REGULAR COUNCIL MEETING
April 2, 1984

The Vienna Town Council met in regular session on Monday, April 2, 1984 in the Council Room of the Town Hall, 127 S. Center St. Mayor Charles A. Robinson, Jr. called the meeting to order at 8 P.M. with the following members of Council present: Councilmen Buckley, Lovelace, Olson, Robinson, Seeman and Upchurch. Also present were: Brackenridge H. Bentley, Town Manager; John F. Gionfriddo, Town Attorney; John W. Stockton, Director of Public Works and Marian S. Wallace, Town Clerk.

The invocation was offered by Councilman Donald Upchurch, followed by the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF MINUTES

1. It was moved to approve the minutes of the regular Council meeting of March 19, 1984 and the minutes of the public hearing on the appeal of the B.A.R. ruling of March 19.

MOTION: Upchurch
SECOND: Buckley
Carried unanimously

PUBLIC HEARING - Historic Districts Ordinance

See minutes attached.

PUBLIC HEARING - Rezoning Request - 135 Roland St. S.W.

2. It was moved that the public hearing be recessed until the next regular Council meeting with the specific intent to reset a hearing to a date certain and advertise the meeting date.

MOTION: Lovelace
SECOND: Buckley
Carried unanimously

CHAMBER OF COMMERCE/JAYCEES

Messrs. John Buckley and Robert Dix addressed Council on their plan to hold a Vienna Festival on Sunday, May 27, 1984 from Noon until 6 P.M. on Church St. between Lawyers Rd. and Mill Street. All businesses in the area have been contacted and are in favor of the event. All residents will be contacted. The proceeds from the affair will be used to send 65 children to camp for handicapped children.

Mr. Jerry Barnett, Pres. of No. Va. Handcrafters Guild expressed some disappointment that the project was scheduled for the same weekend the Handcrafters Guild holds it annual spring show and sale at the Community Center. He felt that there might be some competition between the Guild members and those who were selling handcrafted items along the street area. It was suggested that the two groups join in advertising, etc. and encourage participants to enjoy both shows.

3. It was moved that Council indicate its support for this effort by the Chamber of Commerce and the Jaycees in putting on a Town Festival on May 27, 1984.

MOTION: Lovelace
SECOND: Buckley
Carried unanimously

FRANCHISE ORDINANCE - Gas Co.

Mr. Terrence O'Grady, attorney representing the Washington Gas Light Co., discussed with Council the steps to be taken prior to awarding the franchise for the sale and service of gas to the Town.

4. It was moved to adopt the ordinance attached to the agenda packet to grant a franchise for the transmission, distribution and sale of natural gas in the corporate limits of the Town of Vienna and for the advertising for bids for four weeks as we did for the T.V. franchise.

MOTION: Buckley
SECOND: Olson
Carried unanimously on polled vote

TOWN/COUNTY BOUNDARY ADJUSTMENT

The Town Manager explained the purpose of the boundary adjustment. He also noted that originally there were 19 sites under consideration but the senior staff in the County had removed one site. That was done as a professional courtesy to the Town Manager inasmuch as he would be forced to sell his home and move. He would be the only resident affected in this way because he is required to live within the Town limits.

Mr. Roger DeMarco asked that the eleven contract owners in Madison Oaks Subdivision be notified by the County in order that they may attend the public hearing when it is scheduled.

Mr. Paul Pierson, Hunters Court, is one of the contract owners in Madison Oaks and stated they all want to be residents of the Town.

Councilman Buckley asked that Capt. Mitchell, Pres. of Westbriar Civic Assocation, the residents on Old Courthouse Rd., adjacent to Freedom Hill Park, residents of Saratoga Waye should be notified also.

Members of Council made certain editorial changes to the proposed letter to be sent out by the County. The Town Manager will incorporate these suggested changes.

Residents who wish to discuss the proposed changes are to call either Mr. Wessel in the County or Mr. Grant in the Town.

Mr. Michael Bates, a contract owner in Madison Oaks asked what the schedule was for accomplishing this.. The Town Manager replied that it would be probably July inasmuch as the County Board does not meet in August. It could, however, take until September.

Mr. Bob Becker, a buyer in Madison Oaks, stated he selected a lot located in the Town. He now has a Vienna address and wants to be sure he continues to be a Town resident.

Mr. DeMarco said he has problems with vandalism at the project and does not know if he is to call the Vienna police or the County police since the subdivision is in both areas. Councilman Lovelace suggested that the Town Manager and the County Executive could work out some agreement as to which police department should respond.

Mrs. Dorothy Craft, 715 Marshall Rd. noted that according to the map on display, Marshall Rd. is within the Town limits. When they have called the Vienna Police Dept. they have responded but have told them to call the County police because the Town line runs only to the front of their property and the street itself is in the County. They had called relative to traffic accidents, etc. The Town Manager advised them that Marshall Rd. is in the Town limits and the Police Dept. will be advised to take care of calls from that area.

5. It was moved that in coordination with the Fairfax County staff, the Town staff be directed to send out the letters of notification, prepare the description of the proposed boundary, and schedule a joint public hearing at a time acceptable to the County Board and the Town Council.

MOTION: Upchurch
SECOND: Seeman
Carried unanimously

WAIVER OF PENALTY AND INTEREST REQUEST

Mr. Kant Patel advised Council that he was unaware that the Town collected real estate taxes twice a year and he had never received his first bill. He has a problem with the Post Office delivering his mail to the wrong address. Mr. Patel had an envelope which had been misdirected and finally correctly addressed and delivered. He stated that in Maryland the taxes are collected only once a year and he simply did not know his taxes were due. He felt he should not be punished for this but would agree that from now on, whether he received a bill or not, he would be responsible for paying the taxes when due.

Council members were sympathetic but felt by the same token, the Town should not lose the taxes and could not assume the responsibility of the Post Office Department.

6. It was moved that the request for waiver of interest and penalty on the real estate tax on 109 Center St., as requested by Mr. Kant R. Patel, be denied.

MOTION: Upchurch
SECOND: R. Robinson
Carried unanimously

WALL WAIVER REQUEST - Vienna Professional Bldg.

Mr. Richard Downham described the grade differential between this property and the school property. Mrs. Thompson, the Principal of Vienna Elementary School agreed with the proposed fence instead of the required wall. It was felt that was safer for the children playing. The School Board has requested that he plant a two foot area of landscaping along the fence.

Councilman Buckley asked Mr. Downham if he would be willing to put the cost of a wall in escrow in case of a change in ownership of the property and the wall may be required at a later date.

Mr. Downhan stated he was willing to do that if he did not have to put in the fence and two feet of landscaping on the side of the fence. The cost to him is very close, whichever way he goes. He would put in 300 ft. of wall or 400 to 500 ft. of fence .

Councilman Olson suggested that there was no need for the wall along the bike trail area and asked if Mr. Downham would build both a wall and then a continuation of fence along the school property if the wall at the bike trail area would be eliminated.

Councilman Robinson felt that if the wall is built and there is a safety problem for the children, the County should have a fence erected or take whatever steps necessary for the protection of the children.

Mrs. Thompson stated that the safety of the children was her first concern and the black chain link fence seemed to be the better way to go. She had understood that the wall would be only three feet high on the school side and six feet high on the other side. She was advised that the wall would be six feet high on the school side.

7. It was moved to approve the request of Virginia 4 Partnership to waive the requirement for the masonry wall around the transitional parking area and that a six foot chain link fence be installed as indicated on the plat before Council.

MOTION: Seeman
SECOND: Upchurch
Failed 4/3

Councilmen Buckley, Seeman and Upchurch voted Yes
Councilman Lovelace, Olson, Robinson and Mayor Robinson voted No

Mr. Downham was asked if he would consider building a combination of wall and fence. He stated he would have to go back to the owners now that 50% of the building has been sold. Time is of the essence and they need to finish up the project and get the bonds released, etc. They are willing to go ahead and install the wall as planned originally.

8. It was moved that Council delay action on this request in order that Mr. Downham may go back to his group to seek approval for a combination wall and fence, envisioning eliminating that portion of the wall along the creek and extending the fence from the end of the required wall to the point on the plat where they had proposed building a fence.

MOTION: Olson
SECOND: Lovelace
Carried unanimously

The Town Manager read into the record the Planning Commission's recommendation. (Attached to official minutes).

At 10:25 Mayor Robinson asked Vice Mayor Lovelace to take over his chair and he asked to be excused because of illness. The Vice Mayor conducted the remainder of the meeting with all other members of Council present.

WALL WAIVER REQUEST - Vienna Park Apartments

Vice Mayor Lovelace read into the record the Planning Commission's recommendation. (Attached to official minutes).

Mr. Russell Sherman represented the ownership. He stated they were willing to plant trees 6-8' high along the property line, as recommended by the Planning Commission. The present apartment complex is being converted to condominiums.

Councilman Robinson noted that a wall would be required between the condos and the single family units on the other side and asked why Council was not dealing with the entire wall requirement at the same time.

Mr. Sherman stated that some of the single family home owners were not in favor of a wall. Nevertheless, it was noted that a wall is required according to the code and there has been no wall waiver request filed except for that area between the condos and the commercial property adjacent to it. (Phase I).

Mr. Sherman stated that if the single family home owners want a wall, they will build it.

9. It was moved that the request of the owners of Vienna Park Apartments and the contract owner, to waive the required 6 ft. wall between the apartments and the adjacent Cedar Park Shopping Center be approved provided that the tree line is extended to Patrick St. with the same type and same spacings of the trees that are now growing, at least to a height of 10 - 12 ft.

MOTION: Upchurch
SECOND: Buckley
Carried unanimously
Absent: Mayor Robinson

I-66/NUTLEY INTERCHANGE

Vice Mayor Lovelace explained Council was trying to put together a position paper to be forwarded to Virginia Department of Highways and Transportation to give them Council's view on how we feel on the I-66/Nutley interchange.

The ad hoc committee has given Council its thoughts; the staff had prepared a draft letter and Councilman Lovelace had offered some suggested changes to that draft letter.

Mr. John Craft, 715 Marshall Rd. stated he liked the proposed letter but there was one more concern: they are still very concerned that there are no proposed walkways into the Metro station.

Councilman Upchurch advised Mr. Craft that Council has passed a motion and is preparing a resolution which will be on the next agenda, asking Metro to include sidewalks on their part to match our sidewalk plans.

Mr. Gary Gillam noted that he was a member of the ad hoc committee but did not sign the letter because he did not agree totally with it. He stated some of his differences with the recommendations made.

Some minor editorial changes were suggested to be made to the draft letter. Also to be incorporated in the letter is the request for bikeways and sidewalks.

10. It was moved that Council adopt the draft letter in this week's packet as Item #13, and direct the Town Manager to incorporate any changes involved from our discussion here tonight and prepare same for Mayor Robinson's signature and dispatch. (To include sidewalks and bike trail).

MOTION: Upchurch
SECOND: Olson
Carried unanimously
Absent: Mayor Robinson

11. It was moved to adjourn.

MOTION: Olson
SECOND: Seeman
Carried unanimously
Absent: Mayor Robinson

The meeting was adjourned at 11:05 P.M.

Charles A. Robinson, Jr.
MAYOR

ATTEST:

Marian S. Wallace
Town Clerk

Presented to the Mayor for signature April 4, 1984.
Signed and returned to the Clerk April 4, 1984

Continued Public Hearing April 2, 1984
Historic Districts Ordinance
(Continued from March 19, 1984)

Mayor Charles A. Robinson, Jr. called the public hearing to order at 8:22 P.M. in the Council Room of the Vienna Town Hall with the following members of Council present: Councilmen Buckley, Lovelace, Olson, Robinson, Seeman and Upchurch. Also present were: Brackenridge H. Bentley, Town Manager; John F. Gionfriddo, Town Attorney; John W. Stockton, Director of Public Works and Marian S. Wallace, Town Clerk.

The mayor noted that the Town Manager has suggested that this public hearing be continued until the first meeting in May to permit the Town Attorney and the Planning Commission to give consideration to the possibility of adapting the concept of the County's Historic Overlay Ordinance if this can be done.

Councilman Lovelace advised the other members of Council that the residents of Windover Heights did not wish to speak on the subject since their ordinance would not be changed.

Councilman Upchurch explained the changes he has proposed in order to develop an historic district around the Freeman House. When the effort was made several years ago the owners of the houses in the vicinity and the officers of the historic Presbyterian Church objected because they would lose some of their ownership rights. He has tried to remove the portions of the old proposed ordinance in order to make it more palatable.

1. It was moved to defer action on this item until the first meeting in May, 1984.

MOTION: Olson
SECOND: Buckley
Carried unanimously

LEGAL NOTICE
TOWN OF VIENNA, VIRGINIA

Notice is hereby given that pursuant to an ordinance adopted by the Council of the Town of Vienna, Virginia on Monday, April 2, 1984, bids will be received for the franchise privileges and rights proposed to be granted by such ordinance, such bids to be presented to the presiding officer of the Council of the Town of Vienna at a regular meeting of such Council to be held in the Council Chamber on the 7th day of May, 1984, at 8 o'clock P.M. After the receipt and opening of such bids, the Council will proceed with the consideration of the granting of such franchise in the manner prescribed by law.

All bids must be in writing and the successful bidder shall pay all costs for advertising the franchise in addition to the sum bid by it. The right is hereby expressly reserved to reject any and all bids. The proposed franchise ordinance is as follows:

> AN ORDINANCE asking bids to be submitted for a franchise to use and occupy the streets, alleys and other public grounds of the Town of Vienna as the same now exist or may hereafter be laid out for the construction, maintenance and operation therein of a system of pipes, mains, manholes, connections, meters and other equipment and appliances necessary or convenient for the transmission, distribution and sale of gas in the Town of Vienna; and fixing the time for the reception by the Town Council of bids.

BE IT ORDAINED BY THE TOWN COUNCIL OF VIENNA, VIRGINIA:

That bids in writing be received by the presiding officer of the Council at a meeting thereof, in open session, to be held on the 7th day of May, 1984, at 8 o'clock P.M., for a franchise to use and occupy the streets, alleys and other public grounds of the Town as the same now exist or may hereafter be

laid out, for construction, maintenance and operation therein of a system of pipes, mains, manholes, connections, meters, and other equipment and appliances necessary or convenient for the transmission, distribution and sale of gas, for the purpose of supplying gas in the Town of Vienna.

The Council reserves the right to reject any and all bids. The person or corporation to whom the grant is finally made, if any, shall reimburse the Town for the cost of advertising this ordinance as required by law.

The form of the franchise for which bids are hereby requested, shall be substantially as follows:

AN ORDINANCE granting to a franchise to use and occupy the streets, alleys and other public grounds of the Town of Vienna as the same now exist or may hereafter be laid out for the construction, maintenance and operation of a system of pipes, mains, manholes, connections, meters and other equipment and appliances necessary or convenient for the transmission, distribution and sale of gas in the Town of Vienna.

BE IT ORDAINED by the Town Council of the Town of Vienna, Virginia:

Section 1. A franchise be, and the same is hereby, granted to _____, a corporation organized and existing under the laws of the United States of America and a duly qualified corporation of the Commonwealth of Virginia, its successors and assigns (hereinafter generally referred to as grantee), for a fee in the amount of $_____ to use and occupy the streets, alleys, and other public grounds in the Town of Vienna, Virginia, as now existing or hereafter extended, for the construction, maintenance and operation therein of a system of pipes, mains, manholes, connections, meters and other equipment and appliances necessary or convenient for the transmission, distribution and sale of gas in and to any part of the Town of Vienna.

Section 2. The materials to be used and the manner of construction to be followed under this franchise shall be such as are commonly used and followed by similar grantees doing a similar business in towns of substantially the size of the Town of Vienna. The location and laying of all pipes or mains, the placing of manholes and conduits, and the location of any other permanent equipment or appliances of any kind under this franchise shall be subject to the approval of the Town Council or such committee or town official as the Town Council may from time to time designate, and when plans showing the location or relocation of pipes, mains, manholes, connections, meters or other equipment or appliances have been submitted to and approved by said Town Council or such designated committee or official, they shall be effective and binding to the same extent as if they were set out fully and at length in this ordinance; provided, however, that all work done under this ordinance shall be done in such manner as not to interfere unreasonably with the free and proper use of the street, alleys and other public grounds while the said work is in progress, or unnecessarily to obstruct the travel thereon, and when the streets, alleys and other public grounds are used for any underground construction the surface thereof shall be restored within a reasonable time from completion of the work to the same condition as existed prior to such construction.

Section 3. The work to be done under this ordinance shall be done in such a manner as not to damage any other underground construction of any other public service corporation holding a franchise from the Town or any construction performed by the Town itself, or by the State Highway Department, or unnecessarily to interfere with the making of connection by the Town or by the citizens thereof with water or sewerage pipes which may now or hereafter be laid or constructed by the Town or by any other public service corporation holding a franchise from the Town.

Section 4. Whenever any of the pipes, mains, manholes, or other structures of the grantee shall prove to be in the way of public street improvements or sidewalks, actually being constructed in the Town, whether such improvements be new or in the nature of changing any location of or repairing existing streets, sidewalks, alleys or public grounds the Town Council may require the grantee at its cost to move so much of its works on the streets, sidewalks, alleys, or other public grounds in the Town as may impede the progress of such improvements, and upon the failure of the grantee so to do, the Town Council may, after ten days' notice in writing to the grantee, itself make such necessary changes in the works of the grantee at the cost and expense of the grantee.

Section 5. By accepting this ordinance and franchise, the grantee, its successors and assigns, hereby agree to indemnify and save harmless the Town of Vienna, Virginia, as a municipal corporation, from all loss, cost and expense to which the Town may be subjected for any damage or destruction that may be done to or suffered by anyone in person or property for which the Town of Vienna may be held liable by reason of any work to be done or the proper maintenance thereof under this franchise.

Section 6. The grantee, its successors and assigns, shall, at its own proper cost, promptly replace, relay repair and restore as nearly as possible to its original condition all streets, sidewalks, water mains, or sewers disturbed or damaged in the construction of the work authorized to be done by this franchise; and, upon failure to do so, after ten days' notice in writing shall have been given by the Town Council or any duly authorized officer of the Town, the Town Council may replace, relay, repair or restore such portion of the streets, sidewalks, water mains or sewers as may be so damaged or disturbed and collect the cost so incurred from the grantee, its successors and assigns.

Section 7. This franchise is granted under the express condition that the grantee shall maintain a proper system for the transmission, distribution and sale of gas in the Town of Vienna, Virginia, subject to the jurisdiction of the State Corporation Commission of Virginia.

Section 8. This franchise and the rights and privileges hereby granted and conferred shall not become effective unless and until the grantee shall file with the Clerk of the Town Council of the Town of Vienna, Virginia, its written acceptance thereof and shall have entered into a bond in favor of the Town of Vienna, Virginia, in the sum of $10,000.00, with surety approved by the Mayor, conditioned upon the constructing and putting into operation and maintaining the plant provided for in this franchise.

Section 9. The privileges hereby granted shall continue for a period of twenty years from the date of the approval of this ordinance.

Approved this _____ day of _____, 1984.

_____

Mayor