



# Town of Vienna

## Meeting Minutes

### Town Council Meeting

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

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Monday, May 9, 2016

8:00 PM

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

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#### Regular Council Meeting

so Invocation: Reverend Dr. Mark Edwards, Emmanuel Lutheran Church, Vienna

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

#### Rollcall

**Present:** 7 - Council Member Linda Colbert, Council Member Edythe Frankel Kelleher, Council Member Pasha Majdi, Mayor Laurie DiRocco, Council Member Howard J. Springsteen, Council Member Carey J. Sienicki and Council Member Tara Bloch

#### 2. Approval of the Minutes:

- A. [16-130](#) Approval of the Regular Council Meeting of April 4, 2016, the Work Session of April 11, 2016, and the approval of the Work Session of February 8, 2016, as amended.

*It was moved to approve the minutes of the Regular Council Meeting of April 4, 2016 and the Work Session of April 11, 2016 as submitted and it was further moved that the minutes of February 8, 2016 be amended to reflect the location of Councilmember Majdi when he joined the meeting electronically.*

**A motion was made by Council Member Voigt, seconded by Council Member Kelleher, that the Minutes be approved. The motion carried by the following vote:**

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

#### 3. Receipt of petitions and communications from the Public

*A local Boy Scout from Troop 979 introduced himself to Council. He is working on his Citizenship in the Community Merit Badge.*

*Reverend Craig Burns, 301 Center St. North, addressed Council and presented some ideas for consideration. He provided Council with the following: (1) consider making it an enforceable offense for bicyclist's who disregard stop signs, (2) consider campaign reform, included but not limited to, number of signs for political campaigns, adjust the current "gauntlet" atmosphere that exists at polling places, consider making it an ethical practice for incumbents to neither endorse nor undercut candidates at the polling place. (3) Set community standards on the types of businesses that are allowed to operate in the town. (4) Implement the same level of advertisement for public hearings as the town currently puts forth for town events. (5) Enforce code violations with punitive action when developers exceed lot coverage's and height restrictions. (6) Find additional ways beyond filling out the*

*forms for tax relief, to help longtime Town residents stay in their home if the only reason they are considering moving is that they cannot afford the property taxes. (7) Consider expanding the Town's giving back to town businesses, so that all business owners can feel better about the very high amount of taxes they pay. (8) Consider discontinuing incentivizing and enhancing new development. (9) Consider developing a listening culture. He provided a copy of his letter to the Town Clerk to keep as part of the record.*

#### **4. Reports/Presentations**

##### **A. Report and Inquiries of Council Members**

*Councilmember Sienicki thanked the Community Enhancement Commission, the members of the Windover Heights community, Green Hedges School, Ayr Hill Garden Club and the Vienna Community band for a wonderful day on Walk on the Hill and the Green Expo. It was one of those events that just had great weather and a great attitude by everyone. It was a wonderful event and she wanted to thank everyone that participated.*

*Councilmember Kelleher congratulated her colleagues that won their re-election, Mayor DiRocco and Councilmember's Colbert and Majdi. She also congratulated Councilmember elect Noble for his election. She also congratulated Roy Baldwin and Craig Burns for running and participating in the process, it really takes a lot of guts to do that.*

*Councilmember Kelleher reported that she was fortunate enough to attend her final meeting as a member of the VML managing board where they had a little briefing on the upcoming class for not only newly elected Council members, but for all members. It is being held on July 22 and 23rd in Richmond. It really looks like a worthwhile thing because they will be providing a lot of updates on things like COIA, FOIA and new legislation. In addition to the proffer bill there are also new provisions on eminent domain where there will be a lot of costs to be paid if the town is 25% short on evaluation, which means the town could be paying tens of thousands of dollars in costs for just a few hundred dollars. There is also some new COIA legislation that is coming where it will put them back to once a year reporting instead of two but every gift over \$20 would have to be reported if that passes. The most interesting bill coming up is that starting July 1, 2017, when localities purchase American flags, the flags have to be manufactured in the United States from materials grown and or produced in the U.S.*

*Councilmember Majdi reported that he was very grateful for the people of Vienna and glad he was re-elected. It was a great first two years and he looks forward to the next two years. He is going to be a little more vocal now after he had a two year apprenticeship, learning the ropes and watching his esteemed colleagues. We are entering a new era of commercial development on 123. It is a very interesting time for Vienna. He first ran two years ago very concerned about the future of the town and wanting to keep the small town feel as development happens all around and comes to the town. He stated that looking around the dais he has never been more confident in the future of this town. He thinks they have a great team, everyone is on the same page in keeping a small town feel here. As they progress he is really looking forward to getting a deep dive into the issues and is very confident that they are on the right track.*

##### **B. Report of the Town Manager**

*Mr. Payton announced that Dennis Johnson, Director of Public Works has announced his retirement. He is going to travel the world, enjoy new hobbies and enjoy life. Going forward Mike Gallagher will be the acting Director of Public Works.*

### C. Report of the Mayor

*Mayor DiRocco reported that the elections were on May 3rd and held at the Vienna Presbyterian Church. A few people asked her why they were at the church and she explained that the Fairfax County Election Board determined that it was the best location. It was based on accessibility for people with disabilities, parking and access for people. The Vienna Volunteer Fire Department was also considered but because of the steps and the smaller elevator it would not as accessible. This was the temporary location while the Community Center is being renovated but starting next year they should be back at the Community Center.*

*Mayor DiRocco congratulated Councilmembers Colbert and Majdi for their re-election and also congratulated Doug Noble who will be the newest member of Council. She thanked Craig Burns and Roy Baldwin for running for Council.*

*Mayor DiRocco stated that one of the reasons there was an opening on Council is that Councilmember Kelleher, after 14 years of service, will no longer be on the Council as of June 30th. She thanked Councilmember Kelleher for her years of service.*

*Mayor DiRocco stated that the original dedication of the Town's Community Center was held fifty years ago on April 17, 1966 and the town is hosting a celebration of the 50th Anniversary on Friday, May 20th at 6:30 p.m. on the Town Green. It will be a celebration of the 50 years as well as the kick-off for the Town Green Concert Series.*

*Mayor DiRocco also reported that she will be hosting the Mayor's @ Your Service on May 10th at 7:30 p.m. at Town Hall. The topic for discussion will be Pedestrian safety. She will have Chief Morris as well as members of the Bicycle Advisory and Pedestrian Advisory Committees to discuss pedestrian and bicycle safety.*

### D. Proposals for Additional Items to the Agenda

*It was moved to relocate on the agenda, the last item regarding the Model Railroader's to be moved to be the first item under 7, Regular business.*

**A motion was made by Council Member Edythe Frankel Kelleher, seconded by Council Member Pasha Majdi, that this was approved. The motion carried unanimously.**

### E. Closed Session

*It was moved that the members of the Vienna Town Council be polled to affirm that during the Closed Session convened this date, Monday, May 9, 2016, the Town Council met for purposes of discussion of personnel matters, specifically the interviewing of individuals for consideration of appointment and /or re-appointment to Town Boards and Commissions.*

*And 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 it was further moved that the Closed Session be continued to Monday, May 23,*

2016 at 7:15 p.m. in accordance with Virginia Code Section 2.2-3711A(1), for purposes of discussion of personnel matters, specifically the interviewing of individuals for consideration of appointment and /or re-appointment to Town Boards and Commissions.

*Motion: Councilmember Kelleher*

*Second: Councilmember Voigt*

*Carried Unanimously*

*It was moved that Susan Stillman be re-appointed to the Community Enhancement Commission for a two-year term. Said term shall be retroactively effective from April 19, 2016 through April 19, 2018.*

*Motion: Councilmember Kelleher*

*Second: Councilmember Voigt*

*Carried Unanimously*

**Item was approved as shown above.**

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

## 5. Public Hearings

- A. [16-117](#) Public Hearing on a Recommendation to the Town Council on a Zoning Ordinance amendment to allow cash contribution proffers and non-cash proffers as permitted by and consistent with State code Section 15.2--2301.1

Attachments: [New State Proffer Bill](#)

[Proffers 04 2016](#)

*Mayor DiRocco called the public hearing to order at 8:24 p.m. The Town Clerk called the roll and all members of Council were present.*

*Patrick Mulhern, Director of Planning & Zoning, explained that this is an ordinance amendment that was generated based upon the fact that Council passed the MAC back in November 2014 and they had some re-zoning requests submitted that they had not had in quite some time. There was some interest in allowing flexibility for proffers, including cash proffers, which were specifically prohibited in the current ordinance. They worked with the Town Attorney to amend that language to include the change to allow cash proffers and other proffers, as well as some guidance in terms of where the proffers should come from, if they are not generated directly as a direct impact of a TIA recommendation or other obvious impact from the development that can contribute to a public project. They are recommending that public project be pulled from an approved and vetted CIP and/or Comp Plan, it is really up to the developer.*

*Mr. Briglia, Town Attorney, stated that this is really a tweeking on the Town's existing "zoning on conditions, conditional zoning" section 18-249.1 which would apply to rezoning or a request to amend the zoning map. As Mr. Mulhern mentioned, the town really hasn't had many of those requests in the last 30-40 years because the town has been essentially built out, but the MAC Zone is a rezoning function and Council felt like they may need more of the tools in their toolbox that are permitted*

under the current Virginia Code. As Council is aware, effective July 1st, there are going to be some additional restrictions on acceptance of proffers. They will be primarily in the areas of acceptance of proffers for facilities where it hasn't been shown that it is not exceeding capacity. The Town will have to do the analysis after July 1st, that if a proposed proffer is for a future impact to a public facility as opposed to a present impact where a facility is already over capacity, then we may not be able to accept certain proffers. It has always been part of the vetting process of proffers when a builder/developer or applicant comes in and makes proffers, we are supposed to go through the analysis on whether it is a proper proffer, so that hasn't change and that analysis will continue to be done. He thinks for the benefit of the Council and the general public, for the basic understanding how the proffer system works in the State of Virginia and the Town of Vienna particularly, you have to look at the existing zoning presently. A lot of rezonings in other areas are what they would call "greenfield development" where you literally have farmland that the locality has decided that it is going to be our new industrial zoned area or that's going to be our new higher density residential zone, they are pulling water and sewer lines there, so instead of one house per 5 acres, we are going to allow 5 houses per acre, a significant zoning increase. In those situations the impact from the existing zoning to the new zoning is going to be pretty apparent. You will have 4 or 5 times the school age children so the impact for the schools and public facilities would be immediate. He thinks it is worth pointing out that the MAC zone is an overlay zone on an already commercial zone, so when you are looking at the proffers in the MAC zone you are going to look at, what he calls the delta between what you can do now with by-right zoning and the impact of what you are going to be doing in the MAC and that is going to be dependent on the type of development. They are going to be site specific and that is the nature of the proffers and that is not going to change either. In the current Comp Plan and to his knowledge, Council is not considering any significant up-zoning of any other areas. Where you might see an area is if you decided to go from single family to multi-family, you could see a significant impact in schools, public facilities and traffic. In some of the other areas like the MAC overlay it is going to be project dependent. There may be little impact for some, they may be just using some features of the MAC but not really increasing density, so you would just have to wait until you see the applications. This is a general code section, it doesn't apply just to the MAC, it would apply to any re-zoning in the town. In the future if there is proposed changes, or the comp plan calls for additional re-zoning in certain other areas, then you would still use this code section. It is not a MAC proffer ordinance it is just our general proffer, conditional zoning ordinance. This is just housekeeping/tweaking so it is compliant to the most we can do under the current state code and it is also drafted to give us the flexibility to work in the amendments becoming effective July 1st. Mayor DiRocco stated that was her question, we won't have to tweek this again come July 1st, for what is coming down the pike with the new proffer requirements. Mr. Briglia stated with the language we used, I don't think we do, but the analysis on whether a proffer is appropriate, given whether it is an existing facility that is over capacity or not, and whether the proposed proffer addresses the over capacity, or if it is a facility that has plenty of capacity and they are offering a proffer for it, that's the analysis he is talking about that you will have to do July 1st. Mayor DiRocco stated that it would be very site specific and dependent on the project and what that delta may be.

Councilmember Sienicki asked about the time frames, because right now they don't specifically have a time frame but there is a time frame that is for the new proffer legislation that has to do with residential. Mr. Briglia stated that it can be recreational facilities as well. Councilmember Sienicki stated it is the impact that

*happens in residential so it's not really commercial but it has a specific time frame. And by actually stating the zoning code in the Virginia legislation that will take care of the timing issue. Mr. Briglia asked if she was asking about the question of when, for instance, there is a proffer for impact for residential units when the proffer actually has been made. Councilmember Sieinicki stated that was correct for monetary, for that, because that is specific in the one but the town's doesn't really tell when the monetary proffers are going to be given. Mr. Briglia stated it talks about them generally and in the state code there is a reference if you are talking about residential per unit, per dwelling unit proffers, there is a time when those are submitted and they can be staggered so if you are going from a farmland zoned agricultural to 4 house per acre, subdivision, and you're going to put 100 houses in there, it is a condition of the proffer where it is x amount of dollars for schools and recreational facilities. The subdivider, re-zoning applicant, is allowed to, as the houses are built and they get their occupancy permits, that's when they make the payments of the proffer. That is currently how it is done now and we are allowed to rely on the state code so he would deem that to be an administrative feature. The town could not require them to be paid up front because the state code says they can be paid as the occupancy permits are granted. He stated that we do that in other situations if there are conditions, like on site plan conditions where somebody has agreed on a site plan modification, if they are going to do certain things they are not going to get their occupancy until those things are done.*

*Councilmember Majdi stated that we know a big development is coming and he supports any new tool for the town to help us keep the small town feel here, this is an additional tool, the MAC is a tool and we are just adding tools to the tool box. He thinks it's smart and very easy to support. He asked for either Mr. Mulhern or Mr. Briglia to explain the difference between a condition and a proffer and how that is relevant to the MAC. Mr. Mulhern stated that the beauty of the MAC is the town embodied in the MAC ordinance conditions for them to abide by that often, in other projects, would be proffers. For instance the set backs and the pedestrian friendly component of the MAC, is required in the MAC and certainly is a goal. As they can see with the application before them tonight, it was pretty important in this case. The MAC has, in a sense, provided what used to be proffers, and put them in the ordinance. He would guess based upon what the Town Attorney said, in terms of the delta, between what they could do and are going to do with the MAC, and the fact that you have basically conditions in your MAC ordinance that might have been otherwise proffers, you are well along the way to get an ideal development the way it is set up. Councilmember Majdi stated that it seems to him that by passing the MAC in advance of the July 2016 new proffer law, they have been able to do more and be more pro-active on these applications that come in.*

*It was moved to close the Public Hearing,*

*Motion: Councilmember Voigt*

*Second: Councilmember Majdi*

*Carried unanimously*

*It was further moved to amend section 18-249.1 of the Town of Vienna Zoning Ordinance to allow for cash proffers and non-cash proffers consistent with the State Code provisions and to authorize the Town Clerk to advertise a Notice of Intent to Adopt.*

*Motion: Councilmember Voigt*

*Second: Councilmember Springsteen*

*Carried unanimously*

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

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

**B. [16-119](#)** Public hearing to consider a Rezoning and Site Plan for Flagship Carwash Center for Maple Avenue Commercial (MAC) zone.

**Attachments:** [TCSTAFF REPORT 5-9-2016 Public Hearing Flagship2](#)

[Flagship Carwash - TIA Addendum \(W+A 4.20.16\) \(2\)](#)

[Flagship Carwash - Traffic Impact Analysis \(W+A 4.6.16\)](#)

[Flagship Carwash Appendix \(4.6.16\)](#)

[Maple & JM - Concept Ped Imp 12-22-15](#)

[Site Plan 04272016](#)

[Vienna Carwash Bond Estimate 160427](#)

[540 Maple Ave W Final Signed Proffers 5-2-2016](#)

[Proffers - 5-9-2016](#)

*Mayor DiRocco called the second Public Hearing to order at 8:40 p.m. The Town Clerk called the roll and all members of Council were present.*

*Mr. Patrick Mulhern, Director of Planning and Zoning explained that this is the first MAC project since it was adopted in November 2014. This does require a re-zoning, it is not by-right. There are density and height incentives for doing certain things that are asked for in the MAC ordinance and this is the first project. This has been vetted through the Planning Commission and the Board of Architectural Review. They had several work sessions and two public hearing and are recommending approval, as is staff. He went through a brief slide presentation of the site. The site is at the south end of town near the intersection of Nutley and Maple Avenue. It is a 1.19 acre site. To the south is McDonald's and to the north is a plumbing business, beauty school and dry cleaners. Across the street is the Village Green shopping center. The zoning is a split zoning, there is C1, C2 and a little sliver of RS16 in the back northeast corner and is only 5.8% of the site. It was a former right-of-way but is grandfathered as commercial. The first floor plan is proposed as a Chick-fil-a restaurant. It is 501 square feet with 120 seats proposed inside and 24 outside for a total of 144 total seats. All of the traffic that is parked within the Chick-fil-A will enter from the southern most entrance and exit from the southern most entrance, only the drive-thru traffic will exit from the northern entrance. Between the Planning Commissions hearing and today the applicant has amended their application to have a right turn only out of the drive-thru, eliminate the left turn lane and turned it into a brick pedestrian plaza with outdoor seating. The basement 2nd floor provides additional parking, actually Chick-fil-A is over parked per regulation, 36 spaces are required and they are providing 51. The car wash is going to be on the 2nd floor and again the car wash enters and exits at the same southern most entrance. They are required to have 28 spaces and 28 are provided. A couple issues came up as proffers and the applicant worked with the neighborhood to look at mitigating any impacts. There was an open area site for noise attenuation, they enclosed the entire site with a solid wall, moved the vacuum's up and provided abutting walls to the adjoining properties to close off the back of the site and provided landscaping as*

well. He continued the slide show that showed a view of the back with the vegetation at 20 years maturity that will basically hide the entire building. They have asked to build one wall and one fence, and one of the requests was that they modify the 6' requirement to 8' to match the adjoining properties, both the fence on one side and the wall on the other. The other modification that they are requesting is the parking, they are asking that instead of it being 9x20 it be 9x18. That is what they are proposing in the new zoning ordinance so staff has no issue with that modification. The next thing he mentioned was the hawk pedestrian signal that they talked at length about. This has been proffered fully by the applicant to pay for this hawk signal, it will improve pedestrian safety and access, not only across Maple Avenue but also they are proposing a crossing on the service road to get to the restaurant. He is pleased to say that the applicant has proffered substantial conformance with both the site plan and the elevations which means if they want to change it they have to come back to Council. That is the beauty of proffers and re-zoning's, if you get them to proffer the site plans and elevations, Council has to authorize any change. They have in the staff report, the MAC analysis and staff is proposing recommending approval. Mr. Mulhern further explained the analysis stating the following: in terms of the MAC analysis the vision items look for compact pedestrian oriented human scale development, this is mostly a vehicular oriented project but with the elimination of the service drive and turning it into a pedestrian plaza and an outdoor seating area, it is a much improved project in regard to that vision for the MAC. Mixed use and destination retail style development, again he knows, only because it is not true mixed use, although the MAC does not require residential, these are two different retail projects and he is not sure they want to dis-incentivize doubling of retail at a location in the town. A wider variety of housing options is not applicable. Enhance the towns economic vitality; again they are doubling the retail space and presumably tax revenues as a result. Maintain and promote eclectic character and visual interest of the buildings which they are certainly doing that with elevation. The applicant did make numerous changes as a result of the review by the BAR and the Planning Commission and this is resulting elevation that they came up with. High quality and compatible development with the adjacent neighborhoods, as he mentioned, the applicant has work very diligently with the neighbors to mitigate and alleviate whatever impacts there may be. Improve environmental quality, there is better on site management of both the gray water and on site stormwater as a result of this project. Again, the Planning Commission held two public hearings on this item and recommended approval 7-2.

Councilmember Springsteen asked if this was built by right how high could they go. Mr. Mulhern stated they could go 35' by right. They can go 54' with the MAC zoning.

Councilmember Springsteen questioned if in the back, where they generally want step down in residential neighborhoods and questioned if they currently had that in this location. Mr. Mulhern question what he meant. Councilmember Springsteen was asking was there a set back from the height by the townhouse's. Mr. Mulhern stated it is not 54' which is what it could be and it is not within the distance required for a set back with single family. He stated it is actually, if you consider the 10' they are set back and the area between the townhouse and the set back of the townhouse lot and the townhouse building, they are 40' and 50' respectively. Councilmember Springsteen stated that this is one of the things to look at in the MAC. He would like to see more of a set back as other developments move forward because if it is a residential it is one and if it is a townhouse it is different. Mr. Mulhern stated that was true, if it is a single family it is more of a set back. He agrees with Councilmember Springsteen that it should be looked at.

Councilmember Springsteen stated that he knows that the application is doing the proffer for the Hawk eye signal but he thinks they need to look very carefully to prohibit left hand turn lanes on James Madison Drive. He agrees you don't turn left when there is traffic but when there is not traffic a lot of people go left there so he thinks they need to work with VDOT to try and get a signal there. He does not think it is a good idea to cut off another entrance to James Madison. He was down there on a Saturday and quite a few people make a left so he thinks is something they need to look at. He knows VDOT has been giving us some push back about putting a traffic signal there but he thinks they need to go back and chat with them a little more pro Vienna. As you look down in Oakton there is probably 2 or 3 traffic lights within 200 or 300 feet like they suggested at Nutley. If you go up to Tysons Corner there is several intersections up there where they have traffic lights very close. He further stated if you go by the Dunn Loring Fire Station there are several signals there that are within 300 feet. Assuming this project gets approved he thinks the town need to sit down with VDOT and the schools to try and figure out what makes sense there because he is just not in favor of dumping more cars on Windover.

Mr. Mulhern stated that the applicant can probably address Councilmember Springsteen's concerns but he pointed out that the proffers have the flexibility and the requirement actually that will give us some time. It requires both VDOT and the Town to approve whatever improvement is made there. If we want to take the time to go back and negotiate with VDOT for continuing the left turn lane or any other change, they can do that. They are going to have to do it within frame so the applicant can meet the other proffer condition that requires him to have it built and open before he opens. It has to be a cooperative effort between the town, VDOT and the applicant to get what we want plus get what he needs to get open. Councilmember Springsteen stated that again he really has heartburn trying to prohibit a left hand turn on James Madison Drive. He thinks this is a very good project but lets approve it and let them get it built. He thinks VDOT is being a little heavy handed when there are examples all around the area with lights much closer.

Councilmember Majdi agrees with Councilmember Springsteen. He was operating on the subject that it was not possible to get a traffic light there. If it is possible then we need to push it.

Mayor DiRocco stated that after talking with staff on this, her understanding is that VDOT did not feel it was not warranted based on the number of people going across, to have a traffic light, it was a hawk light that they recommended. Her feeling is that with James Madison being right down the road they were thinking of bringing them into the discussion, that they will obviously have sooner rather than later, just so they are a player in this discussion and know how it is working and if they have the county as well as the town, they can work and talk through how everything is functioning in the route. They need to consider the buses, the walkers, if this project is approved, that would be going to Chick-fil-a as well as the cars. This is something that she thinks is a worthy discussion and actually had mentioned it to Mr. Mulhern.

Councilmember Majdi stated that to him the chief concern is to keep traffic out of the neighborhoods, specifically, in the case, Windover. He is very concerned about the change in traffic, the increase of a number of cars turning left on to Windover coming from James Madison. He asked if the applicant to present the traffic study. He has many technical questions but he will hold them until the end.

Councilmember Sienicki asked if James Madison Drive was within the Town of Vienna. Mr. Mulhern stated that the property line is basically at the curb. She further

asked if that was any sort of problem with potentially enacting a change to a street that is not within the town. Mr. Mulhern stated that he does not know and to be honest it would be better if it was in the town in terms of their negotiating ability but it is in the county. Mr. Briglia stated that the town would have to work with VDOT because they do the maintenance. Unlike the intersections that are 100% within the town limits where we have a lot more pull and say. They still have make sure they are up to VDOT standards but some of it is within the discretion of the town. This intersection is technically a VDOT intersection so they are ok with the crossing light for pedestrians and they will allow us to put it up as part of this project, the traffic signal they currently said they could not support and he thinks they have the legal authority to block it. Some of the other issues Council is talking about traffic flow he thinks some choice of authority to sit down with VDOT but if we said we were going to put up a traffic signal at that intersection VDOT could say no.

Councilmember Springsteen stated that he doesn't think VDOT said no they just said they would not support it. He thinks there is a difference between no and supporting. The previous Public Works Director said they would not support it they didn't come right out and say no. Mr. Briglia stated that his understanding was they would not support it and he views that as they are not paying for it and will not give us approval for it even if we wanted to pay for it. Councilmember Springsteen stated again, his concern is closing of James Madison Drive left hand turn.

Sara Hall of Blakenship and Keith, representing the applicant, Vienna Car Wash LLC. Also in attendance Guy Palossi, the applicant, Keith Simpson, Civil Engineer of Bower Engineering and Mike Pinkoske of Wells & Associates Transportation Consultants. They are all in attendance so they can answer any questions that Council may have. The application is the first MAC application that Council has considered and they are very excited about this. They think MAC is the perfect zoning district for the development that their client wants to do. It is a 1.19 acre property and it is now split zoned between the C1 and C2 and as Council knows split zoning is not something that you want for a small development as it makes it highly un-workable. This sort of resulted from history in the fact that the western most part of the property came in from the county a few years ago and is C2. This is an opportunity not only to get the correct zoning of the property but to have one zone for the entire property. The property was used as a service station for many years, a car wash component was added to the service station and then it became a car wash and has been one for many years now. It is a value in the town and how much people rely on having it there but they admit it is not the most attractive facility on Maple Avenue. The applicant seeks the MAC zoning so that it can re-develop the property with a two story building with a drive-thru on the first floor and a completely enclosed car wash on the second floor. The restaurant will have outdoor seating for a total number of seats of 144. The car wash will have a tunnel car wash, the kind that you stay in your car and go through the tunnel and it also will have a detailing option. There is parking in the basement, there is no surface parking at all visible on the property, everything is enclosed. Both of these uses, the drive-thru restaurant and the car wash drive thru have been approved by the Board of Zoning Appeals subject to the re-zoning of the property to the MAC district. She further described the traffic stating that all vehicles will enter the western side either directly from Maple Avenue or from the service drive. For the people who want to go in and sit down to eat in the restaurant, they will go in and park and will leave the property basically where they came in. The drive-thru part of the restaurant will be a separate lane on the first floor and those people will leave at the eastern curb cut of the property. The egress driveway that Council saw at the work session in

January has been deleted. They heard from Council at the work session they heard from the Planning Commission during two long hearings that it was a no go so the applicant and the tenant went back, looked at, and decided to delete the egress driveway. Now everyone that goes through the drive-thru part of the restaurant will go out and have to make a right turn on Maple Avenue and will not go in front of the property which they will now have the entire area as a sidewalk plaza area. For the car wash you will enter on the western side, take a ramp up to the second floor, go through the car wash, come down around and come out where you came in. The project is a tremendous improvement to this area, it is very attractive, the BAR has giving preliminary approval to it, it does retain the small town flavor that the MAC regs require through transparency requirements in how much glass you have to have on the first floor and how close the building has to be to the road is all there. She thinks when you compare what the development will bring to this property compared to what it looks like now, it is very, very dramatic. It is a pedestrian friendly development, it will have a wide sidewalk, an attractive street scape, a very lively street scene that the outdoor dining will anchor and also the utilities will be put underground by the applicant which is a big ticket item and that will matter a lot to the attractiveness of the project and will hopefully will add some incentive when its neighbors re-develop. The car wash function will stay and their are people that depend that would not have wanted to see it go, it will stay but will be completely enclosed on the second floor and state of the art. There are two access points on the property now, each one right in, right out, with the re-development the one to the west will be right in, right out, and the one to the east will be simply, right out. This will allow Town Council to plant the MAC flag on the western side of town, the side of town that really is in need of re-development and re-development through MAC. It is interesting that the Town of Vienna sign is in the median right at this property, the sign that welcomes you to the Town of Vienna and how much more fitting it will be to have this development on our clients property than what is there now. They have worked with the neighbors from the beginning, before the application was even submitted. They are happy the car wash function will stay, they are thrilled beyond words that it will be enclosed. They worked with the 3 person committee of the HOA. They had meetings with them, they hung in through a Planning Commission hearing that went on until 1:15 a.m. They have been wonderful to work with and they appreciate their participation. The proffers have been made in response to concerns, #9 about noise abatement, the equipment that will be enclosed and in front of the building; #10 about lighting, they won't have motion sensors it will be down lights in the back of the building and then the buffer and the walls with fences and the walls on either side of the building to prevent pedestrian cut through, which was a great concern. At the work session with the Planning Commission the primary issue was the pedestrian safety at Maple Avenue and James Madison Drive intersection. At the direction of Council and the Planning Commission they went with town staff to VDOT in February to meet with them and VDOT was very clear that it would not except full signalization of this intersection. After the first Planning Commission hearing they were directed to go back to VDOT and ask the question again, asked it again, they got the same answer and they were very clear on that. VDOT did express a willingness to accept the hawk signal, the signal that they show with other improvements in the exhibit to the proffers. They think that this is an appropriate action for the applicant to take. They are concerned about pedestrian safety as well, particularly with the high school. They understand that the town does has experience with hawks and has not been completely happy but the applicant is willing to work with the town and VDOT to tweak the hawk signal so that it will be effective, they want it to work too. They are going to spend a lot of money on this thing and they want to protect the pedestrians. It is not a safe situation now, it is far from safe and they are confident that a hawk

signal acceptable to the town and VDOT will be approved and they will rectify the problem that is there now. They request that Council follow the recommendation of the Planning Commission and the staff, approve the re-zoning, the site plan and the two modifications.

Councilmember Majdi stated that the biggest question for him is what is the delta in left turns on to Windover from James Madison. The source he is looking at is the Welles & Associates memo dated May 4th and he noted the pages he is looking at are page 19 figure 8 that describes future peak hour traffic forecast without development and page 31 figure 14, James Madison Drive reassignment hawk signal installation. On page 32 figure 15, future peak hour traffic forecast with development. When he was looking at these, his understanding is, based on, octagon 8 which is at the Windover/James Madison Dr. intersection, that the increase in the am peak traffic turning left on Windover is 28 cars and the pm increase is 16 cars and the Saturday peak hour is 16 cars. He asked that someone please correct him if that is wrong or just explain the issue.

Mr. Mike Pinkoske of Wells & Associates Transportation Consultants stated that the numbers quoted are correct. Councilmember Majdi stated 28 extra cars over peak hour is roughly one car every 3 minutes and asked if that was correct. Mr. Pinkoske stated that was correct during the am peak. Councilmember Majdi asked what kind of impact that would have. Mr. Pinkoske stated that they took a look at the additional intersections based on the request of the Planning Commission to evaluate Windover and after they collected the data at Windover and James Madison, interesting enough 75% of the existing traffic already turns left at that location, presumably to get to Nutley Street and use the traffic light. Based on their traffic data, then numbers that were quoted were the numbers that they would divert to either use Windover and then on to Nutley and proceed to 123. They evaluated Windover at those two locations and the net impact was negligible, meaning that it was under 10 seconds. It was a very low increase in overall delay per vehicle when look at it over the course of the hour. VDOT thought that one of the reasons the left was restricted has to do with the left turn potentially conflicting with pedestrians when they cross Maple. The signals that would be in place would allow those left to jump a queue and under a hawk scenario VDOT thought that restriction should be in place.

Councilmember Majdi stated that he would appreciate somebody putting in context for him and Council, what 28 cars per peak hour really mean. Mr. Pinkoske stated to keep in mind that those are the peak periods so it would go down during the other hours of the day. They looked at it during the am, the mid-day peak hour, Saturday and the pm peak. The am peak is obviously the high number because schools are in session. Over the course of the day, if you took the peak and multiplied that, then yes you are probably looking at over 500 vehicles. (Unable to hear person speaking). Over the course of the day, and it is a local public street, from a capacity stand point, the capacity is there. Councilmember Springsteen stated that if you live off the street you would not want another 500 cars dumped on the street and that is why he is concerned about the left hand turn. He stated that he represents Vienna and Vienna residents and thinks this is a good project but he honestly can't justify to the residents on Windover dropping another 500 cars on their street. Councilmember Colbert confirmed that they were talking about cars turning on Windover from James Madison Dr. Mr. Pinkoske stated that was correct. Councilmember Colbert stated that we are not sure what they are going to do once they reach Nutley. A lot of them will go down to the light and not go through the neighborhood and that is just a little stretch there. Mr. Pinkoske stated that they

*assumed that all the traffic would turn right from Windover back onto Nutley to get back on 123, and either proceed towards 66 or into the town. Mayor DiRocco asked then when they determined this was it people coming from the school because they are coming down James Madison Drive and they are not able to make a left so they are going down Windover. Mr. Pinkoske stated that the traffic data that they used to divert the traffic was based on the peak hour while school was in session. They didn't look at the traffic that was coming from the school, they looked at the traffic that was turning left onto 123. They took that traffic and backed it out to Windover to extrapolate the traffic that was proceeding from the school or the neighborhood themselves because some of that traffic could be coming from the neighborhood in turning left and then turning right. They do assume a portion was from the apartments or the townhouses, he thinks they assumed 25% was a resident that wanted to make a left. Based on some field operations there are some residents today that turn right out and use the first median break to make a u-turn because it is easier than turning left across 123. The applicant looked at both options and both options were presented to VDOT. VDOT said that they have evaluated full signalization at this location and this is VDOT's recommendation at this time. There was another question regarding the number of pedestrians that would warrant signalization, and you would need to have 100 pedestrians at peak hours.*

*Councilmember Majdi stated that what he is struggling with is that he doesn't look at the cars over the course of the day, he is looking at the pressure point, that peak hour when the cars are queueing up to get into Madison and 28 extra cars in that hour, one every two minutes. Is that a lot or a little bit, what is the impact, how is that going to feel, he can't get a sense of it. Sara Hall of Blakenship and Keith stated that this is one of the issues that she is sure will be discussed with VDOT again, the left turn part. They have been very emphatic about the no full signalization but the left turn is still something that perhaps could be done. It is not the applicants idea it is what VDOT said they would have to have to approve it but perhaps that can be changed. Councilmember Majdi stated that it is worth noting that the applicant has been very flexible and wants whatever works for the Town and the town is trying to work with VDOT on this.*

*Mayor DiRocco stated that she thinks one of the issues in the sense that it is ultimately VDOT's street on James Madison Drive and they control part of that intersection. Therefore, the town's ability to do that has to be worked through VDOT. She also thinks that having the school come in to play too and talk about their flow of traffic may help that situation but she can't promise that but thinks it is worthy of discussing with them.*

*Councilmember Springsteen stated that they have had a lot of complaints about the hawk light that we have in Vienna and he is still not sold on that and when he goes down the bicycle trail and looks at the signalization there, people actually stop, they don't run it. Part of him says at some point maybe a hawk light is not the way to go but maybe signalization like they have on the C&O Canal because they definitely gets peoples attention.*

*Councilmember Voigt stated that she often walks on the hawk signal and she never has a problem with cars stopping. She has probably cross it at least once a week, she presses it, waits for it to go and people stop and wait for her to cross. She has never had anybody honk or drive through the signal. She honestly thinks that people just needed a lot of education because it is a different kind of signal than the tradition stop light that you see on the W&OD Trail.*

Mayor DiRocco stated that she did witness someone activate it and there were six cars that had to come to a stop, five did and one did not. One tried to get through before it stopped blinking red. She does think that part of it is education and different from the W&OD which has green all the time. She has used it more recently and people did stop but there have been times from people she knows who use it, people do run it. She does think they need to look at that and be consistent, no matter what they do at that hawk signal needs to be the same at the other hawk signal to be consistent throughout the town.

Mr. Pinkoske stated that there is one other thing occurring currently at this location at James Madison and that is because of the school, that crosswalk has been identified as a school crossing and has advanced signage on the pavement, as well as there are two signs in advance of each direction as you approach the town and coming from the town so it has an advantage over what the existing one is.

Ms. Hall stated that she has been there and watched with school letting out and she has really been stressed to see students walking across Maple Avenue and cars out of the goodness of their heart, having to stop and girls giggle and walk across the road. This is not a great situation so there is some tweaking that can go on with the hawk. She thinks that they would be amiss to lose sight of the fact that it will bring tremendous benefit to pedestrian safety.

Councilmember Colbert stated that she totally agreed. When she takes her daughter to school in the morning she sees the kids trying to get to school and crossing there and people don't stop. It is a very unsafe intersection. She also stated that there was a twitter going around from James Madison students and they wanted to get the Town Council's attention because they are very excited about Chick-fil-A.

Mr. Pinkoske stated that he wanted to put a point on the delay. The table that he pulled up shows the incremental increase in average delay per vehicle for all the effective movements diverting that 28 or 16 vehicles. He said ten seconds earlier because he wasn't sure of the exact numbers but at 4, 5 and 6 the delay is less than a few seconds.

Councilmember Majdi stated he is less concerned with the delay, he is more concerned with the volume and impact on pedestrian traffic there. He does want to know for the record, he thinks he is the only one that has not had a child attend Madison High School and that he did sit through peak hour traffic earlier this week and it was an absolute joy.

Ms. Midge Biles, 108 Oak St. SW, stated that her concern is the traffic study and she doesn't know exactly how that was conducted, were they taking into account traffic that goes into and out of Chick-fil-a's at other locations, was there a presumed number of cars that would be pulling in and out of here. Mr. Pinkoske stated they used the Institute of Transportation Engineers which is a governing body that sets and establishes rates based on previous traffic collection. Then they use the square footage of their building and compared it to other fast food establishments and drive-thru's using ITE data. Ms. Biles asked if it was other fast food restaurants or other Chick-fil-a's. Mr. Pinkoske state that ITE does not separate Chick-fil-a's so it was fast food restaurant.

Mr. Guy Pilosi, owner of Vienna Car Wash, stated that when they did this study the TIA had to be done on what VDOT recommended in terms of traffic count. If you look at what they recommended with what McDonalds would do and they actually did

traffic counts on McDonalds, the TIA was 30% more cars than what the actual McDonalds next to them actually does. He would say it is a pretty fair assessment, they do believe Chick-fil-a will be busier than McDonalds. If you look at a 5000 square foot McDonalds and look at another 5000 square foot restaurant, the TIA says it would have about 30% more cars than what the current McDonalds does right now so it is a pretty conservative number.

Ms. Biles stated that she had been over to Chick-fil-a in Fairfax Circle and there is a steady stream of cars pulling in there and they had four people taking orders before you even get to the windows. They are fabulous in moving people through which is one of the reasons people love going there but with the traffic pulling out on to 123, cars will have to stop to let them out because 123 is never wide open and it is going to back up and getting further back. As for the traffic on Windover, she cuts through Windover whether she is going to Madison or not. She cuts through because she can't get up 123 because the traffic is always so backed up. There are so many stops lights that when they are talking about more stop lights her head sort of spins, it is so difficult. She knows that somebody cited that in Oakton there are traffic lights closer together and somewhere in Tysons they are closer together, but that is also the place where you can't get through, it is miserable to get through those places at rush hour. She doesn't know if people have realized, Chick-fil-A serves breakfast so you will have breakfast rush hour traffic trying to come through where people are going to be pulling in and out and the kids who are from Madison will be going there for breakfast. She thinks there are so many horrible scenarios for traffic and she doesn't know if that is really being considered. She asks that Council really sincerely take all of this into account and take the residents into account in this.

Ms. Diane Boone, 135 Rolling Court, President of the Townes of Vienna III and IV Homeowners Association. Her townhome community is located directly behind the Flagship Carwash. She addressed Council stating that she appreciates the opportunity to speak about this project on behalf of the homeowners association. She further stated that the owner of the carwash Mr. Pilosi, first contacted them in November 2014 about his redevelopment plans and met with the homeowners in December of that year to provide an overview. After hearing again from Mr. Pilosi earlier in this year about the status of the project, their HOA Board created a special committee to help identify and address questions and concerns that homeowners had. The committee has met with Mr. Pilosi several times since the beginning of the year and the discussion have been very informative and Mr. Pilosi has been very responsive by offering ways to address their concerns within the planned scope of his project. He has modified site plans with proffers to include updates they discussed and they appreciate his outreach and responsiveness very much. She stated some of the main issues they had discussed with Mr. Pilosi. The main issue they have had with the current car wash property has been noise, mostly from the very large vacuum cleaners. Proffer 9 provides requirements to address that issue by enclosing the vacuums' within the building and noise screening of the rooftop air conditioning units and locating them both towards the front of the building. They believe such requirements should result in a substantial improvement to the current noise situation with the property. Requirements to address concerns about lighting that would disturb the homeowners, have been included in proffer 10. In addition the plan for trash collection will take place from inside at the front of the building is also an improvement over the current situation where the trash recepticals are located at the rear next to their property. There are several concerns that the homeowners have raised that have been the subject of much discussion, both among the homeowners and also Mr. Pilosi. Mr. Pilosi has included requirements in proffer 11 to help address those concerns. For example, the new structure is planned to be

*much larger than the current car wash building and the other commercial properties that are nearby. Their community will be looking at a very long and tall brick wall at a setback of only 10' from the property line. Mr. Pilosi has included landscaping on the site plans for greenery, including evergreen trees that will grow in height to cover a significant portion of the wall when mature. While the large wall will be a significant aesthetic change for their community, the committee believes that the plans Mr. Pilosi has developed for the landscaping will provide the best appearance possible within the scope of his project. Another topic of significant discussion has been the barriers between their community and the commercial properties on Maple Avenue. They wanted to bring to Council's attention that there has been ongoing issues with individuals using their development as short cuts to climb over the fences to reach the commercial properties and the high school rather than walking around. The wooden fences behind the McDonalds restaurant are the primary location for the fence jumping not the cinder block wall behind the car wash property. There are concerns that there will be more traffic trying to climb the fences and wall with the Chick-fil-A located there and to address the issue of fence jumping for his property, Mr. Pilosi has included 8' walls and fences on the current site plan of proffer 11 that will tie into the back wall of his building and adjacent walls and fences. Due to continuing concerns from some of their residents that desire additional barriers along the property line, he has offered and has included a provision in proffer 11 to construct an 8' masonry wall along the common property line if they request it within 5 years. They know that Mr. Pilosi can only address the barriers on the property and cannot mitigate the trespassing issues but they would like to Council to consider that this is a continuing and growing issue. In closing she stated that although there are trade-offs their committee believes that with the mitigations that Mr. Pilosi has included in the proffers and the site plan, the enclosed car wash and restaurants will be a significant improvement to the existing open car wash particularly relative to noise.*

*Mr. John Han, 2315 Malraux Dr. addressed Council in starting out saying that the news of a new Chick-fil-A and Flagship Car wash has been met with great buzz at Madison High School. There has been a lot of excitement over the Chick-fil-A and he is sure that many students will be going there but more important to him is the relief that the hawk light provides especially for students. As a student that walks to the Orthodontist regularly and his friend that works at McDonalds and is dodging cars regularly during peak rush hour traffic and now there will be kids in the morning and afternoon during rush hour, going to Chick-fil-A, McDonalds or the Orthodontist. As a pedestrian safety matter he thinks it is crucial that the Council takes step to get a hawk light or work with VDOT to get a light in order. There is another concern that he has heard about kids that would not care about the light or who would disregard traffic signals and run across regardless on whether a hawk light or traffic light is built and he said that was simply untrue because they already try and dodge cars and not get hit by traffic now. With this new hawk light or traffic signal he thinks it would be beneficial for student. He understands it would be an impact on traffic on Windover Avenue and that some commuter's may not like the idea but on a student safety measure he thinks it would be very important for Council to be aware that it would increase student safety. As for cars, it is an educational issue and they will learn to slow down and stop in front of students walking across during the day.*

*Mr. Walter Basnight, 230 Lovers Lane stated that he would like to say to those people that think the children of today don't understand the laws of the land, these are the brightest young americans that have ever come along. He suggests that they*

*meet with the school and have the school put forth safety programs teaching people how to have eye to eye contact with drives and bicycles and do the education in school so they can reach the younger generation they are worried about.*

*Mr. Tim Chapman, 360 Windover Avenue stated that fundamentally he loves Chick-fil-A, he is lazy so he likes car washes too. He is a real estate developer so he understands that in most times with a development like this is when it gets built it becomes a great part of the community and its a beautiful building but his issue is 500 cars per day is just insanity. He doesn't know if anyone has walked on Windover when cars are going down there, the street is very narrow and they have taken to parking their cars on the street to slow people down as they drive by their house. A lot of the problems come when the high school students come out of Madison after school or trying to get to school and he is sure that most of them pay attention to the signs that aren't paying attention to the signs that say "drive like your kids live here." He has spoken with Councilmember Majdi awhile ago on just how dangerous it is on that road to walk, as a resident, there are so many blindspots. He is not criticizing this project, he thinks it is a beautiful project but it would be irresponsible to put 500 cars on Windover. They need to do something about Windover even without this project.*

*Councilmember Voigt asked the traffic consultant if they looked at the cars that go past Nutley Street on Windover when they did the traffic study. The number they quoted she imagines is from James Madison Drive to Nutley but did they look at the cars that would go past Nutley and continue on Windover. Mr. Pinkoski stated that they assumed that all the traffic that was turning would go back to 123 and Nutley and none would continue on Windover as a parallel route.*

*Ms. Becky Allison, 500 Spring St. SE addressed Council speaking on behalf of JMHS PTSA. They had a meeting along with two members of the administration, and they had made aware of the no left turn coming out of James Madison High School and they are very much against that for a number of reasons. She has been coming out of Madison for six years and to make it no left turn will make it even crazier than it is now to get out of there. If you take away the 25% of the folks that go down to turn left onto 123, it is already backed up to go on Windover and then Nutley. They just really can't take that left turn away, they would need to push back to VDOT on that. She does like the Hawk light but a full blown traffic signal would be a much better option. That intersection is so tricky since you have two lanes of traffic going one way and two lanes going the other way and the other complication is the service roads on either side. It is not only the high school kids that are pedestrians but all the residents of the apartments. She thinks if they could get a full blown traffic signal with crosswalks going both directions, would be ideal. Mayor DiRocco stated that was the goal of the town when they went to the discussion with the staff recommendation but that is what VDOT came back to them with. She doesn't know if perhaps having the school and the administration and FCPS or Fairfax County also sit down at the table and talk more about some of the implications of what that would do. She thinks that would be really helpful and maybe it would be the tipping point. She can't make any promises but she thinks it is worthy of having a discussion with the school, the county and the staff to see what can be done to make the traffic move the best it can and not put more traffic on Windover Ave.*

*Councilmember Springsteen stated a picture is worth a thousand words, go by Madison when it is getting out and if buses can't go left it will be bumper to bumper buses from James Madison Drive all the way down to Nutley. He thinks they really need to get with VDOT and the schools to figure something out. If they did put a*

*light there he would insist that it be coordinated with Nutley.*

*Mr. Paul Irman, 127 Rolling Court, SW in the townhouse development, stated that he had spoken at the Planning Commission meetings and was part of the special commission that Diane Boone referenced. He thanked them for working with them and listening to their concerns, they were great to work with, the proffers reflect that in numbers 9, 10 and 11 so they deserve absolute commendation for being transparent and working with them. He does think it is an overall improvement from their prospective. He understands a lot of the commentary and a lot of the focus is on the traffic and the safety of the children going up to the high school, he totally gets that. He brought up some of the concerns he has which one is the difference is setbacks between 10 and 20 feet, 10' is for townhouses and 20' for homeowners. They raised this at the Planning Commission and no one could give them a good answer, they were receptive and understood but wanted to bring it up to Council. It is a certain fundamental inequality. They are homeowners and pay the same in property taxes as regular homeowners, they love their community, they have the same value that they place on their homes, property values and their communities and no one can give a reason why there is a 10' setback for townhomes and 20' for single family and he would like Council to explain to them why that is. Another issue is the greenery and he asked Council to exert their influence on the town botanist so they really get some green coverage in the back and if they can get that full green coverage and not wait twenty years then maybe the project owners can spend a little bit more of their budget on trees it would make them even happier partners in this. They do not want to be looking at a 42 foot wall for 5-10 years and wait 20 years for full green coverage. They would like Council to help them put in the best possible tree coverage so they can have that aesthetics.*

*Councilmember Kelleher asked Mr. Bohler if they were calling out specific varieties in the plan or are they leaving it up to the arborist. Mr. Bohler stated the landscape plans should have specifics of what is at the rear of the building. What they showed was the ultimate growth of the trees and it was brought up at the Planning Commission was that it will not look like when its planted and he agreed but that is what was requested to be shown, obviously at planting time it will be smaller. He thinks they have already increased the size of the trees by a foot or two from the initial design to accommodate those concerns.*

*Ms. Judy Medwedef, 309 Windover Ave, stated she definitely does not want to see more cars coming down Windover. The hawk light is one of her pet peeves because she crosses it every week and it is dangerous. Cars don't stop for it, they don't know what to do, it is very confusing on how it flashes. She thinks a light at the Chick-fil-A would be fantastic but the hawk light people don't know what to do with it and it would give the kids a full sense of security.*

*Councilmember Majdi asked for some explanation on whether 1 car per 2 minutes is really a lot, to him it doesn't seem to be a lot but he wants to be sensitive to the residents. Councilmember Voigt stated that she thinks their estimate of 500 more cars is really high. She does not believe that over the entire course of the day that there will be an increase of 500 cars, the math just doesn't add up. Mr. Pinkoski stated that they did a three hour window in the morning and a three hour window in the pm and the traffic for all 6 of those hours is 126 left's. They are only taking 75-80% of that because they do think that some are going to use that 123 maneuver. If you took that number and multiplied it by 4, which again wouldn't be the case, your right at 500 so you are probably down around the 300 level if you look at the whole day. He also stated 1 car every 2 minutes, the analysis showed its tenths of a*

*second which is a small number and you will not notice it on a day to day. Mr. Majdi stated that is what he thought when he looked at the numbers but wanted to hear from others.*

*Mr. Tim Chapman, 360 Windover stated the street is a disaster with the cars that they have on it now. There are so many blind spots that haven't been addressed and no plan within this situation to address the current disaster. If you are adding more to it, it is only going to be a bigger problem.*

*Mayor DiRocco stated that she thinks the reason for putting in the hawk light is for pedestrian safety. This was from VDOT, this was not the town's decision or recommendation. The town had brought up the issue of the left hand turn and they said it would be unsafe for the pedestrians. She thinks town staff and the school need to have a discussion on this because it is the flow of traffic from the school and part of this is not on town property.*

*Ms. Sandra Allen, 314 Owaissa Road, stated she has two children at Madison and yes the traffic is terrible around there and a traffic light is a must. Maybe the residents could start a petition to have Fairfax County to allow a traffic light. There must be something that can be done. Mayor DiRocco stated they can certainly ask the question but VDOT has certain standards that they adhere to. Mike Gallagher of Public Works stated that he attended the meeting with VDOT and they stated that they would not support a signal there but they did support the hawk signal.*

*Councilmember Majdi asked the Town Attorney if Council can pass this with a condition subject to subsequent action by VDOT. Mr. Briglia stated the proposed proffer talks about town and VDOT approvals and if we tell them we don't want it anymore they don't have to do. It is a qualified proffer, the applicant is saying they will do whatever we want and VDOT is saying we want it this way. In the event that VDOT approves a left hand turn then Council has the approval to authorize the proffer to be modified.*

*Councilmember Sienicki asked if VDOT does want to impose the left turn there, maybe Council can qualify that with a time during peak hours where there would be a traffic impact. This might be a consideration at the tables for negotiation. She agrees if it is a left turn and there is a lot of traffic during morning or evening rush hour, that is a difficulty, but if it is a Sunday at 2:00 p.m. it may not be a problem.*

*Mr. Ed Henry, 217 Battle St. SW has been a resident of Vienna since 1967. He asked if the people that want to come into this town, do business and change the town, actually live here. Do they experience what we experience. He would just like to say "no" to this project, "no" to more traffic in that intersection and "no" to any possible injury's that could occur to children or pedestrians or whoever trying to cross that street illegally like they do all the time. This is like putting bandaids on wounds that haven't happened. He thinks the building is aesthetically unpleasant and asked if we really need another fast food joint here in Vienna. As a citizen of this town he would just say "no" to this project.*

*Councilmember Majdi asked Mr. Mulhern if all drive-thru's need conditional use permits and why does this require one. Mr. Mulhern stated that yes drive thru's require conditional use. Councilmember Majdi also stated that there was a parking space modification and believes the parking spaces are a little bit narrower or 2' shorter. Mr. Mulhern stated they were 2' shorter and mentioned that they are going to be recommended to that standard in the upcoming zoning ordinance*

amendments.

Councilmember Majdi asked since they are using the Transportation Institute of Transportation Engineers he is curious if Chick-fil-A is an outlier among the group of fast food restaurants. In his personal experience he sees a lot more traffic at that particular fast food restaurant. Also since Chick-fil-A is closed on Sunday's does that mean the Saturday traffic is higher than one would expect. Is this something that was considered or is it something we need to consider. The applicant stated that if you look up Wall Street and look at the gross revenues of McDonalds compared to the estimated gross revenues of Chick-fil-A he thinks the gross revenues for McDonalds is \$2.7 million and \$3.1 million average for Chick-fil-A. He would expect in Vienna both would do better than that but he would imagine it would still be bigger. Mr. Briglia stated that these are fair questions to talk about individual impact of an individual business, however, we are not allowed to disclose gross revenues of any particular restaurant or business in the town, it would be a class 1 misdemeanor. You are not allowed to project the traffic impact on gross receipts.

Councilmember Majdi also asked why is there an assumption that traffic running down Windover, that 100% would turn right on Nutley. Mr. Pinkoske stated that they are diverting existing traffic that wants to turn left from James Madison onto 123. They are not taking traffic from any new report or forecast, all they are doing is moving an existing trip.

Mayor DiRocco stated that the traffic from the Chick-fil-A on rte 29 they are coming out onto the street and asked if we are going to make sure that is not going to happen here since there is already a lot of traffic on 123. The applicant stated that one of the big issues at the Chick-fil-A in Fairfax is the stacking lane is actually where the cars would back out of the parking lot and if you look at this scenario they have taken that whole maneuver out of the equation so the drive-thru customers would hug to the right side along McDonalds and go behind the parking lot which is where the stacking lanes are. If you are going into the parking lot you will veer off before the stacking starts. They actually solved two big issues by setting it up this way instead of the traditional drive-thru way, this is a much safer situation. Mayor DiRocco asked how many cars can stack. They stated that there can be 26 cars and if you follow that all the way to the entrance you can get another 8 or 9 cars. The one in Fairfax is half that amount.

Councilmember Majdi asked what the mechanism is to talk with VDOT with a pending action. Mayor DiRocco stated that Mr. Galagher stated that VDOT apparently looked at this and felt that it was not worthy of having a traffic light but worthy of having a hawk light. Her feeling is it never hurts to go back and ask the question again and go to them with the school to talk about some of the concerns. VDOT has made the decision for the hawk light, that is what is warranted, that is what they recommend based on the number of people and what they feel is safest for pedestrians crossing. She appreciates what all the residents are saying because she thinks with Chick-fil-A the impact will be greater but there is already a concern of pedestrians there. She does think there is a safety factor there and needs to be addressed. She is willing to go back or have staff go back and discuss this with VDOT.

Councilmember Kelleher stated that what the Town Attorney said was the proffer is written with enough flexibility so that it would enable the town to go back, after this is approved, to VDOT again. Mr. Briglia stated that was correct and the proffer requires them to do this because the town believes the pedestrians need a cross walk

there to address some of the increases. The caviat is that becasue this is a VDOT controlled intersection we still have to go through VDOT no matter what, even if this development wasn't going in and we wanted to put this crosswalk in.

Councilmember Springsteen stated he liked the suggestion to go back to VDOT and ask to have no left hand turn at certain times. He thinks we do have some options.

Councilmember Sienicki stated that she believes there is not going to be any access to the roof for dining or anything like that. The applicants Attorney stated that was correct and part of the roof will be a green roof.

Councilmember Sienicki asked Mr. Mulhern with the MAC, if they wanted to change any of the design of the parking lot, how would that process go. Mr. Mulhern stated that it would depend on the degree of the change. What they are proffering is substantial conformance with the plan. There is generally some give and take as you go through final design and approval and he thinks a change in the parking lot is not as serious of a concern as if they changed the circulation, then they would probably want to bring it back to Council.

It was moved to close the Public Hearing at 10:32 p.m.

Motion: Councilmember Springsteen  
Second: Councilmember Kelleher  
Carried unanimously

It was further moved to approve rezoning to MAC and site plan for Flagship Carwash, a 1.19-acre parcel located at 540 Maple Avenue West, in the C-1 Local Commercial, C-2 General Commercial zones and RS-16 Single Family Detached Residential to the MAC zone subject to the signed proffers dated May 2, 2016.  
And

It was further moved that the Acceptance of any cash proffers is conditioned upon the approval and enactment of amendments to Sec. 18-249.1 of the Towns Zoning Ordinance to allow for cash and non-cash proffers and it was further moved for approval of the modifications requested, the height of the fence and walls be 8' and the parking spaces to be 9x18.

Motion: Councilmember Kelleher  
Second: Councilmember Voigt  
Carried Unanimously

**A motion was made as shown above that the Action Item be approved. The motion carried by the following vote:**

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

**C. [16-107](#) Public Hearing for FY 2016-17 Proposed Real Estate Tax Rate**

**Attachments:** [Notice of Intent to Adopt FY16\\_17 Tax Rate 041516](#)

[RESOLUTION tax\\_rate FY2017](#)

[Notice of Public Hearing - Tax Increase- published](#)

Mayor DiRocco called the Public Hearing to order at 10:50 p.m. The Town Clerk called the roll and all members of Council were present.

*Ms. Marion Serfass of Finance explained that each year the tax rate is recommended by the Town Manager and reviewed during Work Sessions by the Mayor and Town Council. The Public Hearing is an opportunity for Vienna residents to provide their input. The proposed real estate tax rate is 22.5 cents per \$100 assessed value for FY 16-17. The proposed budget is based on this rate along with the continuation of the current bank net capital rate of .80 cents per \$100 of valuation and residential utility tax rate of 20% of the first \$15 and commercial utility tax rate of 15% of the first \$300. This public hearing was originally set for April 18th but was deferred to May 9th.*

*Mr. John DeLong, 904 Carole Ct. SE, addressed Council regarding the tax increase. He pointed out that Fairfax taxes are approximately 5 times these values so we are seeing some pretty significant tax rate increases. He believes we are increasing taxes at a time where peoples income is not increasing at the same rate. He stated the town is increasing taxes at roughly double the rate of inflation. He appreciates Council's effort in keeping the taxes down. From what he has seen in the budget they have done a good job. Councilmember Kelleher thanked Mr. DeLong for mentioning the disparities but it is something they have been aware of for a long time. Sometimes different bands or different types of properties are left behind and then they catch up or they move up and then move back. This seems to happen every year with different groups of properties. Unfortunately there is not much they can do about that as a town but they are aware of it and appreciate that he has done this analysis, it is really insightful.*

*It was moved to close the public hearing.*

*Motion: Councilmember Colbert*

*Second: Councilmember Majdi*

*Carried unanimously*

*It was further moved to approve of the Fiscal Year 2016-17 proposed real estate tax rate as presented and that the Town Clerk be directed to advertise Notice of Intent to Adopt at the Council meeting of May 23, 2016.*

*Motion: Councilmember Colbert*

*Second: Councilmember Majdi*

*Motion carried with a vote of 5-2, Sienick and Springsteen voting Nay.*

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

**Aye:** 5 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco and Council Member Bloch

**Nay:** 2 - Council Member Springsteen and Council Member Sienicki

## 6. Regular Business

### F. [16-129](#)

Proposed Renewal of Agreement between the Northern Virginia Regional Park Authority, the Northern Virginia Model Railroaders, Inc. and the Town of Vienna for the operation of the W&OD Trial Vienna Railroad Station.

Attachments: [Vienna Model Railroader Lease Agreement Proposed 05 03 2016](#)

*It was moved to approve the proposed renewal of the Agreement between the Northern Virginia Model Railroaders, the Northern Virginia Regional Park Authority and the Town of Vienna as presented.*

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

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

- A. [16-120](#)** Request approval of a Master Sign Plan for 144 Church St NW, in the C-1B Pedestrian Commercial zoning district; filed by Steve Bukont, property owner.

**Attachments:** [144 Church Sign Master](#)

[Color Chart](#)

[Sample Picture](#)

[Sign Permit Appliation](#)

[TCSTAFF\\_REPORT\\_5-9-2016 Public Hearing\\_Master Sign Plan](#)

*It was moved to approve the Master Sign Plan for 144 Church St NW, in the C-1B Pedestrian Commercial zoning district.*

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

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

- B. [16-114](#)** Set a Public Hearing for May 23, 2016 to Consider Amending Planning and Zoning Development Review Fees

**Attachments:** [Fee comparision \(2\)](#)

*This item was moved to table this item to the end of the meeting so Mr. Mulhern could provide more information.*

*Motion: Councilmember Kelleher*

*Second: Councilmember Bloch*

*Motion carried*

*It was moved that Town Council set a public hearing for May 23, 2016 to consider amending planning and zoning development review fees as attached with the difference of the Town of Vienna proposed amount be \$2000 plus \$30 per thousand square feet on new construction per site plans and it was further moved to direct the Town Clerk to advertise a Notice of Public Hearing.*

*Motion: Councilmember Sienicki*

*Second: Councilmember Bloch*

*Motion carried 6-0*

**Item approved as shown above. The motion carried by the following vote:**

**Aye:** 6 - Council Member Colbert, Council Member Kelleher, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

**Nay:** 1 - Council Member Majdi

C. [16-080](#) Set alley vacation Public Hearing for 120 Church Street NE

**Attachments:** [Survey and Legal Description of Alley between Dominion and Center](#)  
[Plat of Alleyway\\_15' and Consolidation\\_120 Church Street](#)  
[120 Church alley vacation application and receipt](#)  
[Appraisal Report\\_120Church Street Alleyway](#)  
[Deed of Consolidation\\_120 Church Street NE](#)  
[Metes and Bounds Descriptions\\_113A\\_111A\\_113 and 15Ft Alley](#)  
[Offer Letter April 2016](#)  
[November 5, 2012 Council Agenda & Report](#)  
[Church St alley address list for Council April 2016](#)  
[Staats alley vacation Council notice letter 4-29-2016](#)

*It was moved to set a Public Hearing to consider vacation of the public alley adjacent to 120 Church Street NE at the August 22, 2016 Town Council meeting and instruct the Town Clerk to advertise notice of a Public Hearing.*

*And*

*It was further moved to authorize the Mayor to appoint a panel of three viewers from citizens serving as Planning Commission and Board of Zoning Appeals members to determine if there exists an inconvenience to the public or need to retain the alley.*

*And*

*It was further moved to authorize the Town Attorney to obtain an independent appraisal of the alley property."*

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

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

D. [16-113](#) Water main break contracted asphalt repairs.

**Attachments:** [Proposals](#)  
[IFB 15-07](#)

*It was moved to approve a \$51,062 asphalt repair at Cottage Street and Counsellor Drive with Espina Paving, IFB 15-07 account listed above.*

**A motion was made that the Action Item be approved. The motion carried by the following vote:**

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member Bloch

E. [16-122](#) VDOT Resolutions: Beulah Road Phase II Fund Transfer and FY2013

## Revenue-Sharing Grant Funding Confirmation

Attachments: [Council Beulah funding Resolution - May 2016](#)  
[Vienna Revenue Sharing Programmatic Addendum 2016](#)  
[Vienna PPA executed 7-19-2013](#)

*It was moved to approve the attached Beulah Road NE, Phase II, UPC 105520  
Funding Resolution and authorize the Mayor to execute.*

*And*

*It was moved to approve the attached Programmatic Project Administration  
Agreement Extension Addendum and authorize the Town Manager to execute.*

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

**Aye:** 7 - Council Member Colbert, Council Member Kelleher, Council Member Majdi, Mayor  
DiRocco, Council Member Springsteen, Council Member Sienicki and Council Member  
Bloch

**7. Meeting Adjournment**

*It was moved to adjourn at 11:42 p.m.*

**This matter was adjourned**

*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.*