



Town of Vienna

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

Meeting Minutes Town Council Meeting

Monday, October 24, 2016

8:00 PM

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

Regular Council Meeting

Invocation: Reverend Craig Burns, Vienna Assembly of God

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

Present: 7 - Council Member Howard J. Springsteen, Council Member Carey Sienicki, Council Member Tara L. Voigt, Mayor Laurie DiRocco, Council Member Linda Colbert, Council Member Pasha Majdi and Council Member Douglas Noble

1. Roll Call

2. Approval of the Minutes:

- A. Approval of Minutes for the Regular Council Meeting of October 3, 2016 and the Work Session of September 19, 2016.

It was moved to approve the minutes of the Regular Council Meeting of October 3, 2016 and the Work Session minutes of September 19, 2016 as submitted.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

3. Receipt of petitions and communications from the Public

A Local Boy Scout from Troop 976 introduced himself to Council. He is working on his Communications Merit Badge.

4. Reports/Presentations

- A. Recognition of Vienna State Champions.

The Mayor and Council recognized the 2015/16 Vienna State Champions and the runners up from Madison High School as well as Vienna Little League State Champions.

A. Report and Inquiries of Council Members

Councilmember Springsteen asked the Town Attorney if there was any progress with the Bey Lounge, he heard they were cited again. Mr. Briglia stated he will look into it and then provide him with an update.

Councilmember Springsteen asked the Planning & Zoning Director to clarify that the town does not own anything on the baseball fields, they own a little sliver of grass around the property but the school controls the entire field and moving forward he wants to make sure the agreements are in place with the schools.

Councilmember Majdi wanted to follow up on the Bey Lounge question. There is a conditional use permit that he thinks expires the end of next month and they have been talking with the business and asked if they can set something up in front of the business to close off sound so that when patrons exit and enter the building you don't get sound from inside the business. He asked if someone could clarify on how long that has been in place. Mr. Briglia stated that he had sent a memo to council that had some of that information in it. They did put a double door enclosure. They did get their permits which took a long time for the county to issue them. They started construction in July and they got their final approval, inspection permit, in September. It has been in place and functional. Some of the complaints are the bass, the real low noise, which is not really addressed from the front doors. They apparently also made some improvements to the sound proofing inside. There was a door that got fixed early in the back which was one of the first things they did. Mayor DiRocco confirmed that the second door was in place now and there was still perhaps another violation recently even after that has been put in place. Mr. Briglia stated yes but he doesn't know if it was something from the front or something else, he will get the police report to see. Mr. Payton stated that he asked the Police Chief to see if the Bey Lounge was ticketed and yes they were ticketed. Councilmember Majdi stated that in his experience he has been in the back yards of the homeowners on Park St. that about the business, at 2am when the music is playing and it is really loud and you can't sleep. (some audio missing due to technical issues). Mr. Briglia stated he gets daily reports and there was one that goes back to October 14th and it indicates that there were complaints and citations issued around 12:30 a.m. They are open until 2:00 a.m. Councilmember Majdi stated that the whole purpose of the business is to entertain with music whether it is live or not until it closes. They can talk about the CUP is going to expire in the next month but the business is still entertainment that is going until 2. Mayor DiRocco asked Mr. Briglia if it making noise at that hour of the morning violates the noise ordinance. Mr. Briglia stated that was correct but there were two issues, you have the amplified music which does not require a conditional use permit, the live music requires the conditional use permit. Either one can cause a noise violation and a noise violation is amplified music that can be heard across a residential property line. That is what they have been getting cited with and they will continue to be cited whether they have a CUP or not. At some point the question is, is there any other remedy to this, its like someone that continues to get speeding tickets. There is some case law if it is determined to a public nuisance then the town can go get injunctive relieve but he doesn't know if it has gotten to that point yet. Usually on loud bars it becomes an enforcement of the noise ordinance issue as opposed to a public nuisance. Councilmember Majdi stated that he thinks it is a policy question for Town Council.

B. Report of the Town Manager

No report

C. Report of the Mayor

Mayor DiRocco reported that most of the Council attended the Virginia Municipal League Conference in Virginia Beach over Columbus Day weekend and as always they were able to interact with other elected officials across the state, share ideas and discuss challenges which she personally finds very helpful. The Town of Vienna

won an award and were presented with a plaque for Certified Green Government from VML. The award is for successfully implementing environmental policies and taking practical actions to reduce carbon emissions. She thanked the Town Staff and the Community Enhancement Commission for achieving this award, they have worked to make the town a healthier and more sustainable place.

Mayor DiRocco also reported that the Community Enhancement Commission was presented with an Environmental Excellence Award from the Fairfax County Board of Supervisors. They were recognized for their contribution to the advancement and support of environmental goals within the County and the Town. The CEC is filled with dedicated and hard working volunteers and the town is very grateful for all that they do for the community.

Mayor DiRocco also reported that the Town Council will be sending David Lanphear a Certificate of Appreciation for his 10 years of service. He has served on both the Board of Architectural Review and the Planning Commission. He just recently resigned from the Planning Commission due to work constraints.

Mayor DiRocco also reported that the Town of Vienna will host its 70th Annual Halloween Parade and will take place on October 26th at 7:00 p.m.

D. Proposals for Additional Items to the Agenda

None

E. Closed Session

It was moved that the members of the Vienna Town Council be polled to affirm that during the first Closed Session convened this date, Monday, October 24, 2016, the Town Council met for purposes of discussion of personnel matters, specifically openings on Town Boards and Commissions.

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 later this date, Monday, October 24, 2016 at the conclusion of the regular Council meeting in accordance with Virginia Code Section 2.2-3711A(7), for purposes of consultation with legal counsel.

*Motion: Councilmember Voigt
Second: Councilmember Springsteen
Carried Unanimously*

*It was moved that Tara Ruskowski be re-appointed to the Vienna Public Arts Commission for a two-year term. Said term shall be retroactively effective from September 29, 2016 through September 29, 2018.
and*

*It was moved that Mark Stahl be re-appointed to the Vienna Public Arts Commission for a two-year term. Said term shall be retroactively effective from September 29, 2016 through September 29, 2018.
and*

It was moved that Midge Biles be re-appointed to the Vienna Public Arts Commission for a two-year term. Said term shall be retroactively effective from September 29, 2016 through September 29, 2018.

and

It was moved that Michael Cheselka be appointed to the Vienna Public Arts Commission as the Board of Architectural Review Board appointee. Said term shall be effective October 24, 2016 through October 24, 2018.

Motion: Councilmember Voigt

Second: Councilmember Springsteen

Carried Unanimously

This matter was approved as shown above.

5. Public Hearings

A. Public Hearing for Intent to Adopt FY2016-17 Water and Sewer Rates.

Mayor DiRocco explained that this Public Hearing was heard in the spring but some of the attached fees that were approved were inaccurate, therefore, they need to be approved again.

Mayor DiRocco called the Public Hearing to order at 8:49 p.m. The Town Clerk called the role and all members of Council were present.

Ms. Marion Serfass, Interim Finance Director explained that the Finance Department did a Water and Sewer rate study to increase the rates effective July 1, 2016 but the only rates that were affected by that rate study were the consumption rates and that is the rates you get charged for your residential water and sewer, however, unfortunately the attachment included all the water rates and there were some inaccuracies in the availability fees were dropped and the water meter fees were incorrect. This current public hearing is to correct those fees. They were the same as before, none of those fees were changed, only the consumption fees were changed and that is what was in the advertisement.

Mr. Payton mentioned that the Acting Director of Finance, Marion Serfass' staff were the ones that identified this internally. Marion Serfass stated that it was not her staff it was the Public Works staff. Mr. Payton thanked them for bringing it to our attention so we can correct it.

Gabrielle Rossen, 1113 Cottage Street, SW asked if this rate study was available to the public or if it an internal document. Ms. Serfass stated that the study was performed by the former Director of Finance so she would have to locate but when she does she will be happy to share it with her.

Councilmember Sienicki stated that when she looks at the fees, the ones she is wondering about is the water availability fees. She was under the assumption that they matched what Fairfax Water fees were and asked if that was correct. Ms. Serfass stated it was correct. Councilmember Sienicki then stated that when she went on to Fairfax Water their fee structure is different. She further stated that if you take the 1" water availability, the town has \$12850 and they have it as \$13200. Ms. Serfass stated that they may have raised their fees. Councilmember Sienicki stated that is what she was wondering because she thought that we were keeping them in line

with what Fairfax County is and wondering if we are still in line or if we should be in line and will that affect anything. Ms. Serfass stated that she will research it more but she proposes that they go with fees as they are right now and then they can make an adjustment in the next budget year.

Mr. Payton stated that the water and sewer budget is balanced with these anticipated rates and with the water availability fees and it is the intention that they would have those numbers to match Fairfax, and apparently as they indicated that it is not the case here but they are satisfied with that at the moment and they will take a look at this in the coming months. Since they have just done a water and sewer study he would imagine that the next time they do one would be the appropriate time to catch that up, unless there is a desire to incrementally increase it as Fairfax does theirs, but their natural course would be to do it every two years.

Ms. Serfass stated that was their intent but looking at the ordinance she doesn't think it explicitly states that so she thinks they are ok with the way it reads right now.

Councilmember Majdi stated that they hired someone in Public Works to take over Water & Sewer and one of the first things he recommended was that they need to replenish their inventory of spare parts and other things as well as increase training and he knows they have done that over the past year but his question is what is the status of that and if we have replenished the inventory and spent money to do that using this money, if the inventory is back up to where it needs to be, would it then be appropriate to lower the rate since we have satisfied that need and do not need to continue to do it at least at the same pace. Mike Gallagher, Department of Public Works, stated that he does not have an immediate answer for the status of those but he can certainly get back to Council with the status of the inventory and training is an ongoing thing so they would not end that. As far as the rates he would defer to the rate study and let the Finance Department determine what the rates would be. Councilmember Majdi stated they had an interesting discussion during their work session on this topic about a year or a year and a half ago, and there was a debate on whether certain costs are appropriately baked into the water rate and he thought it would be an interesting question to revisit so perhaps as they are doing that analysis and trying to find that information, they could ask the question if there are certain expenditures that are a one time expenditures or major expenditures in the first year under new leadership that are not necessarily ongoing and don't have to be included.

It was moved to close the Public Hearing at 8:56 p.m.

*Motion: Councilmember Sienicki
Second: Councilmember Colbert
Carried Unanimously*

It was further moved that Town Council approve the proposed ordinance setting water and sewer rates for the fiscal year beginning July 1, 2016 and direct the Town Clerk to advertise a notice of intent to adopt for the Council meeting of November 7, 2016.

*Motion: Councilmember Sienicki
Second: Councilmember Colbert
Carried Unanimously*

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 Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

B. Public Hearing to consider amending Planning and Zoning Development Review Fees

Mayor DiRocco called the Public Hearing to order at 8:57 p.m. The Town Clerk called the role and all members of Council were present.

Mr. Patrick Mulhern, Director of Planning & Zoning explained that this item was before Council back in August and while they were clear about what they were talking about in terms of the staff report and Council was clear, the attachment to the item did not survive the track changes. It is before Council again just as a precaution it was recommended by the Town Manager and the Town Attorney to bring it back for approval to be sure. It is the same item that they reviewed and approved on the 28th of August.

Councilmember Sienicki stated that she had a citizen asked her about the patio, specifically, and she believes that Mr. Mulhern answered that patios would incur a \$75 charge, flat fee, instead of what it was before. Mr. Mulhern stated that was correct. Councilmember Sienicki just wanted to make it clear that the "anything else" falls under the \$75 fee. Mr. Mulhern stated that was correct.

Councilmember Springsteen asked if they were charging a patio fee before. Mr. Mulhern stated that they just recently started requiring a permit for patios. A couple years back Council amended the ordinance to describe patios as structures and any structure requires a permit. And they have been having an issue of patios being built and people unaware about the coverage issue and exceeding that. This is a benefit in two ways, one is they are getting a permit so they are able to tell people that they need to check their lot coverage before they have a patio designed or built and it also clarifies the requirements for a permit, for any structure.

Councilmember Springsteen asked for clarification that they went from \$2,000 for a re-zoning to \$12,000 to cover staff costs. Mr. Mulhern stated that with the MAC projects, the time and effort by staff and the Planning Commission it is more in line with what others are charging for re-zoning reviews.

It was moved to close the Public Hearing at 9:01 p.m.

Motion: Councilmember Voigt

Second: Councilmember Noble

Carried Unanimously

It was further moved that Town Council approve the proposed amendments to Town Code Section 1-12 as noted and direct the Town Clerk to advertise intent to adopt the proposed amendments at the Town Council's regular meeting of November 7, 2016.

Motion: Councilmember Voigt

Second: Councilmember Majdi

Carried Unanimously

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

6. Regular Business

A. Setting a public hearing for Zoning Ordinance amendments to the MAC

It was moved to set a public hearing on November 21, 2016 to consider Planning Commission-recommended amendments to the Maple Avenue Corridor (MAC) portion of the Town's Zoning Ordinance.

and

It was further moved that the Town Clerk be directed to advertise notices of this public hearing.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

B. Proposed amendments to the Town of Vienna Zoning Code, Sec. 18-248 - Protest against proposed change

It was moved to send the proposed amendments to Sec. 18-248 of the Town of Vienna Zoning Code to the Planning Commission for review and to make a recommendation to Council.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

C. Request to award traffic engineering services for Signal Modification Plans at Maple Avenue and Park Street to Rinker Design and Associates (RDA)

It was moved to award traffic engineering services for Signal Modification Plans at Maple Avenue and Park Street to Rinker Design and Associates under RFP 12-01.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

D. Request to award IFB 17-06 and request FY17 spending with RJ Merkel, Inc. for Traffic Marking

It was moved to award IFB 17-06 and approve FY17 spending in the amount of \$40,000 with RJ Merkel for traffic marking.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

- E.** Request approval to spend an additional \$3,200 for an upgraded trailer for VRP vehicle #101.

It was moved to approve the proposed additional funds in the amount of \$3,200 for VRP Vehicle # 101 - Asphalt Zipper.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

- F.** Request to approve amended cooperative agreement with Fairfax County to share stormwater service district fees

It was moved to defer the amended cooperative agreement between the Fairfax County Board of Supervisors, Town of Vienna, and Town of Herndon to share certain stormwater service district fees and responsibility for related services to the November 7, 2016 regularly scheduled Town Council Meeting.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

- G.** Request to Set a Public Hearing for the 2017 Legislative Agenda

It was moved to set the Public Hearing for the Legislative Agenda on November 21, 2016.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

Second Closed Session

It was moved to recess into the second closed session at 9:46 p.m.

Mayor DiRocco called the meeting back in session at 10:32 p.m. The Town Clerk called the role and all members of Council were present.

It was moved that the members of the Vienna Town Council be polled to affirm that during the second Closed Session convened this date, Monday, October 24, 2016, the Town Council met for purposes of consultation with legal counsel.

It was further move 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, November 7, 2016 at 7:45 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.

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

Aye: 7 - Council Member Springsteen, Council Member Sienicki, Council Member Voigt, Mayor DiRocco, Council Member Colbert, Council Member Majdi and Council Member Noble

7. Meeting Adjournment

It was moved to adjourn the meeting at 10:33 p.m.

This meeting 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.