

REGULAR COUNCIL MEETING

TOWN OF VIENNA, VIRGINIA
November 5, 2012- 8:00 PM
Charles A. Robinson Jr. Town Hall, 127 Center Street South

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Invocation:	Local Spiritual Assembly of the Baha'i Community
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Pledge of Allegiance to the Flag of the United States of America
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1.	Roll Call
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2.	Approval of the Minutes :Regular Meeting and two Public Hearings of October 22, 2012 and Work Session of October 15, 2012- APPROVED
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3.	Receipt of petitions and communications from the Public
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4.	Reports/Presentations
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	<ul style="list-style-type: none">A. Halloween Parade AwardsB. Proclamation for American Education WeekC. Report and Inquiries of Council MembersD. Report of the Town ManagerE. Report of the MayorF. Proposals for Additional Items to the AgendaG. Closed Session
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5.	Alley Vacation Request Between 108-110 Church Street NE and 120 Church Street NE.
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	Consideration of two requests from two different owners, Staats Developers and Alma and Jack Tochtermann, to purchase the unopened alley between 108-110 Church Street NE and 120 Church Street, NE.
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	APPROVED
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6.	Consideration of Alley.Vacation Request for 112 Ayr Hill Avenue
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	Consideration of a request from Dennis Rice with J.D.A. Custom Homes, Incorporated to purchase a section of the unopened public alley behind 112 Ayr Hill Avenue NW.
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	APPROVED
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7.	Award a Survey & Design Contract for Mill Street NE to Wiley Wilson
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	Award a survey and design contract for Mill Street NE to Wiley Wilson.
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	APPROVED
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8.	Approval of Walk to Downtown sidewalk grant
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	Consideration of a Federal Highway Administration "Walk to Downtown Vienna Initiative" grant for sidewalk construction.
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	APPROVED
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9.	Adoption of State Code - Chapter 9 Motor Vehicles and Traffic
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	A proposed ordinance to amend Chapter 9, Motor Vehicles and Traffic, Article 1, In General, Section 9-3, Adoption of State Code, of the Code of the Town of Vienna.
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	ADOPTED
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10.	Adoption of re-codified Town Code
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	Adoption of re-codified Town Code.
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	ADOPTED
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11.	Meeting Adjourned
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Town of Vienna
Council Agenda Communication

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<u>Date:</u> November 05, 2012	<u>Subject:</u> Consideration of two requests from two different owners, Staats Developers and Alma and Jack Tochterman, to purchase the unopened alley between 108-110 Church Street NE and 120 Church Street, NE. APPROVED
<u>Agenda Item:</u> 5	








Originating Department:	
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EXPLANATION AND SUMMARY

Staats Developers and Alma and Jack Tochterman have expressed interest in purchasing the adjacent, unopened mid-block alley between their properties. In accordance with our new policy, all Town departments and utility companies were contacted for comment on the proposed vacation of public right-of-way and had no objection. The right-of-way is a maintenance problem for the Parks and Recreation Department tree crew who have spent several days removing large overhanging trees in the last few years. It is unlikely the alley will ever be opened for any type of public use.

The applicants are only interested in purchasing the portion of the alley directly adjacent to their properties. Vacating this small portion of the whole alley will not land lock any other properties but will prevent opening the alley all the way through the block for public use in the future. Town Council may wish to pursue vacation of the remainder of the alley at this time; however, it is recommended that any additional vacations not create landlocked parcels which cannot be maintained by Town crews.

Public rights-of-way have value and any disposal must follow state law. The extra land may improve adjacent properties and allow for a building addition or even provide enough property to allow a subdivision. Because the applicants would be receiving something of value, staff feels it is important that the applicants not only purchase the public property but pay all associated costs for the vacation and abandonment like field survey, title search, plat preparation, recording fees, etc.

Documents Attached:	<ul style="list-style-type: none"> Location map, alley between Center and Dominion.pdf - Location Map Tommy Staats Letter dated 9-28-12.pdf - Staats Developers Letter 9-28-12 Tochterman letter 7-26-2012.pdf - Tochterman letter 7-26-2012 Council meeting notice letter.doc - Council meeting notice letter 120 Church Street NE Vacation Property Owner List.xls - 120 Church Street NE Vacation Property Owner List 110 Church Street NE Alley, Evaluation Matrix.xls - Evaluation matrix Utility Company alley vacation letter.pdf - Utility Company alley vacation letter
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Departmental Recommendation:	Recommend vacation of the unused alley.
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Finance Recommendation:	Recommend vacation of the unused alley.
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Purchasing Recommendation:	N/A
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Town Attorney Recommendation:	<p>The Town Council may consider the proposed vacation of right of way in its discretion and in accordance with state law. Under the Town's vacation of ROW procedures, if the Town Council wishes to consider the proposed vacation, the following procedures should be followed:</p> <p style="text-align: right;">Page 3 of 73</p> <p style="text-align: center;">Town Council decides if the land appears to be surplus</p>
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and confirms the requester is responsible for the fees to implement disposal of the parcel. A fee and up-front payment of field survey, deed research, plat preparation, appraisal, filing fees, etc. should be required. Article 2, Chapter 20, of Title 15.2 of the Code of Virginia specifies the procedure for appointing viewers, determining values, etc., for any vacation of street rights-of-way.

If Council choses to move toward disposing of the property, the requestor (or the Town at the requestor's expense) hires a licensed surveyor at their expense to confirm parcel ownership and to produce a report explaining how the land was originally deeded to the Town and for what purpose. The surveyor shall give their professional opinion on who the property reverts to when vacated.

The surveyor prepares the appropriate plats and deeds of vacation at the requestor's expense.

If the surveyor concludes the parcel does not revert to adjacent property owners as a result of a subdivision and the parcel may be sold, the Vienna Town Attorney hires an appraisal firm at requestor's expense.

Public Notice and final Council action. Public Works staff prepares a second Town Council agenda report for discussion at a regular Council meeting. Public Works staff will notify Town boards and commissions, post "public hearing" signs on-site and send meeting notice letters to property owners adjacent to and affected by the proposed abandonment and approval of the "ordinance of vacation". At Town Council vote of three-fourths of all members of the Town Council is required for approval of the sale of any Town real estate.

Public Works staff's agenda report will include the surveyor's report, plat and deed; comments and correspondence from all agencies and other interested parties; then recommend a final disposition.

Recording of Ordinance/Deed.If the Town Council authorizes abandonment, sale or other disposition of the property, the requestor shall pay the value of the parcel. The Town Attorney records the "ordinance of vacation" and deed and any unspent survey fees are returned to the requestor.

Town Manager's Recommendation:

I recommend the Town Council begin the process to dispose of the excess public alley right-of-way between 108-110 Church Street NE and 120 Church Street NE as presented.

Cost and Financing:	N/A
Account Number:	N/A

Decision Needed by This date:	N/A
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PROPOSED/SUGGESTED MOTION
<p>"I move to (begin/reject) the process to dispose of the excess public alley right-of-way between 108-110 Church Street NE and 120 Church Street NE contingent upon the applicants providing the necessary survey, deed research and plat at their expense."</p> <p>and</p> <p>"I further move to direct the Town Attorney to follow the prescribed process to determine the value of the property and prepare a report to Council for the property's disposition."</p>



Ave.

St.

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September 28, 2012

Mr. Dennis Johnson, PE
Director
Town of Vienna
Public Works Department
127 Center Street , South
Vienna, VA 22180

RE: Alley Vacation Proposal - 120 Church Street NE

Dear Mr. Johnson

Staats Developers is interested in the Town of Vienna abandoning the unopened alley at 120 Church Street, NE. Please let us know the steps necessary to acquire said property. Staats would like to be notified of any future Town meetings pertaining to this subject.

Thank you for your time in considering this request. I look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas V. Staats".

Thomas V. Staats
President

TVS:bmg

Alma & Jack Tochterman
PO Box 285
Middleburg, Virginia 20118

July 26, 2012

Mayor M. Jane Seeman
Town of Vienna
127 Center Street South
Vienna, Virginia 22180

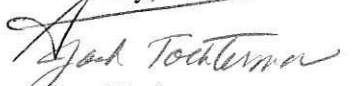
Dear Mayor Seeman:

We are interested in obtaining the Town property adjacent to our property at 108-110 Church St. N.E. We have owned the property for about 20 years and have maintained the piece for sometime. It appears the town approved the cutting down of the trees thus changing the topography drastically. You can just imagine how shocked we were to see the trees being removed and that no one contacted us beforehand. Also, it appears that the remaining trees on the top of the incline on our property will have to be removed due to the disruption to the roots and the surrounding ground. The area from the sidewalk to the end of our property line (in the back) is about 25-30 ft. height change.

We would like to discuss with you if there is a procedure for our request to possibly purchase this piece. We would also like to have a copy of (Title) town's record showing the meets & bounds for the area requested.

We look forward to hearing from you.

Sincerely,


Alma Tochterman
Jack Tochterman

We have been doing business for over 40 years in the Town of Vienna and started our company in the building 108-110 Church St. NE Vienna, VA.
North American Office Furniture, Inc. has sold furniture to the town as well as to the Vienna Police Dept. and to the many customers in and around the town.

NORTH AMERICAN OFFICE FURNITURE INC.

204-D MILL STREET, N.E.
VIENNA, VIRGINIA 22180

ALMA TOCHTERMAN

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Front

120 Church Street NE Alley Vacation Property Owner List					
<u>Property Owner</u>	<u>Property Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>Mailing Address</u>
Sullivan	101 Ayr Hill Ave NE	Vienna	Virginia	22180	
Kennon	105 Ayr Hill Ave NE	Vienna	Virginia	22180	4495 Sand Hill Rd, Marietta OH 45750
Aria LLC	234 Dominion Rd NE	Vienna	Virginia	22180	PO Box 877 Vienna VA 22183
Aria LLC	228 Dominion Rd NE	Vienna	Virginia	22180	PO Box 877 Vienna VA 22183
Park	226 Dominion Rd NE	Vienna	Virginia	22180	
Dominion Road LLC	220 Dominion Rd NE	Vienna	Virginia	22180	1108 Ingleside Ave, McLean VA 22101
Cowan	210-216 Dominion Rd NE	Vienna	Virginia	22180	
Dominion Equities LLC	208A Dominion Rd NE	Vienna	Virginia	22180	
Vienna Dominion Properties LLC	200 Dominion Rd NE	Vienna	Virginia	22180	PO Box 7765 McLean VA 22106
Staats Developers	120 Church St NE	Vienna	Virginia	22180	407 Church St NE, Ste H, Vienna VA 22180
Tochterman	108 Church St NE	Vienna	Virginia	22180	PO Box 285, Middleburg VA 20118
Thomas, TR	100 Church St NE	Vienna	Virginia	22180	10128 Wendover Pl, Vienna VA 22181
Williams	207 Center St N	Vienna	Virginia	22180	
Tabbal	209 Center St N	Vienna	Virginia	22180	
Bullis	211 Center St N	Vienna	Virginia	22180	

**Alley between Church Street North and Dominion Drive NE,
starting at Church Street NE and ending at Ayr Hill Avenue NE**

Alley Vacation & Abandonment Evaluation Matrix

Item	Comment
Request	Tommy Staats request
Existing conditions	Wooded and steep, unopened right-of-way
Public Works	No existing or planned streets or walkways
	No existing or planned water or sewer lines
	Recommend disposing of alley in all or part
Planning & Zoning	Recommend disposing of alley in all or part
	Note: There is a significant amount of vehicle parking activity
	within the alley area on both ends near the streets.
Parks & Recreation	No plans for a park, recreation, open space or other community use
	The alley is unsuitable for such use.
Utility Companies	
Dominion	
Verizon	
Cox	No facilities in area
Washington Gas	



September 11, 2012

Dominion Virginia Power
Tim Sargeant
Manager of State and Local Affairs
171 Elden Street
Herndon, Virginia 20170-4875

Cox Communications
Kathryn Falk
Vice President of Government Affairs
3080 Centreville Road
Herndon, Virginia 20171-3715

Verizon
Scott Sisk
Manager, Network Engineering
4242 Duke Street
Alexandria, Virginia 22304

Washington Gas Company
Ronald King
6801 Industrial Road
Springfield, Virginia 22151-4206

RE: Two Public Alley Vacation Requests

- 1. Alley between Church Street NE and Ayr Hill Avenue NE**
- 2. Ninovan Road SE between Owaissa Road SE and south of Adahi Road SE**

Ladies and gentlemen:

The Town of Vienna has received two separate requests to vacate an unopened public alley next to 110 Church Street NE and unopened Ninovan Street right-of-way at Adahi Road SE. Please refer to the enclosed location maps.

We are interested in your comments on these requests. After you investigate, please send me a response that can be incorporated in the final report for Town Council action. Even if your company has no position on the requests I would appreciate a note back by September 28th.

Thank you in advance for your cooperation. You may contact me by phone at (703) 255-6386 or email at djohnson@viennava.gov.

Sincerely,

Dennis Johnson, PE
Director

Enclosure: Church Street alley location map
Ninovan Road SE location map