



Town of Vienna

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

Meeting Minutes Town Council Meeting

Monday, January 27, 2020

8:00 PM

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

Regular Meeting

Invocation: Mercury Payton, Town Manager

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

1. Roll Call

Present: 7 - Council Member Linda Colbert, Council Member Pasha Majdi, Council Member Douglas Noble, Council Member Nisha Patel, Council Member Steve Potter, Council Member Howard J. Springsteen and Mayor Laurie DiRocco

2. Minutes

- A. [20-1559](#) Work Session Minutes of September 9, 2019, October 9, 2019, and November 7, 2019 and the Regular Meeting Minutes of December 9, 2019 and January 6, 2020

The minutes were accepted.

Aye: 7 - Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Patel, Council Member Potter, Council Member Springsteen and Mayor DiRocco

3. Receipt of petitions and communications from the Public that are not on the Agenda. (Limited to 5 minutes per issue and no formal action can be taken this evening)

4. Reports/Presentations

- A. [20-1556](#) Presentation of Mid-Year Financial Review for fiscal year 2020

Mayor DiRocco introduced Marion Serfass, Director of Finance, to present the mid-year financial review for fiscal year 2020.

Director Serfass opened her status update with a positive report for 2018-2019 stating that the Town entered fiscal year 2020 in stable condition. The General Fund revenue increased mostly due to increases in real estate taxes, service charges from Parks and Recreation, sales taxes, and revenue from the use of money and property.

Revenues and expenditures are tracking closely to budget, and the general fund is forecasted to remain slightly positive to budget through year-end. The water and sewer fund is tracking slightly unfavorably in revenues, which is offset by savings in expenditures. This fund also is forecasted to remain favorable to budget for FY 2020.

The taxable property values for mid-year 2020 are up 4.0%, while delinquent tax

balances increased 37.1% largely due to the assessment increase plus increases in commercial balances. The general fund is expected to hit budget although the actual is slightly unfavorable on revenues but ending with a slight overall surplus. In general, the trend is forecasting favorable overall.

A. Report and Inquiries of Council Members

Councilmember Patel invited residents to attend the community conversation hosted by Channel 38. The event is scheduled for March 2, 2020 at Vienna Town Hall.

Councilmember Colbert invited residents to attend the final weekend showing of Vienna's production of "Leading Lady".

Councilmember Potter requested an update on the noise ordinance. Attorney Briglia noted no additional complaints or violations on the site that was a previous issue. Councilmember Potter commended both Attorney Briglia and Chief Morris on the positive handling of this item.

Councilmember Majdi inquired about his request regarding future growth scenarios at the various MAC intersections abutting residential property. He noted specific concerns with the intersections of James Madison and Pleasant, which reported spikes ranging from 36 to 440 seconds. Andrew Jenks, Transportation Engineer, replied that the multi modal study consultant is preparing a summary of responses to specific questions. These will be addressed at the next reporting session. Councilmember Majdi additionally inquired about the current and projected level of service at the intersection of Maple Avenue and Wade Hampton Drive; he questioned whether there exists a similar phenomenon and what can be done to mitigate this issue.

Councilmember Springsteen indicated that the Vienna Presbyterian Church will begin its two-week homeless outreach on Sunday February 2, 2020.

Councilmember Noble inquired when the issue of interior light spillover from Flagship Carwash would be addressed. Director Petkac replied that the facility owners have proposed options which include a lower intensity system. These will appear on the BAR agenda for discussion in February.

B. Report of the Town Manager

Town Manager Mercury Payton invited Mike Gallagher, Director of Public Works to provide an update on the Maple Avenue/Courthouse Road/Nutley Street transportation study. Director Gallagher noted that in October of 2019 the staff provided a report to the Transportations Safety Commission. He indicated that traffic counts will be completed once the weather is more favorable.

Councilmember Noble expressed dismay that a traffic count was not initiated between the time of the October meeting and Thanksgiving. Waiting yet another six months seems to be extreme especially in light of development decisions to made in the immediate time frame. Director Gallagher responded that in order to assemble all data requested a consultant will need to be hired. He wasn't confident that this could be accomplished by the Thanksgiving break. He indicated that an on-call engineer will most probably be used, but staff time is now concentrated on grant applications. Councilmember Noble stated that it would be advisable to have a firm selected and ready to begin work once approval is received. Director Gallagher noted that the project would most likely be scheduled for the end of May.

Town Manager Payton indicated that the staff/public communication plan initiated following the WAWA tree removal issue, should be ready for Town Council review at the February 3, 2020 meeting. The expectation is that the resulting plan will prevent this type of mistake from happening. Councilmember Majdi reiterated his request that this plan not be limited to communications, but include a response to the larger issue of how these decisions are made. Town Manager Payton noted that this item has been added to the February 10th work session agenda which may allow for the two issues to be accomplished together.

C. Report of the Mayor

Mayor DiRocco thanked the Department of Public Works staff for the weekend water main break repair. She also invited everyone to attend the upcoming Mayor "At Your Service" meeting scheduled for February 11, 2020 at 7:30 PM in the Town Council chambers. The topic will be "Healthy Communities".

D. Proposals for Additional Items to the Agenda

There were no proposed additional items to the agenda

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 day Monday January 27, 2020 the Town Council met for discussion for consideration of personnel matters, specifically the annual performance evaluation of the Town Attorney, Town Manager, and Town Clerk. 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.

It was further moved that the closed session be continued to later this date, Monday, January 27, 2020 at the conclusion of the regular council meeting, in accordance with Virginia Code Section 2.2-3711.A.(3), for discussion and consideration of the acquisition of real estate property for a public purpose.

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

Aye: 7 - Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Patel, Council Member Potter, Council Member Springsteen and Mayor DiRocco

5. Public Hearings

- A. [20-1555](#) Public hearing on proposed amendments to proffered conditions for 374 to 380 Maple Avenue W in the Maple Avenue Commercial (MAC) Zone for Sunrise of Vienna, a mixed-use building with a ground floor restaurant and 85-unit assisted living facility

AND

Consideration of a request for a related modification of requirements.

Mayor DiRoco called for a public hearing, inviting speakers to address the Council.

Laura Bligh, 226 Glen Avenue, SW., noted that she lives in the neighborhood behind

the proposed facility. Her first concern is for the proposed acorn lights along Wade Hampton Drive. While new builds must comply with "dark sky" rules, the current proposal will create a level of light trespass that is unacceptable. Her second concern is for the additional cut through traffic that will be generated by this facility. Having met with the Traffic Safety Commission (TSC) the general consensus among neighbors is for the closure of Wade Hampton Drive at the intersection of Millwood, Glen and Wade Hampton for all but emergency vehicles.

Michelle McGrath, 207 Glen Avenue, expressed her concerns that Council continues to ignore the issue of pedestrian safety. Due to the level of traffic on Maple Avenue, most residents choose to walk on side streets such as Glen Avenue. She is urging Council to take up the issue of walkability in the neighborhoods adjoining Maple Avenue as the MAC projects begin to develop. She would like to urge Council to consider either closing the road, adding sidewalks, or at the very least, adding "no cut through" signage.

Rebecca Ivers, 130 Wade Hampton Drive, SW., thanked the Council for the open discussion regarding the new site development. Her primary concern was the potential for light trespass with the acorn lighting as well as light pollution from the Memory Care floor.

Francis Biros, 200 Ceret Ct., SW., spoke about attending the Planning Commission public hearing in December where neighbors generally expressed preference for this project over the last due to the potential for less traffic. Ms. Biros emphasized the continued need for traffic calming measures such as closing Wade Hampton Drive. Efforts to encourage this were negated by members of the Planning Commission indicating that they were not prepared to make a recommendation regarding traffic. A number of Commissioners said that the issue of traffic was separate from the requests pending before the Commission. Some members suggested that traffic was the domain of the Transportation Safety Commission (TSC), not the Planning Commission. Others suggested that TSC and the PC could work collaboratively on the traffic issue at the appropriate time. Some Commissioners added that they believed that any action regarding traffic should wait until the new buildings were operating and substantially occupied to see the actual traffic impact rather than trying to act on the basis of supposition. Several Commissioners said the Town should take responsibility for monitoring traffic impacts and addressing any problems on its own initiative rather than placing the onus on neighbors to petition TSC. Ms. Biros emphasized the need for the Town to take the initiative with the following in mind:

- 1. The MAC statement of purpose states that development along Maple Avenue should not compromise the character of the neighborhood abutting the corridor;*
- 2. Neighborhood streets, particularly Glen Avenue and the residential portion of Wade Hampton Drive are narrow and lack sidewalks;*
- 3. The two streets of Roland have dangerous blind corners and are used as a school bus route;*
- 4. The draft of the TSC citizens guide on traffic calming includes language that prevents citizens from petitioning the TSC directly, requiring first approval by the Department of Public Works staff. The draft also deletes street closure as a traffic calming measure.*

Alex Gallegos, 130 Wade Hampton Drive, SW., stated his opposition to large scale development most especially those abutting neighborhoods. His expressed concern

regarding both noise and light pollution, in addition to traffic and pedestrian safety. He urged Council to consider the traffic issue more holistically addressing issues such as neighborhood privacy. On a positive note, he stressed that the Sunrise Assisted Living team have been very receptive to citizen concerns and expressed hope that this discourse will continue.

Ronald Twazin, 208 Marissa Ct., SW., indicated that although he has not been following this issue particularly, he has been following the overall development in the Town. It is his opinion that the preceding speakers have raised valid points and that with regard to traffic patterns related to this development, the closure of Wade Hampton Drive should be seriously considered. Noting the dearth of any TSC historical traffic data he stressed that they should be amassing data prior to all new development; if not the Town and its residents will always be behind the curve. He would ask the Council to direct staff to begin collecting traffic counts in order to establish a baseline as soon as possible, and to report this information back to the Council and citizens on a periodic basis (at least annually). Mr. Twazin also noted that the lighting issue appears to be a reasonable item to address.

John Potts, 134 Wade Hampton Drive, SW. stated his appreciation for the improved plans presented by the applicant. He continued by stating his support for the closure of Wade Hampton Drive. He further requested the implementation of a formal protocol whereby regular consultations are held between the site construction manager, residents and Town staff for the purpose of addressing residents' concerns.

Shelley Ebert, 402 Roland Street, SW., expressed her opinion that the purpose of this hearing is to attempt, with this project, to fix what went wrong with prior development along the Maple Avenue corridor. She questioned whether the underlying purpose of tonight's meeting was to approve a project or to end a lawsuit.

Frank Biros, 200 Ceret Ct. expressed is concern with the added traffic the project will generate on Wade Hampton Drive. As a resident since 1984 he has often expressed concern regarding traffic speed and cut through. Many remedies have been tried but all efforts have been ignored by drivers and not enforced by police. The new development along the MAC will surely exacerbate the issue. He pointed out that study results indicate increased use which will equate to increased traffic along the Wade Hampton Drive and Roland Street corridor. Recognizing that the effect of this closure will increase traffic on Pleasant Street, he notes that Pleasant is a through street, unlike Wade Hampton. It is his opinion that restrictive traffic measures must be sought and, pointing out a precedent for closure (behind the Post Office), that Wade Hampton Drive must be closed to through traffic.

Jayme Huleatt, 413 Roland Street, SW., concurred with her neighbors that current traffic and the potential for increased traffic is a concern. She further expressed dismay that developers were allowed to change plans and be accepted under the "old rules". It is her understanding that the current project is to be built under the rules of the "old MAC" which allowed for total lot coverage. Those residents abutting the development will have essentially no buffer. Noting that the residents on the south side of town are disproportionately impacted by this new development, she believes that Council has failed to take into account the cumulative effect of all the new MAC projects underway. The through streets of Wade Hampton Drive, Glen Avenue and Roland Street are unique in that they are narrow, curved and lack sidewalks. For these reasons she urges the closure of Wade Hampton Drive.

With no further speakers, Mayor DiRocco invited comments from Council.

Councilmember Springsteen noted his opposition to the original plan, but generally believes this rendition to be much improved. He continues to have concerns with the problem of light pollution and asked that this issue be deferred should Council approve the pending plan. He pointed out that this is an example of Public Works making decisions without citizen input and urges the appointment of an ombudsman. Additionally, he agrees that sidewalks should be added, but in lieu of that, closing Wade Hampton Avenue may be the best and cheapest, alternative.

Ms. O'Brien addressed the lighting issue noting that the original plan included only two lights on Wade Hampton Avenue. Councilmember Springsteen pointed out that staff works for the residents. Should the residents express concern, Council and staff must listen. Ms. O'Brien noted that the lighting is not a staff decision, but directed by Town code.

Councilmember Patel observed that community feedback has highlighted pedestrian safety and traffic mitigation as primary concerns. Should the Town choose to build sidewalks without curb and gutter, how can this be accomplished without bearing any costs?

Attorney Briglia noted that he believes Glen Avenue is on the impending sidewalk plan. From a legal standpoint, however, he pointed out that, if identifying a need created by the impact of new development, there must be a tie in for an acceptable proffer and there currently exists no data to support that an assisted living facility will generate a significant increase in pedestrian traffic. He further noted that the proffer does include sidewalks on the back portion of the facility

Director Petkac indicated that Sunrise will continue the proffer of a \$79,950 contribution toward traffic safety improvements in the neighborhood.

Councilmember Patel inquired with Mr. Jenks if indeed Glen Avenue was on the sidewalk plan, to which he believed it was. She further questioned whether combining the two sources of funding would allow for the additional creation of a safe pathway through the neighborhood. She stressed that the citizens are concerned by the cumulative traffic effect created by the overall development in this part of the Town and would like to explore options available to address this issue.

Councilmember Colbert voiced her agreement with Councilmember Patel. She further referenced the potential lighting pollution questioning why downward directed lighting could not be looked at as an option. Mr. Liang emphasized that they would be happy to address this issue. Councilmember Potter noted the cooperative spirit of the Sunrise team and wondered if they had any thoughts on the appointment of an ombudsman. Mr. Liang pointed out that they typically engage in this type of process with all construction projects, but if a more formal process is preferred, he will work with Mr. Potts and any others to create a formal committee.

Councilmember Potter returned to the issue of pedestrian safety noting the poor condition and unique configuration of Wade Hampton Drive. He stated that residents have spoken to the TSC in an effort to address this problem and that options have been brought before Council as well. He doesn't believe any of these efforts have been met with a great deal of encouragement. Council must realize who makes up their customer base and understand they are facing a public safety issue.

He would like to understand what the next step is so that this issue can be put before Council for a vote.

Town Manager Payton indicated that Council first must direct a vote and should it be positive then Wade Hampton Avenue will be closed. There is no code that prohibits this. Attorney Briglia agreed but stressed that the process must be completed in an orderly manner. Town Manager Payton noted that he will work with Attorney Briglia to enumerate the process and advance it to the Council. He will speak for staff and state that there will be no issue with closing Wade Hampton Avenue.

Councilmember Majdi expressed his desire to explore the road closure option. He further enumerated several items from the July 2018 meeting, requesting and receiving affirmation that they have been addressed in the current plan. Additionally, should the transformer require moving, notice should be given to Council through the office of the Town Clerk. With regard to the acorn lights and the potential for lighting pollution, he urged staff to address this issue as it affects this project. Finally, he noted, with respect to the potential road closure, that options offered in a prior traffic calming presentation have not been included in this project plan. He questioned whether it was necessary to introduce an ordinance in order to require the inclusion of these option in residential neighborhoods. Mr. Jenks replied that the transportation study will provide recommendations to address this issue. Once received, these options will be presented to Council for a vote and then, if approved, they can be implemented. Councilmember Majdi asked if it is possible to require traffic mitigation from an applicant at rezoning in order to project approval. Attorney Briglia replied that there must be a demonstrable incremental impact created by the new project. He additionally pointed out, in response to Councilmember Majdi, that as of July 1, 2019, if a developer makes an offer, there is a presumption of its validity, so it makes it easier for the Town to accept the proffer. Councilmember Majdi stressed that he would welcome a proposal from the developers under this new law.

Councilmember Majdi continued that he would also like to see the appointment of an ombudsman. He asked Attorney Briglia if the Town could accept this project conditional on the dropping of the existing lawsuit, to which Attorney Briglia responded it could not. He also asked staff to explore the option of retractable ballards for emergency vehicles.

With no further comments, Mayor DiRocco called for a motion.

Councilmember Majdi submitted a subsidiary motion to postpone the vote on this issue until February 24.

Councilmember Patel seconded the motion. The motion failed due to lack of a majority.

Mayor DiRocco called for a motion on the item with amendments.

It was moved to approve the requested amendment to proffered conditions for the subject property located at 374-380 Maple Avenue W in the Maple Avenue Commercial (MAC) zoning district. And, finding that the integrity of Chapter 18 of the Town Code and the health, safety, and morals of the Town will not be thereby impaired, it was further moved to approve the requested modification of requirements for a 15-foot wide loading space in conjunction with the amendment to proffered conditions application.

It was further moved to accept an amendment of a proffer from the applicant to add a construction liaison and have ongoing liaison meetings with the community and staff during design/development and construction.

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: 6 - Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Potter, Council Member Springsteen and Mayor DiRocco

Nay: 1 - Council Member Patel

6. Regular Business

- A. [20-1563](#) Request approval and funding for project expansion for pedestrian improvements on Old Courthouse Road NE

It was moved to approve funding, in an amount not to exceed \$186,938 to Rinker Design Associates, for expansion of the pedestrian improvements project at Old Courthouse Road NE.

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

Aye: 7 - Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Patel, Council Member Potter, Council Member Springsteen and Mayor DiRocco

- B. [20-1564](#)

Adopt a resolution to approve Northern Virginia Transportation Commission (NVTC) grant applications for funding of transportation projects

It was moved to adopt a resolution to approve grant applications to NVTC for the Patrick Henry Library parking garage - commuter spaces.

A motion was made by Council Member Colbert, 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 Majdi, Council Member Noble, Council Member Patel, Council Member Potter, Council Member Springsteen and Mayor DiRocco

[20-1579](#)

Second Closed Session

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, January 27, 2020, the Town Council met for discussion or consideration of the acquisition of real property for a public purpose.

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, February 3, 2020 at 7:00 p.m. in accordance with Virginia Code Section 2.2-3711.A.(3), for discussion or consideration of personnel matters associated with the interviewing of individuals for consideration of appointment or reappointment to town boards and commissions.

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

Aye: 7 - Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Patel, Council Member Potter, Council Member Springsteen and Mayor DiRocco

7. Meeting Adjournment

Meeting adjourned at 11:25 pm.

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.