



Town of Vienna

Meeting Minutes

Town Council Meeting

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

Monday, September 14, 2020

8:00 PM

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

Regular Meeting

1. Roll Call

Rollcall

Council Member Chuck Anderson, Council Member Ray Brill Jr., Council Member Nisha Patel, Council Member Steve Potter, Council Member Ed Somers, Council Member Howard J. Springsteen and Mayor Linda Colbert

Present: 7 - Council Member Chuck Anderson, Council Member Ray Brill Jr., Council Member Nisha Patel, Council Member Steve Potter, Council Member Ed Somers, Council Member Howard J. Springsteen and Mayor Linda Colbert

A. [20-1863](#) Resolution for Continuity of Government

Mayor Linda Colbert read into the record the Continuity of Government. The Resolution was approved through voice vote.

2. Approval of the Minutes:

2. Approval of the Minutes:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

A. [20-1868](#) Acceptance of the Special Council Meeting Minutes of August 19, 2020 and September, 4, 2020, the Regular Council Meeting Minutes of August 31, 2020 and the Work Session Minutes of 8-31-2020.

The minutes of the Town Council Work session of August 31, 2020, the Special Session of September 4, 2020, and the Regular Council Meeting of August 31, 2020 were accepted by voice vote, with additions by Council Member Somers.

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

Mayor Colbert recognized David Madwedeff, 309 Windover Avenue, NW. Mr. Madwedeff requested Council to direct the Transportation and Safety Commission to conduct a formal vote on the Windover Avenue citizens 2018 application. A public hearing was held in 2018 but no further action was taken.

Town Attorney Briglia explained that Council need not act on this other than to direct the Transportation and Safety Commission to take up the application.

Council Member Somers indicated that, while he didn't have comment on this item

specifically, as a former Chair of the Commission, he would like to further discuss the procedural issues involved, either now or at a later Council meeting.

Mayor Colbert clarified that the item will go back on the Transportation and Safety Commission agenda and Town Council will provide more description and direction to the Commission, specifically what is expected and in what time frame.

Town Manager Payton will direct Mike Gallagher, Director of Public Works, to follow up with the Windover Heights residents to determine an appropriate agenda date.

Mayor Colbert recognized Shelley Ebert, 402 Roland Street, NW, speaking on ZOOM. Ms. Ebert remarked that Vienna residents today are faced with a situation similar to that experienced with the Maple Avenue Commercial Zone, specifically an attractive proposal with unappealing results. The issue now is water. The Town pledged, and the Mayor confirmed, not to cut off water services for nonpayment reasons during a pandemic. Public Works, however, has indicated that as this was a state mandate, unless extended, they will move forward with business as usual in two days' time.

Ms. Ebert explained that water consumption has increased largely due to the pandemic. With rates having increased each of the last three years, and average usage calculations based on older single family homes with less consumption, consumer water bills have skyrocketed. She is urging the Town to use a more realistic average, consider adopting a range, or possibly develop a bill insert warning of future increases, to avoid the shock residents experience each time they open their bill.

She concluded her remarks by expressing hope that Council can find a better way to interact with residents.

Mayor Colbert recognized Council Member Anderson who made a motion accorded by Town Code Section 2.5, to move Regular Business Item 8A, Consideration to Initiate Robinson Sidewalk Projects, to directly follow the current item under discussion, Item 3, Receipt of petitions and communications from the Public that are not on the Agenda. Motion seconded by Council Member Springsteen. Motion carried unanimously

4. Presentations

A. [20-1856](#)

Presentation for the Maple Avenue Multimodal study.

Mayor Colbert introduced Andrew Jinks, Transportation Engineer, to continue his March 22, 2020 survey results presentation; Community Prioritization of Near and Mid-Term Transportation Recommendation based on the Multi Modal Study.

In a summary of the resident responses, the highest resident priorities were W&OD Trail Crossings Redesign (46%), Leading Pedestrian Intervals (52%), Fill Vital Sidewalk Gaps (57%), as well as additional infrastructure for non vehicular transportation, parking, and the Maple/ Beulah, Branch reconfiguration.

Following a brief review of the original study and results, David Samba, Kimley Horn, noted that achievable recommendations were developed that address specific areas of traffic concern, elevate other modes of travel, and promote transportation

safety. Implementation, however, relies on the understanding that the Maple Avenue corridor must work within the context of the Town's broader goals and, most importantly, must meet the needs of its residents.

Council Member Springsteen remarked that, while the study has provided excellent information, the COVID-19 Pandemic has changed the entire dynamic of traffic in Vienna. He stressed that the Town, at this point in time, needs to prioritize its needs based upon the ramifications of this new environment.

Following clarification from Mr. Samba on the concept of Leading Pedestrian Intervals (LPI), Council Member Somers pointed out that the two greatest resident concerns, LPI and the W&OD Trail, were also among the least costly. Mr. Samba indicated that they were also among the easiest to address. 4

Further, Council Member Somers expressed concern about non vehicular safety at W&OD Trail street crossings, especially at the W&OD Trails/Church Street crossing. In response Mr. Jinks explained that while additional signage could be added, any further efforts to require traffic to yield would require coordination with NOVA Parks (owners of the W&OD Trail). Council Member Somers questioned ownership of the street portion of the Trail. Mr. Gallagher confirmed that NOVA Parks owns the Maple Avenue street crossing but was unsure of any others. He agreed to research this issue and report back. Council Member Somers noted that during his time with the Transportation and Safety Commission they worked to find low cost high impact items that could be addressed in the short term. He questioned whether this might be a similar situation. Stressing his concern regarding the potential for accidents at this intersection he urged Mr. Jinks to consider what additional steps could be taken now to improve safety, until a more permanent solution can be achieved.

Mr. Jinks, in response to Council Member Brill, stated that the Integrated Signals system is currently in the design stage and scheduled for completion mid-2022.

With the COVID-19 Pandemic impacting business and behavior, Council Member Anderson questioned what impact it might have on the Town's long term transportation and mobility issues. Mr. Samba, stressed that while much remains unknown, one observation has been increased usage of the W&OD Trail. He does expect increased automobile traffic as time goes on, but notes that peak hour traffic has not come back to any degree and Public Transportation usage remains down. This provides an opportunity to capture new customers; commuters who may change their mode of transportation away from the automobile.

Council Member Potter inquired whether Kimley Horn will provide an algorithm or tool to allow for the determination of optimal transit time versus vehicles per hour calculations. Mr. Samba explained that the study information provided this capability.

Council Member Patel questioned if Maude Robinson funding could be used to fix the issue at the intersection of Church Street and Park. Mr. Gallagher pointed out that the money is restricted for use on new sidewalks and cannot be expended on repairs, replacement or maintenance. Attorney Briglia suggested contacting the trustee regarding this potential usage of funds.

B. [20-1851](#)

2020-21 financial review for first two months of fiscal year

Mayor Colbert recognized Marion Serfass, Director of Finance, to provide a financial review of the first two months of fiscal year 2020-2021. Emphasizing the

impact of the COVID -19 pandemic she noted the loss of monies due to falling interest rates, in addition to losses in Parks and Rec revenue. On the positive side, meals taxes have improved significantly more than predicted.

Mayor Colbert questioned the filling of vacant positions to which Town Manager Payton replied that all effort continues to be made to maintain core Town services. Vacancies will be filled as necessary.

Significantly, Director Serfass pointed out that CARES Act money was allocated for use in 2020; a portion used for police salaries, which offset revenue loss. Going forward however she does not plan similar use due to restrictions placed upon expenditure of these funds.

Fiscal year 2020 closed out within \$20,000 of budget.

Council Member Anderson, while recognizing the excellent work by Director Serfass and Staff, suggested that Council should be cautious when accessing the improved meals tax figures. He believes the boost may be due largely to new restaurant options, potentially translating into losses for the more traditional restaurants in town; a non-sustainable scenario. Going forward he would like to see a similar report every two months in order to stay on top of the situation. He also urges creative solutions for restaurant sustainability.

Council Member Springsteen echoed Council Member Andersons words, especially with the colder months of Fall and Winter fast approaching. Director Serfass responded that, Natalie Monkou, Economic Development Manager, is currently working with the VBA to acquire heaters for town restaurants in an effort to extend outdoor dining opportunities.

C. [20-1850](#)

2020 Investment Report

Mayor Colbert called on Director Serfass to continue with the Town of Vienna Investment Summary for the close of Fiscal Year 2019-2020. Director Serfass opened her remarks reiterating that all Town investments are considered low risk. The current story lies with the fact that interest rates have dropped dramatically. Investments earning 2.5% last year are currently earning .5% with little change expected in the near future. Responding to Council Member Somers, she explained that the Town is experiencing a change from \$200,00 in interest income to \$50,000. If the Town can maintain at \$50,000 going forward without further losses, it will be necessary to find \$150,000 to offset that loss. Should the winter be mild with little snow, she predicts the Town will be able to withstand the loss by looking for additional areas where spending can be cut. All this will be done prior to any cut in the budget.

Council Member Potter questioned which items in the debt service fund contributed to the positive variance. Director Serfass pointed out that the Town budgeted lower than it ended up. Two million dollars in the VIP Fund at the mid-point of fiscal year 2020, generated more interest revenue.

5. Closed Session Report

Mayor Colbert recognized Council Member Somers.

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 September 14, 2020 the

Town Council met, virtually via ZOOM and in person, in accordance with Virginia Code 2.2-3711. A.(1), and the Town of Vienna's Continuity of Government ordinance, the Town Council met for discussion of personnel matters, specifically the interviewing of individuals for consideration of appointment and/or re-appointment to 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.

It was further moved that the closed session be continued to later this date, Monday, October 5, 2020, at 7:15 PM, in accordance with Virginia Code Section 2.2-3711.A.(3), for discussion and consideration of personnel matters, specifically the interviewing of individuals for consideration of appointment and/or re-appointment to Town Boards and Commissions.

Council Member Springsteen seconded the motion. Motion passed unanimously.

It was moved that Midge Biles be reappointed to the Public Arts Commission for a term of two years. Said term shall be retroactively effective 09/30/2020 – 09/30/2022.

It was moved that Sonali Chandra be appointed to the Conservation and Sustainability Commission as a student member from 09/15/2020 - 06/30/2022.

Motion seconded by Council Member Patel. Vote carried unanimously.

6. Public Hearings

A. [20-1838](#)

Public hearing on proposed amendments to Chapter 18 - Zoning, Article 19 - Nameplates and Signs relating to Temporary Sign Regulations

Mayor Colbert called for the roll call. All members of Council were present.

Mayor Colbert called on Director Petkac to provide an overview of the proposed amendment. Director Petkac pointed out that the amendment is necessary to ensure that the Town's temporary sign regulations are compliant with recent Supreme Court decisions.

Mayor Colbert recognized Shelley Ebert, 402 Roland Street, NW. via ZOOM. Drawing comparisons to other jurisdictions, Ms. Ebert stated that the amendment may be too conservative and pointed out that the issue has become more politically charged (articles appearing in the Washington Post, signs being stolen, etc.).

With a 25% coverage limit as proposed, most political signage in apartments and certain condominiums, would not meet the standard as windows average 24X18, equal to a 43% coverage. Addressing this issue, the Planning Department noted that percentage determinations and amendment language were directed toward maintaining normal function of the window. In addition, 25% was the limit applied to Commercial Zones. Ms. Ebert questioned why the ordinance language required a percentage of space at all. Would it not be sufficient to maintain normal window function?

Mayor Colbert recognized an email item from Mathew DiFiore, Vienna. Correspondence is attached.

With no additional comments Council Member Springsteen made a motion to close the Public Hearing. Council Member Somers seconded the motion. Vote carried unanimously.

Council Member Potter, stating that he originated this issue due to inconsistencies in the Code and the need for additional regulation, pointed to several concerns not addressed in the amendment; no limit placed on number of signs and wording, specifically congratulatory and event signage. Director Petkac responded that congratulatory and event signage is to be categorized as yard signage. Yard signs may include a number of individual letter signs that spell a message. The maximum size of each sign is 6 square feet.

Council Member Potter suggested that this approach compounds the problem. Further, there is no reference to time limit on sign display. It has been his understanding that there exists a one-day limit, while in reality, most stay up far longer than that. It is unattractive and contrary to the image desired by the Town.

Stressing that the amendment was crafted on the model sign ordinance created by the Local Government Attorney's Association, Director Petkac explained that the language was designed to address maximum square footage for yard signs. Critically, Staff wished to address the needs of the Signage Companies doing business in Vienna as well as election candidates who desire multiple signs. Council Member Potter asserted that to go forward as written, the amendment will result in signage twice the size of what is currently displayed.

Town Attorney, Steve Briglia cautioned Council against referring to signage as "banner, electoral, celebration, etc". Both the Supreme Court and the Virginia General Assembly have clearly stated that signage must be content neutral. Council Member Potter questioned if that ruling included language regarding the number of signs. Director Petkac explained that the Local Government Attorney's Association determined not to limit the number of signs in an effort to avoid challenges based on earlier court rulings and decisions.

Attorney Briglia responded to Council Members Potter and Somers that the 90-day limit was set to allow for signage to make an impact, even though the type of signage cannot be designated. Should Council determine a 60-day limit more appropriate, they have the latitude to do this. Council Member Somers recalled a 30-day prior to election gentleman's agreement regarding town election signage. This proposed ordinance would allow signage to be placed 90 days in advance. In response, Attorney Briglia referenced the existing ordinance (which states that political signage is limited to 30 days) which has been deemed unconstitutional because it is content based.

Council Member Brill provided information from neighboring jurisdictions where signage is limited to 60 days, with various renewal options. It is his opinion that 60 days, no renewal, is reasonable. Director Petkac reiterated that temporary signage does not require a permit in the Town of Vienna. Other language in the proposed ordinance was based upon the Local Government Attorney's Association Model Ordinance.

Mayor Colbert stressed the importance that the proposed ordinance not adversely effect local businesses. She further questioned the impact of the proposed ordinance on holiday signage. Director Petkac assured that the proposed ordinance would

have no ill effect on local signage companies while Frank Simeck, Director of Zoning, responded that seasonal displays have no restrictions and are strictly complaint driven.

Council Members Springsteen and Anderson both agreed that a 60-day limit seemed reasonable. Further, Council Member Anderson agreed with Ms. Ebert that a 25% coverage limit may be too restrictive. He indicated support for a language change to 50% coverage, with the provision that normal window operation be preserved. Responding to Council Member Somers question, Director Petkac indicated that as the Town Code provides no definition for a "window", the definition as it appears in Merriam Webster's dictionary is used. This definition includes verbiage stating that it "opens and closes". Council Member Somers observed that under this definition, residents with large stationary windows would not be allowed signage. Director Petkac replied that the proposed ordinance applied to transparent panes of glass.

Council Member Patel, pointing out that there remains much to be discussed, made a motion to defer the proposed amendments to Article 19 of Chapter 18 of the Town Code relating to temporary signs regulations, to the October 5, 2020 Council Meeting.

Council Member Springsteen suggested a modification to the motion, striking October 5, 2020 and replacing with "to a future Town Council Meeting as determined by the schedule and the Town Manager".

A motion was made to defer the proposed amendments to Article 19 of Chapter 18 of the Town Code relating to temporary signs regulations to a future Town Council Meeting as determined by the schedule and the Town Manager.

Motion by Council Member Patel; second Council Member Anderson. Motion carried unanimously.

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

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

7. Consent Agenda

It was moved to approve the Consent Agenda as presented.

Motion by Council Member Springsteen; second by Council Member Anderson. The motion carried unanimously.

A motion was made by Council Member Howard J. Springsteen, seconded by Council Member Chuck Anderson, that this was approved. The motion carried by the following vote:

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

A. [20-1794](#)

Approval of payment not to exceed \$87,158.98 to Tyler Technologies for a standard software maintenance agreement (SSMA) for the Vienna Police Department.

B. [20-1828](#)

Request FY21 spending with Arthur Construction, utilizing IFB 17-03, for roadway

milling, overlay, and traffic marking.

8. Regular Business

A. [20-1846](#)

Consideration to Initiate Robinson Sidewalk Projects

Mayor Colbert called on Director Gallagher to summarize the project. Director Gallagher identified the streets selected and the process of community engagement. Critically, citizen response to surveys and staff facilitated discussions indicated a mixture of support and non-support on various streets. Only one street had total household support.

Mayor Colbert applauded the work expended to gather citizen input on this issue. It is her opinion, however, that any sidewalk lacking total household support, should not be voted on by Council.

Council Member Potter made a motion to authorize the Town Manager to apply to the Maud Robinson Trust for design of sidewalk projects on the following street: Cherry Street.

It was further moved to postpone indefinitely the motion to consider sidewalks on the following streets: Melody Lane, Tazewell Road, Delano Drive and Orrin Street. Motion seconded by Council Member Springsteen. Motion carried unanimously.

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

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

B. [20-1854](#)

Request to set a public hearing for October 5, 2020 regarding amending the Comprehensive Plan as it relates to Town-owned property at 301 Center Street S and refer the matter to the Planning Commission for consideration.

It was moved to set a public hearing for October 5, 2020, regarding amending the Comprehensive Plan as it relates to Town-owned property located at 301 Center Street S. Motion made by Council Member Springsteen, seconded by Council Member Brill. Motion carried unanimously.

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

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

C. [20-1858](#)

Re-adoption of emergency ordinance to permit a temporary waiver of zoning restrictions for child day care in commercial zones, industrial zones, and for public, semi-public, and private institutions in other zones.

It was moved to re-adopt an emergency ordinance related to operation of child day care centers by existing businesses in commercial and industrial zoning districts and by public, semi-public, and private institutions in other zones, subject to conditions outlined by staff. This emergency ordinance will expire on January 31, 2021.

Motion made by Council Member Patel; second Council Member Potter. Motion

carried unanimously.

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

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

D. [20-1840](#)

Request to adopt 2021 Town Council meeting schedule and include the schedule in the 2021 Town calendar. In addition, consider adding Liberty Amendments Day as an official Town holiday.

It was moved to adopt the 2021 Town of Vienna meeting calendar as presented. It was further moved that the Town of Vienna adopt Liberty Day as an official Town holiday to be observed each year on the third Monday of July. And it was further moved that the Christmas Eve .5-day holiday be removed and replaced with a full day floating holiday and made available to all Town employees.

Motion made by Council Member Somers; second Council Member Potter. Motion carried unanimously.

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

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

E. [20-1834](#)

Request to consider amendments to Chapter 11 of the Town Code - Personnel relating to updates in human resources terminology, authorizations for business operations, and holidays

It was recommended that the Town Council direct the Town Clerk to advertise a Notice of Intent to Adopt proposed amendments to the Town's Personnel Code at the October 5, 2020, Council meeting, as presented.

Motion made by Council Member Springsteen; second by Council Member Potter. Motion carried in a four to three vote.

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: 4 - Council Member Brill, Council Member Potter, Council Member Springsteen and Mayor Colbert

Nay: 3 - Council Member Anderson, Council Member Patel and Council Member Somers

F. [20-1839](#)

Request approval of pro bono tree project by Kirkland & Ellis and Ramboll US Corporation

It was moved to approve submittal of a request for Kirkland and Ellis LLP and Ramboll US Corporation to undertake a pro bono project to complete a legal, policy, and technical analysis to identify tree programs and initiatives that could be beneficial for the Town of Vienna.

Motion Made by Council Member Springsteen, second by Council Member Anderson. Motion carried unanimously.

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

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

G. [20-1849](#) Award Capital Lease IFB 21-02 for Financing FY 20-21 Vehicle and Equipment Replacement Program

It was moved to award Capital Lease Equipment Purchase Contract IFB 21-02 to US Bancorp at an interest rate of 1.128%.

*Motion made by Council Member Springsteen; second by Council Member Somers.
Motion carried unanimously.*

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

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

H. [20-1830](#) Request approval of vehicle purchases within the Vehicle Replacement Program for FY21

It was moved to approve a resolution to designate the Old Courthouse Road Sidewalk project as a Revenue Sharing project.

*Motion Made by Council Member Springsteen; second by Council Member Potter.
Motion carried unanimously.*

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 Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

Aye: 7 - Council Member Anderson, Council Member Brill, Council Member Patel, Council Member Potter, Council Member Somers, Council Member Springsteen and Mayor Colbert

9. Meeting Adjournment

Council Member Brill made a motion to adjourn the meeting. Council Member Springsteen seconded the motion. Meeting adjourned at 11:32 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.