above grade, would be included in the total height of a building, but might not be counted as a full story.

There was brief discussion amongst Council and staff relating to the noise attenuation proffer. Staff was requested to confirm that the proposed windows were the same as those used at the Fortnightly development and to check with the residents on how well the soundproof windows were working.

There was brief discussion amongst Council and staff regarding the language in the proffer related to public open space and how the town would collaborate with a future developer. Staff was asked to look at wording that would provide for cooperation between the town and a developer, but would not require the town to pay for it. Staff confirmed that the open space did not have to be green space.

Responding to the Council's discussion, the Town Manager stated that during contract negotiation, the town would determine the terms for the open space area.

There was brief discussion between Council and staff regarding the appropriate amount of parking. The Director of Community Development stated that it is difficult to estimate the correct number of parking spaces that would be needed

*May 20, 2014
(work session)*

in the future, with mixed used development, shared parking and alternative means of transportation. She stated that the town would not want to over provide parking, because that could be expensive.

In response to queries from Councilmember Waddell, the Town Manager stated that he could discuss the expected land value in a closed meeting, since this was confidential information.

Responding to Council's discussion, the Director of Community Development stated that through the proposed ordinance, the town would collaborate with a developer on the parking structure, but that did not necessitate payment.

Following Council's discussion, a member of Council expressed concern over the elimination of the limit for residential units, which was previously set at 199, and that the frontage along Center Street allowed for three stories, with a possible 20 foot step-back and additional story. It was stated that they did not believe this was the intent of the Downtown Master Plan (DTMP). Another member of Council requested that where 'for profit and non-profit arts facilities' were mentioned be changed to 'arts facilities' only. Concern was expressed over not having enough parking in the downtown.

There was brief discussion between Council and staff regarding the frontage along Center Street. The parking garage was also discussed, which would fall under the 54 foot height limit, but could have several stories.

Responding to the discussion, the Director of Community Development stated that the maximum number of residential units was eliminated by the Planning Commission. She stated that staff had originally proposed the number.

GENERAL

4. **Resolution, Authorizing the Town Attorney to File & Conduct a Civil Action to Pay into the Circuit Court Funds from the Station Street Project Representing Unclaimed Proceeds for land at 890 Station Street, so that Conflicting Claims may be Adjudicated & the Town May be Dismissed as a Party as having Discharged its Obligation to Pay Just Compensation for the Land.**

The Town Attorney presented the staff report dated May 20, which is on file in the Town Clerk's office. He stated that the proposed resolution would pertain to the Station Street project, which has gone well. He stated that the town has been working closely with the residents in this neighborhood, but that the parcel at 890 Station Street has caused problems, which were complicated by an alleged bankruptcy from the owner of the property. He stated that the owners signed the deed and closing statement, which were given to the town. The town accepted and recorded the deed, but did not disperse the just compensation for the acquisition (\$27,170), because the town was waiting to hear from the lenders. Through the proposed resolution, the town would file an interpleader

*May 20, 2014
(work session)*

civil action. In this action, the town would name all the interested parties in the civil action, pay the money into a court, seek a court order dismissing the town as a party and order the lenders to sign and deliver the releases. Then, at their leisure, the parties could if they wanted to assert claims to the proceeds. He stated that the town would also ask that the court award the town its attorney's fees at \$245 per hour for staff's efforts on this item.

The Town Attorney stated that yesterday, he had talked with a lawyer from Bank of America, who is one of the parties in the action. He stated that it was his understanding that she was working toward the appropriate disposition of these funds, but he would still recommend that the town move forward with the civil action because of the other lender involved, who has been unresponsive.

In response to a query from Council, the Town Attorney stated that if the court enters this order, the two deeds of trust would be released, the town would pay the court and the land would no longer have liens on it.

Following brief discussion and with the concurrence of Council, staff was asked to add this item to the consent agenda for next week's meeting.

CONSENT AGENDA

There was no discussion on the Consent agenda items, which will be considered at the Council's May 27 public hearing.

5. **Resolution, Virginia Retirement System Employer Contribution Rate;**
6. **Resolution, Award of Contract #14-14, Production and Printing of Annual "At Home in Herndon" Town Calendar; and**
7. **Resolution, Award of Contract IFB #14-08, Street Sweeper.**

ROUNDTABLE

1. **Councilmember Kirby:** Stated that Memorial Day was this coming Monday, May 26. The American Legion would hold an observance at 10:00 a.m. at Chestnut Grove Cemetery, along with the Avenue of Flags. He stated that on Thursday the Herndon Festival would begin.

Councilmember Kirby requested an update on the process for reserving the tennis courts at the Herndon Community Center for town residents, which he had originally asked about a few weeks ago.

The Town Manager stated that he would follow up with the Director of Parks and Recreation and get back to Councilmember Kirby.

*May 20, 2014
(work session)*

2. **Councilmember Olem:** Requested an update on the lights on Dranesville Road and on the W&OD Trail.

The Director of Public Works stated that staff was working on this item.

Following the Director of Public Works' comments, the Town Manager stated that the lights on the W&OD Trail were working.

Councilmember Olem asked about noise issues on the roof at Mom's?

The Director of Community Development stated that the town was testing it and she would get back to Councilmember Olem.

3. **Councilmember Waddell:** Expressed kudos to staff for incorporating proffers into the downtown rezoning item discussed tonight. He stated that Herndon Community Television (HCTV) was looking for volunteers for the Herndon Festival and throughout the year. He asked the Town Attorney about a foreclosure situation he addressed recently.

In response to Councilmember Waddell's query, the Town Attorney stated that he was doing everything he could to address the foreclosure situation. He stated that the town could place a lien on the property, where it would be in a better position to take stronger steps.

Councilmember Waddell asked for an update regarding the Coleman Cemetery.

Regarding the Coleman Cemetery, the Town Attorney stated that he was working with the Fairfax County Public School Board. He stated that he was drafting a letter for the Town Manager's signature that would be sent to Lifestyle and Jefferson Mews homeowners associations, to see if they would cooperate with the town to access the cemetery. He stated that another option was for the town to vacate Fourth Street and claim possession through that vacation. However, he would prefer the other alternatives to the vacation of the street.

Councilmember Waddell asked if the town could include a link to the Herndon Historical Society on its webpage?

Responding to Councilmember Waddell, the Chief Communications Officer stated that the town currently provides links to Herndon organizations through events held on the town calendar. She stated that at this point, the website does not have a place for links to other organizations.

The Town Manager stated that staff was working to revamp the town's website and would include this suggestion in its discussions on the topic.

The Director of Community Development stated that a link to the Herndon Historical Society website was included under its pages regarding heritage preservation.

*May 20, 2014
(work session)*

Councilmember Waddell asked if repairs had been completed on the depot?

The Director of Public Works stated that the window repairs were done earlier today and that the siding work should be completed after the Herndon Festival. He stated that the work on the caboose should be completed soon.

4. **Vice Mayor Hutchinson:** Stated that town offices would be closed on Monday, May 26, in observance of Memorial Day. The town's website had further information on refuse collection and operating hours.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:07 p.m.

Lisa C. Merkel

**Lisa C. Merkel
Mayor**

Amanda M. Kertz

**Amanda M. Kertz
Deputy Town Clerk I**

Minutes approved by Town Council: July 8, 2014.

