TOWN OF Herndon VIRGINIA

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HERNDON TOWN COUNCIL
Work Session
Tuesday, September 1, 2015

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, September 1, 2015, at 7:00 p.m., there were present:

- Vice Mayor Jennifer Baker; presiding;
- Councilmember Steven L. Mitchell, arriving at 7:07 p.m.;
- Councilmember Sheila A. Olem;
- Councilmember Jasbinder Singh; and
- Councilmember Grace Han Wolf.

Absent:
- Mayor Lisa C. Merkel
- Councilmember Dave A. Kirby

Staff present during the meeting: Arthur Anselene, Town Manager; Lesa Yeatts, Town Attorney; Ron Thunman, Police Captain; Elizabeth Gilleran, Director of Community Development; Tanya Kendrick, Director of Human Resources; Cindy Roeder, Director of Parks and Recreation; Mary Tuohy, Director of Finance; Mike Doi and Dana Singer, Deputy Directors of Public Works; Mark Holland, Zoning Administrator; Dana Heiberg, Senior Planner; Mark Duceman, Transportation Program Manager; and Margie Tacci, Deputy Town Clerk.

ANNOUNCEMENTS

Vice Mayor Baker announced that Mayor Merkel and Councilmember Kirby would not be here this evening and that she would be presiding over tonight's meeting.

PRESENTATIONS

1. **Proclamation, to recognize "POW/MIA Recognition Day," September 18, 2015;**

2. **Resolution, to express appreciation to Robert P. Burk, Herndon Planning Commission; and**

3. **Proclamation, to recognize Virginia Bicyclist and Pedestrian Awareness Month, September 2015.**

There were no comments. Presentations would be made at the September 8th public hearing.

PUBLIC HEARINGS

4. **Resolution, to approve Special Exception SE#15-04, to permit a home-based child daycare use with an allowed maximum of 12 children, 715 Fall Place.**

The Zoning Administrator presented the staff report, which is on file in the Town Clerk's office. He stated that the applicant, Hiromi Waite, was present this evening. The proposed resolution is a request for a special exception to permit a home-based child daycare use in the Planned Development - Residential, zoning district. The use, identified as Warabe, is requesting to care for a maximum of 12 children. The town's zoning ordinance currently permits a maximum of seven children without a special exception. The property is located at 715 Fall Place. Staff recommends approval of the special exception, with conditions and modifications as recommended by the Planning Commission.

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

5. **Ordinance, to grant a 10 year franchise to Level 3 Communications of Virginia, Inc.**

The Deputy Director of Public Works presented the staff report and a PowerPoint, which are on file in the Town Clerk's office. The proposed ordinance would grant a 10-year franchise agreement to Level 3 Communications of Virginia, Inc. This franchise agreement would consolidate the following affiliates and their respective agreements with the town: WilTel Communications of Virginia, Inc. ("WilTel") dated August 13, 2004; Looking Glass Networks of Virginia, Inc. ("LGN") dated December 1, 2005; tw telecom of Virginia llc (formerly known as Time Warner Telecom of Virginia, LLC, formerly known as Xspedius Management Co. of Virginia, LLC) ("TW") dated November 10, 2003, as amended on October 22, 2007 and April 23, 2013; and Level 3 Communications, LLC ("Level 3") dated March 25, 2005. Staff recommends approval of the franchise agreement with Level 3 Communications of Virginia, Inc. for the consolidation of affiliate franchises and revisions to the existing and proposed facility descriptions.

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

September 1, 2015
(work session)

6. **Ordinance, to amend Chapter 78 (ZONING), Section 78-303.2 (Additional development standards for planned development districts), to permit an increase in allowable square footage for major tenant wall signs in the Planned Development – Worldgate (PD-W) zoning district, ZOTA #15-02.**

Vice Mayor Baker announced that the applicant has requested deferral of this item until the Council's public hearing on September 22nd. Therefore, with the Council's concurrence, she asked that staff forgo the presentation of the staff report.

Next week, Vice Mayor Baker stated that the Council would open the public hearing for comments since this was a properly advertised public hearing; and following the public hearing, the Council may take action to continue the public hearing to September 22nd.

There was no discussion on this item.

7. **Ordinance, to consider a change of zoning classification, of property at 770 Elden Street, 782-786 Elden Street and 724 Center Street, from Central Commercial (CC) to Planned Development Traditional Downtown (PD-TD); Ashwell LLC; applicant and contract purchaser Town of Herndon, ZMA #15-101.**

Vice Mayor Baker stated that prior to tonight's meeting, the Council received comments from individuals interested in this item, which have been entered into the record.

To allow additional time to resolve remaining issues related to the purchase of the property, the town, as the applicant, is asking that the public hearing be continued to September 22nd. Next week, Vice Mayor Baker stated that the Council would open the public hearing for comments since this was a properly advertised public hearing; and following the public hearing, the Council may take action to continue the public hearing to September 22nd.

Vice Mayor Baker asked staff to proceed with the staff report this evening.

The Director of Community Development presented the staff report and a PowerPoint, which are on file in the Town Clerk's office. Proposed is the rezoning of property located in downtown Herndon at 770 and 782-786 Elden Street and 724 Center Street. The property is currently zoned Central Commercial (CC) and the request is to change the zoning to Planned Development Traditional Downtown (PD-TD). The parcels are collectively known as the Ashwell Property.

She stated that the town negotiated a contract to purchase this land. The Council adopted an ordinance approving the purchase on May 26, 2015. After closing on the property, the town intends to pursue private sector development of this land and the adjacent land that is also under town ownership and zoned PD-TD. The form of development to be pursued would be guided by the adopted comprehensive plan and Downtown Pattern Book.

There was brief discussion amongst Council and staff regarding the English basements.

Councilmember Mitchell questioned the definition of the English basement regarding the one-third below grade.

The Director of Community Development stated that staff would have to review the definition of the English basement and advise Council.

The Director of Community Development resumed her presentation, and following the staff report and PowerPoint, there was further discussion amongst Council and staff on this item.

Councilmember Singh stated that he did not recall any discussion regarding the ArtSpace property and requested staff to provide when the arts related use was implemented during the Downtown Master Plan process.

In response to queries from Councilmember Singh regarding parking in the downtown, Vice Mayor Baker stated that he should compose any additional questions he may have, provide them to staff, and copy Council.

Councilmember Singh suggested having a special session on only the downtown parking in the future.

Vice Mayor Baker stated that he could include this in his email to staff and Council.

8. <u>Ordinance, to approve a five-year term renewal of the lease, 397 Herndon Parkway to the Fairfax County School Board</u>.

The Director of Finance presented the staff report, which is on file in the Town Clerk's office. The proposed ordinance would approve a five-year term renewal of the lease of real estate at 397 Herndon Parkway to the Fairfax County School Board to provide satellite maintenance offices, workshops and outdoor fleet storage for Fairfax County Public Schools' Department of Facilities Services. Staff recommends approval of the proposed lease amendment and ordinance, as presented.

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

September 1, 2015
(work session)

GENERAL

9. **Resolution, to authorize the Mayor to sign the Standard Project Agreement between the Northern Virginia Transportation Authority and the town, East Elden Street improvements.**

The Transportation Program Manager presented the staff report, which is on file in the Town Clerk's office. The proposed resolution would authorize the Mayor to sign the "Standard Project Agreement between the Northern Virginia Transportation Authority (NVTA) and the Town of Herndon" of House Bill 2313 regional (70 percent) funding that the NVTA is allocating to the town's regional project titled: East Elden Street Widening and Improvements (UPC 50100). Staff recommends approval of the proposed resolution, as presented.

There was no discussion of this item, and staff was asked to place this item on the Consent agenda for next week's meeting.

DISCUSSION

10. **Eligibility for Town Council to participate in town health insurance.**

The Director of Human Resources stated that in 2004, the Council adopted a resolution to allow Councilmembers to participate in the town's health insurance, with the Councilmember paying the full premium amount. In the 11 year time period, one Councilmember has used it for one year.

She stated, since 2004, the health care environment has changed nationwide, with the implementation of the Affordable Care Act. Under The Local Choice, which is the state sponsored health care coalition in which many Virginia municipalities participate, it is now required that if the town offers health insurance to its Councilmembers, the town would have to treat the Council as an employee for purposes of contribution. A Councilmember is no longer able to pay the full cost. This means that town funds would have to be contributed, ranging from $3,132 to $14,724, depending on the type of plan. She stated that even with the required town contribution, the member contribution would almost definitely be more than the Council earns per year. Since health insurance premiums are deducted from paychecks, there would be the situation where the paycheck would not be enough to cover the premiums.

She stated that staff reviewed other local jurisdictions, and staff found it was a common trend that Councils' voted to disallow Council participation, due to cost control and fiscal logistics efforts. Staff recommends that the Council disallow members of Council to participate in town health insurance.

Following brief discussion and with the concurrence of the majority of Council, staff was requested to place this item on a future agenda, so that Council may have the opportunity to vote to disallow the Council's participation in the town's health insurance.

Subsequently, the Town Manager added this item to the consent agenda for Council action on September 8th.

ROUNDTABLE

1. **Councilmember Olem:** Expressed her appreciation to the Departments of Public Works and Community Development on the Park/Monroe improvement project. She stated that it looked wonderful.

2. **Councilmember Singh:** Stated that Fairfax County has planned to erect an arts center in Reston. He stated that since this was announced, he wondered what the significance would be for the town to have an arts center. He suggested that the town hold two sessions, one closed meeting with the Council and a public hearing for the public and the arts community to provide their input. The discussion should focus on how to move forward with a possible town art center and what the financial impacts would be to the town. He stated that if there is an arts center in Reston, individuals might go there instead of the town.

   Councilmember Singh suggested a closed meeting to discuss the additional aspects and assessments of the sale of the Ashwell property and following the meeting that the information would be provided to the public. He stated that the Council was not following its communications policy, especially when it came to the Ashwell property.

3. **Councilmember Wolf:** Echoed Councilmember Olem's comments.

   Councilmember Wolf shared a post written by Chief DeBoard. She stated that her post focused on the importance of focusing on the positive elements of community policing and the relationships that are built between the Herndon officers and the community. Councilmember Wolf asked that we keep the family of the officers recently killed in the line of duty in our thoughts and prayers.

   Vice Mayor Baker: Echoed her colleagues comments on the Park/Monroe improvement project.

   Vice Mayor Baker expressed her appreciation to Barbara Glakas. Ms. Glakas informed her prior to tonight's session that she was able to find another Mayor ~ Mayor Darrell (1929 -1931), whose picture was now hanging on the wall in the Hoover Conference Room.

September 1, 2015
(work session)

Vice Mayor Baker commended Friday Night Live! for another wonderful summer series and noted that this was the first season ever that they had no rain cancellations.

Vice Mayor Baker reminded everyone that the town would be closed on Monday, September 7, for the Labor Day holiday and from 11:00 a.m. to 5:00 p.m., the town would be holding their annual Labor Day Festival. She hoped everyone would attend.

COMMENTS FROM THE TOWN MANAGER

The Town Manager stated that staff would follow up with Council regarding the decal notices that were sent out to town residents incorrectly. He stated that staff is continuing an investigation and at this time, it has been determined that it was an internal issue. He stated that a new mailing will be done next week and that the website would have updated information posted tomorrow.

Vice Mayor questioned if there was any additional information that the Council should provide citizens in the interim.

The Town Manager stated that the number one concern was over the release of confidential personal car information. He stated that information included in the decal notices is available on all vehicles, was not confidential and that most individuals have been very understanding.

Councilmember Singh expressed his appreciation to the Town Manager for his email relating to the decal incident and he was able to forward it to concerned citizens.

RECESS

At 8:48 p.m., Vice Mayor Baker called a brief recess and at 8:52 p.m., the meeting reconvened in the Herndon Council Chambers Building, with all members present with the exception of Councilmember Kirby and Mayor Merkel, and with Vice Mayor Baker presiding.

CLOSED MEETING

On the motion of Councilmember Olem, seconded by Councilmember Wolf, and carried 5-0 vote, the Herndon Town Council went into Closed Meeting at 8:52 p.m., under Section 2.2-3711(A)(1), Code of Virginia, for discussion of prospective candidates relative to appointments to boards and commissions.

Vote: Councilmembers Mitchell, Olem, Singh, Wolf and Vice Mayor Baker voting "Aye." Councilmember Kirby and Mayor Merkel were absent

CLOSED MEETING CONTINUED

On motion of Councilmember Olem, seconded by Councilmember Wolf, and carried by 5-0 vote, the Herndon Town Council reconvened in public session at 9:00 p.m.

Vote: Councilmembers Mitchell, Olem, Singh, Wolf and Vice Mayor Baker voting "Aye." Councilmember Kirby and Mayor Merkel were absent.

On motion of Councilmember Olem, seconded by Councilmember Wolf, and carried by 5-0 vote, the Herndon Town Council approved the following Certification of Closed Meeting.

Vote: Councilmembers Mitchell, Olem, Singh, Wolf and Vice Mayor Baker voting "Aye." Councilmember Kirby and Mayor Merkel were absent.

Certification of Closed Meeting

WHEREAS, the Town Council of the Town of Herndon has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by this Town Council that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered by the Town Council.

VOTE:
Ayes – 5
Nays – 0

ABSENT DURING VOTE: 2

ABSENT DURING MEETING: 2

September 1, 2015
(work session)

ADJOURNMENT

There being no further business, the meeting adjourned at 9:01 p.m.

Jennifer Baker
Vice Mayor

Margie C. Tacci
Deputy Town Clerk

Minutes approved by Town Council: September 8, 2015.