



Town of Vienna

Meeting Minutes

Town Council Meeting

Charles A. Robinson Jr.
Town Hall
127 Center Street South
Vienna VA, 22180

Monday, December 6, 2021

8:00 PM

Charles A. Robinson, Jr. Town Hall, 127
Center Street, South

1. Resolution

- A. [21-2769](#) Resolution for Continuity of Government

Mayor Linda Colbert called the meeting to order and read into the record the Continuity of Government. The Resolution was approved through voice vote.

2. Invocation: Reverend Corky Eddins, Christ Church Vienna

Mayor Colbert recognized Reverend Corky Eddins, Christ Church Vienna to provide the evening's invocation.

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

4. Roll Call

Present: 7 - Council Member Chuck Anderson, Council Member Ray Brill Jr., Council Member Nisha Patel, Council Member Steve Potter, Council Member Ed Somers, Council Member Howard J. Springsteen and Mayor Linda Colbert

5. Approval of the Minutes:

- A. [21-2770](#) Acceptance of the Regular Council Meeting Minutes of November 15, 2021 and the Town Council Conference Session Minutes of November 8, 2021.

The minutes of the November 8, 2021 Town Council Conference Session and the November 15, 2021 Town Council Meeting were approved as submitted.

A motion was made that the Minutes be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

6. Receipt of petitions and communications from the Public that are not on the Agenda. (Limited to 3 minutes per issue and no formal action can be taken this evening)

NesliEsen, 906 Frederick St., SW stated that she has been working on a map of Vienna businesses as a way to contribute to the Town that she loves and has lived in for 17 years. She decided to create a map that will assist residents and visitors to find businesses, in six different categories. It has been a special experience meeting with the various business owners; they are a significant asset to the Town. Some have been in business for up to 60 years. The first printing of the map is now available (maps presented to Mayor and all Council Members); it includes Maple Avenue, Church St., Mill St. and Dominion as well as both East and West Vienna and Cedar Park. The businesses are highlighted with their logos and building names.

7. Reports/Presentations

A. [21-2750](#) Presentation of Certificate of Achievement for Excellence in Financial Reporting

Mayor Colbert presented Marion Serfass and the Finance Department the Certificate of Achievement for Excellence in Financial Reporting. This is the 34th year for receipt of the award.

B. [21-2749](#) Presentation of 2021 Annual Comprehensive Financial Report (ACFR)

Mayor Colbert called on Marion Serfass, Director, Finance to introduce the Item. Director Serfass introduced Andrew Grosnickle, Robinson, Farmer and Cox Associates to review and present highlights from the audit.

Council Member Potter introduced a motion to add the following item to the agenda:

Readoption of extension of emergency ordinance to permit temporary waivers of zoning regulations and review for public, semi-public and private institutions adversely effected by the ongoing pandemic disaster through Decembers 31, 2021. Second, Council Member Springsteen. Motion passed unanimously.

E. Closed Session Report

It was moved that a Closed Session be held later this date, Monday, December 6, 2021 at the conclusion of the regular Town Council Meeting for matters of personnel.

Motion, Council Member Somers; second, Council Member Brill. Motion carried unanimously.

This matter was approved

Present: 7 - Council Member Chuck Anderson, Council Member Ray Brill Jr., Council Member Nisha Patel, Council Member Steve Potter, Council Member Ed Somers, Council Member Howard J. Springsteen and Mayor Linda Colbert

8. Public Hearings

A. [21-2758](#) Public Hearing for Budget Carryforward Supplemental Appropriation from FY 2021 To FY 2022

21-2758 Public Hearing for Budget Carryforward Supplemental Appropriation from FY 2021 To FY 2022

Mayor Colbert called the Public Hearing to order at 8:23 PM. All Council were present either in person or via ZOOM. She recognized Marion Serfass, Director, Finance who summarized the Item for consideration. Comments from Council included the following:

Council Member Somers questioned why real estate tax adjustments were held until 2023. In response, Director Serfass explained that taxes are collected in advance. As such, the second half of the 2022 real estate taxes are due today. Further, by holding cuts until 2023 the adjustment will be more significant and meaningful.

Council Member Brill questioned the dollar amounts of each allocation of surplus funds in the unfunded priorities category. Noting that most were quite small, he questioned if the amount would actually make a difference. Leslie Herman, Director, Parks and Recreation and Jeremy Edwards, Parks Maintenance Supervisor, noted that the \$70,000 allocated to tree replacement and removal is very significant. Due to budget cuts and the impact of COVID, the current budget was set at \$30,000.

Council Member Potter inquired as to the timing of the salary correction. Director Serfass noted that the correction will be effective as of January 1, 2022.

Mayor Colbert remarked that the sidewalk project continues and that a plan is in place for those sidewalks not included in the Robinson Sidewalk Project.

A motion was made to close the Public Hearing. Motion, Council Member Anderson; second, Council Member Springsteen. Motion carried unanimously.

A motion was made to approve the \$900,000 amendment to the FY 2021-22 general fund budget as presented.

Motion, Council Member Springsteen; second, Council Member Potter. Motion carried unanimously.

A motion was made by Council Member Springsteen, seconded by Council Member Anderson, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

9. Regular Business

A. [21-2652](#)

Installation of Broadcast Equipment at Vienna Police Department Community Room for the Cable Access Channel and Emergency Operations Center

A motion was made to approve procurement upgrades as described for the Town of Vienna cable channel in an amount not to exceed \$562,240.92.

Motion, Council Member Springsteen; second, Council Member Brill. Motion carried unanimously.

A motion was made by Council Member Springsteen, seconded by Council Member Brill, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

B. [21-2697](#)

Police Department requests approval to purchase new Motorola portable radios.

A motion was made to approve the Vienna Police Department purchase of 50 Motorola APX NEXT portable radios and associated equipment for a cost not to exceed \$364,621 utilizing ARPA Funds.

Motion, Council Member Anderson; second, Council Member Somers. Motion carried unanimously.

A motion was made by Council Member Anderson, seconded by Council Member Somers, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

C. [21-2722](#) Resolution to Approve the Town's participation in the proposed National Opioid Settlement Agreements

Mayor Colbert recognized Jim Morris, Chief, Vienna Police Department, to review the request.

A motion was made to approve the Proposed Resolution authorizing the Town's participation in the proposed settlement of opioid-related claims against McKesson, Cardinal Health, AmerisourceBergen, Janssen, and their related corporate entities, and directing the Town Attorney to execute the documents necessary to effectuate the Town's participation.

Motion, Council Member Potter; second, Council Member Brill. Motion carried unanimously.

A motion was made by Council Member Potter, seconded by Council Member Brill, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

D. [21-2762](#) Request recognition of donation and approval of Nutley Median Tree Project

Mayor Colbert recognized Leslie Herman, Director, Parks and Recreation, to present the Item.

A motion was made to recognize the donation of \$20,000 and approve the Nutley Median Tree Project.

Motion, Council Member Anderson; second, Council Member Springsteen. Motion carried unanimously.

A motion was made by Council Member Anderson, seconded by Council Member Springsteen, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

E. [21-2751](#) Request formal approval for purchase of a Leaf Machine within the FY22 Vehicle Replacement Program

Mayor Colbert called on Mike Gallagher, Director, Public Works, to review the request.

A motion was made to formally approve the proposed expenditure of funds for replacing the Leaf Machine #258 listed above within the VRP in the amount of \$56,000.83 from the account listed above.

Motion, Council Member Springsteen; second, Council Member Potter. Motion carried unanimously.

A motion was made by Council Member Springsteen, seconded by Council Member Potter, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

F. [21-2752](#) Request approval for additional FY22 spending with Mid-Atlantic Waste Systems.

Mayor Colbert again recognized Mike Gallagher, Director Public Works, to provide information on the request.

A motion was made to approve additional FY22 spending in the amount of \$25,000 for distributor Mid-Atlantic Waste Systems from the account referenced above riding the Sourcewell Contract 091219-THC.

Motion, Council Member Springsteen; second, Council Member Anderson. Motion carried unanimously.

A motion was made by Council Member Springsteen, seconded by Council Member Anderson, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

G. [21-2755](#) Request approval of the Bear Branch Phase II Stream Restoration Funding Agreement with Fairfax County

Mayor Colbert called on Mike Gallagher, Director of Public Works, to present the request.

A motion was made to approve the agreement with Fairfax County for the Bear Branch Phase II Stream Restoration Project and authorize the Mayor to execute the agreement pending final legal review by the Town Attorney.

Motion, Council Member Brill; second, Council Member Somers. Motion carried unanimously.

A motion was made by Council Member Brill, seconded by Council Member Somers, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

H. [21-2768](#) Extension and re-adoption of emergency ordinance to waive zoning regulations to permit temporary outdoor activity through Dec. 31, 2021

Mayor Colbert recognized Steve Briglia, Vienna Town Attorney, who reviewed the Item for consideration.

A motion was made to approve and re-adopt extension of the temporary outdoor activity ordinance for expanded use of outdoor business operations for outdoor dining and other commercial activities to Dec. 31, 2021, subject to conditions outlined in the emergency ordinance; and it was further moved to direct the Town Clerk to advertise a Notice of Adoption of the emergency ordinance.

Motion, Council Member Somers; second, Council Member Springsteen. Motion carried unanimously.

A motion was made by Council Member Somers, seconded by Council Member Springsteen, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

I. [21-2756](#) Consideration of a zoning ordinance text amendment for Section 18-72 and Section 18-210, related to the allowance of outdoor dining and adoption of text amendments

Mayor Colbert recognized Mike D'Orazio, Deputy Director, Planning Commission to review the Item.

Council discussion is summarized as follows:

- Continue to believe that the issue of noise has not been adequately addressed; consider adding language "the site plan for outside dining areas abutting or adjacent to residential properties must also include a noise abatement plan detailing measures that will be taken to effectively minimize adverse impacts of noise on abutting or adjacent residential properties";
- How would noise abatement plan be measured;
- The 50 ft. distance will be measured from the residential property line toward the business; suggest increase to 60 ft.;
- Do not want to force businesses to invest in equipment (noise abatement systems) that Council was not yet ready to require;
- Already agreed to sun setting provision;
- This is a temporary measure with three tools for adjustment: temporary amendment timeframe, hours of business outdoor operation, and number of guest seating allowed; already agreed on six-month time frame and eight guests per parking spot;
- Consider adding language "applicants acknowledge that they will comply with noise ordinance set forth in section 10-201 and 10-44 of the Town Code";
- Council previously committed to continue discussion of this issue throughout temporary ordinance time period.

A motion was made to adopt the text amendments for Section 18-72, as related to outdoor dining, as discussed at the November 30, 2021 conference session and presented in Items 11 and 12 (Part II - Code of Ordinances Chapter 18 - Zoning Article 11. C-1 Local Commercial Zone Regulations) with the modification of the hours of operation changed on Friday and Saturday from 10:00 AM until 9:30 PM.

Motion, Council Member Patel; second, Council Member Springsteen. Motion carried unanimously.

A friendly amendment was offered by Council Member Anderson as follows: "the applicant acknowledges that they will comply with the noise ordinance set forth in Section 10-201 and Section 10-44 of the Town Code."

Friendly amendment accepted by Council Member Patel and Council Member Springsteen.

A second friendly amendment was offered by Council Member Springsteen to change the motion text of Article II, C-1 Local and Commercial Zone Regulations; Section 18-72 Permitted Uses, C2bi Incidental Uses "located within 50 feet of a residentially zoned property....." to read "located within 60 feet of a residentially zoned property".

Second friendly amendment accepted by Council Member Patel and Council Member Somers.

Amended motion passed unanimously.

A motion was made by Council Member Patel, seconded by Council Member Springsteen, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

21-2788 Re-Adoption and Extension of an Emergency Ordinance to permit temporary waivers of Zoning Regulations and review for Public, Semi-Private and Private Institutions adversely effected by the ongoing pandemic.

Additional item added:

A motion was made to approve and readopt extension of emergency ordinance to permit temporary wavers of zoning regulations and review for public, semi-public and private institutions adversely effected by the ongoing pandemic disaster through December 31, 2021.

Motion, Council Member Potter; second, Council Member Springsteen. Motion carried unanimously.

A motion was made by Council Member Potter, seconded by Council Member Springsteen, that the Resolution be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

J. [21-2775](#)

Second Closed Session Report

Council recessed to Closed Session at 10:32 PM.

Mayor Colbert called the Council to order at 11:14 PM. All Council were present. Mayor Colbert recognized Council Member Somers.

It was moved that the members of the Vienna Town Council be polled to affirm that a Closed Session was held on December 6, 2021 virtually, via ZOOM, and in-person, in accordance with Virginia Code, Section 2.2-3711.A.(1), and the Town of Vienna's Continuity of Government ordinance, for discussion or consideration of personnel matters. It was further moved that the Certification Resolution be adopted in accordance with State Statutes, and that the Town Clerk is authorized to execute the Certification Resolution. And, as previously scheduled, it was further moved that the Closed Session be continued to Monday January 3, 2022 at 7:30 PM in accordance with Virginia Code, Section 2.2-3711.A.(1), and the Town of Vienna's Continuity of Government ordinance, for discussion or consideration of personnel matters, specifically the interviewing of individuals for consideration of appointment and/or reappointment to Town Boards and Commissions.

Motion, Council Member Somers; second, Council Member Brill. Motion carried unanimously.

A motion was made by Council Member Somers, seconded by Council Member Springsteen, that the Action Item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

10. Meeting Adjournment

Mayor Colbert called for a motion to adjourn. Council Member Patel made the motion. Second, Council Member Springsteen. Meeting adjourned at 11:16 PM.

A motion was made by Council Member Howard J. Springsteen, seconded by Council Member Nisha Patel, that the meeting be adjourned. The motion failed by the following vote:

THE TOWN OF VIENNA IS COMMITTED TO FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT STANDARDS. TRANSLATION SERVICES, ASSISTANCE OR ACCOMMODATION REQUESTS FROM PERSONS WITH DISABILITIES ARE TO BE REQUESTED NOT LESS THAN 3 WORKING DAYS BEFORE THE DAY OF THE EVENT. PLEASE CALL (703) 255-6304, OR 711 VIRGINIA RELAY SERVICE FOR THE HEARING IMPAIRED.

DRAFT