



Town of Vienna

Meeting Minutes

Town Council Meeting

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

Monday, October 10, 2022

8:00 PM

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

Invocation: Tyra Tavakoli of the Baha'i Community of the Town of Vienna

Mayor Colbert called on Tyra Tavakoli of the Baha'i Community of the Town of Vienna to provide the evening's invocation.

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

1. Roll Call

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

2. Acceptance of the Minutes:

- A. [22-3425](#) Acceptance of the Conference Session Minutes of September 19, 2022 and the Regular Meeting Minutes of September 26, 2022.

The Conference Session Minutes of September 19, 2022 and the Regular Meeting Minutes of September 26, 2022 were accepted as presented.

A motion was made that the Minutes be accepted. 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

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)

Ron Dicker, 604 Tazewell Rd., NW opened his remarks stating that the residents of Tazewell Rd. do not want sidewalks on their street and he asked that the Town not force it on them. Maud Robinson would be mortified if she were alive to see this playing out. She meant to bless people with something they wanted but couldn't afford, not curse them with something they hate and can avoid. The Town conducted a survey and residents along Tazewell Rd., in the majority, rejected a sidewalk. That's everything Council needs to know, or it should be. Maud's money would be better spent on places where residents desire a sidewalk rather than on those who deplore it. What the residents along Tazewell Dr. really want from Council is simple – nothing; just leave them alone. And yet, here they are again. Personal arguments against sidewalks include: 1) Houses along Tazewell Dr. already suffer from lack of frontage. Sidewalks will only make the problem worse. On average, a nine-foot encroachment consumes a full 20% of the frontage of these homes; 2) Sidewalks create more work for residents with the need to trim grass and shovel snow; 3) Sidewalks make it that much easier for dog walkers to allow their animals to defecate on lawns; 4) It is, by no means, a foregone conclusion that gentrification is always for the better. Technical arguments against sidewalks

include the following: 1) If the purpose of a sidewalk on Tazewell Rd. is to connect Lawyers Rd. with Holmes Dr., then that has already been achieved by existing sidewalks one block north on Upton St. and one block south on John Marshall Dr.; 2) If purpose is to create a quadrangle for those who wish a constitutional, that too has been achieved by existing sidewalks on Lawyers Rd., Upton St., Holmes Dr., and John Marshall Dr. So the people who will benefit meaningfully from a sidewalk on Tazewell Rd. are the residents of Tazewell Rd.; and the majority don't want it. If the purpose is to fulfill some grand vision of Town Officials for a gentrified, modernized, sterilized, sanitized Vienna, then it's time to get back to basics. The role of Town Officials is to serve the citizens, not tell them what they want. "So please, take your finite endowment and lavish it on people who appreciate it, not those who repudiate it".

Cordell Ratner, 600 Tazewell Rd., NW indicated that he is a CPA and former HOA president. He thanked Mr. Dicker for his remarks and noted his full agreement. He did not wish to bash the idea of sidewalks, but preferred to state appreciation for Town Staff who directed him to the Town website for information, as he was not able to attend the one meeting held on this issue. Accessing the PDF and files on the Website, however, proved meaningless. Three different scenarios were proposed, but no discussion on the decision was included. Mr. Ratner stressed that he would like to know how specifically to access information on what is submitted to Council. Understanding that this is trust money that often has conditions for disclosure, it would never-the-less be helpful for the public to see documents used to make these types of decisions.

Michael Standiford 910 DeSale St., SW remarked that this is the sixth time he has come to Council regarding sidewalks, and it is the second time he has spoken before Council on this issue; it is "making me mad". Part of the reason he purchased his home on DeSale was because of the absence of sidewalk; it was part of the appeal. There is no foot traffic, aside from those who walk down the street, and he indicated that he's fine with that. Mr. Standiford walks his six and eight-year-old daughters to school in the street and he's fine with that as well. The proposed sidewalk is to be six feet wide, which is absurd. It will encroach into residents' yards, who already do a nice job with maintenance; a six-foot-wide sidewalk will ruin that aesthetic. Foot traffic will also increase. While Mr. Standiford stated that he didn't know Maud Robinson he doubts that shoving a sidewalk down residents' throats was part of her family's idea. Now, however, that will be their legacy. It appears that the Robinsons have the money and they think they can make the rules. They have \$7 Million and they are going to shove a sidewalk down everyone's throat whether they want one or not. "I oppose sidewalks on my side of the street and the other from Tapawingo to the end".

Dawn Dicker, 604 Tazewell Rd., NW wished to reinforce the idea that the residents of Tazewell Rd. don't want sidewalks and urged Council to place priorities on what residents do want. Why make Maud's legacy one of contention? Maud was loved; this would not be what she had in mind for Vienna. Surely there are other streets in Vienna that are more appropriate for sidewalks with residents who aren't passionately against them.

Bill Bane, 601 Tazewell Rd., NW remarked that he has lived in his home since October 1995. He wished to state for the record that he and his family also oppose sidewalks along Tazewell Rd. Additionally, one issue has not been addressed to date - there are only two storm sewers on Tazewell Rd. Both are overrun when heavy rains occur and water ponds around these drains. Mr. Bane stated that he fears the

addition of more concrete in the form of sidewalks will exacerbate the situation.

Edna Trimm, 608 Tazewell Rd., NW. stated for the record that she is happy to see this issue under consideration. Indicating some confusion over the date when Tazewell Rd. would be up for Council vote, she requested notification when that date has been set. In any event, she sent an email to every Council Member regarding this matter, yet not a single reply was received. Therefore, the content of the email was presented orally. In 2020 residents were surveyed with respect to their desire for a sidewalk. Eight residents of Tazewell Rd. did not want sidewalks; no other residents responded. A second letter informed of an informal meeting on the matter. Ms. Trimm contacted Staff to inquire as to the purpose of the meeting when survey results indicated disapproval of a sidewalk. She was informed that it was possible residents had changed their minds. Now residents learn that the Town has decided to move forward with sidewalks along Tazewell Rd.

As a final note, Ms. Trimm indicated that it was discourteous for Council to ignore her email, especially given that this is the preferred method of communication.

Alex Tanes, 632 Tazewell Rd., NW stated that he has lived on Tazewell Rd. for 32 years and raised two children at this address. Despite the lack of sidewalks, there has been no problem. Not wishing to repeat the prior list of reasons for opposing sidewalks on Tazewell Rd., he would like to add one additional reason – pollinator bees which effect 75% of the front yards on the street. He urged Council to be more creative with the funds suggesting that perhaps the balance of what it would cost to put in a sidewalk could be used for a scholarship.

Michelle Fraser, 605 Tazewell Rd., NW expressed her support for all that has been stated prior. The mother of twelve and thirteen-year-old boys, she noted that they have lived at this residence since the boys were two and three years old. There has never been a problem without a sidewalk. In general, Ms. Fraser is in support of sidewalks, however she believes Tazewell Rd. does not need them; there are sidewalks all the way around this street and further, it is not a through street. There is no need to destroy the aesthetics or the frontage.

Mary Wilkerson, speaking on behalf of her mother, owner of Vienna Massage Therapy, 243 Church St., NW. As a third generation Vienna resident, she noted that her great grandmother was not only Vienna's first business woman, she was a founding member of the Vienna Businessman's Association, which later became the Vienna Chamber of Commerce and later still became the Vienna Business Association. Both great grandparents were heavily involved in the Vienna Fire department.

Ms. Wilkerson wished to speak on the recently adopted massage therapy ordinance. While she applauds the Town's efforts toward safety, it can only be assumed that the ordinance was drafted under paranoia and haste as it is both absurd and discriminatory. Having yet to hear of the appalling statistics that apparently prompted the ordinance, she was unaware of the existence of the Towns prostitution problem that spurred this new law. How many allegations have been levied on other industries such as the Police or Schools? If the Town is not enacting the ordinance on physicians, coaches, teachers, tutors, dentists, etc. then repeal it, please. The ordinance requires mug shot like photos in addition to codifying, in extreme violation of the privacy and sanctity of a massage session by allowing potentially law enforcement or Town officials to enter into a session to investigate misconduct. This is completely ineffectual and does nothing to curb misconduct. Ms. Wilkerson's mother and others worked extensively with Mayor Robinson and others for over a year (in the 1990's) to draft the ordinance that has now been

replaced. The new ordinance is a step backwards. The original ordinance served as a model for the State of Virginia's regulations of massage therapy, while the new ordinance contains grossly inaccurate terminology. Massage parlors are illegal and not permitted in the Town of Vienna. Masseuses and masseurs are not legal as they are untrained, yet the new ordinance contains that terminology. The ordinance, as it reads now, is an embarrassment to the Town of Vienna and needs an emergency repeal. If it is left to stand it will cause problems for the Town, its citizens and small businesses.

Mayor Colbert thanked the speakers and confirmed through Christine Horner, Interim Director, Public Works, that the Tazewell Rd. sidewalk project will potentially be up for Council consideration the first week of November. Mayor Colbert further apologized to anyone who failed to receive a reply to an email. It is her practice to always respond, however, these were never received. She will investigate with IT. She also encouraged residents to continue correspondence with Council and/or Staff.

4. Reports/Presentations

A. Report and Inquiries of Council Members

Mayor Colbert called on Council for reports.

Council Member Patel noted that she never received the aforementioned email and wondered if it might be the new spam filter. She agreed that resident inquiries should always receive a reply.

Council Member Patel also questioned why Tazewell Rd. was included in the sidewalk project list. She reminded all that Council looked specifically at five streets including DeSale, Melody and Tazewell, and decided to not move forward with these three. If the goal of the sidewalk project is a continuous network in the Town, then the focus should be Maple Avenue outward. She continues to question why certain streets are selected. With a limited amount of funds, attention should be on the main pathways through Town, followed by the offshoots that are closest to Maple Avenue. Sidewalks on cul-de-sacs and streets far removed from Maple Avenue with little foot traffic should not be a priority. The Town should have a network of sidewalks in its center.

Marion Serfass, Director, Finance, reminded Council that one of the defining factors that drives sidewalk placement decisions is the presence of curb and gutter. The Robinson Trust only funds sidewalks, not curb and gutter.

Mayor Colbert suggested that as this is a policy decision, it is perhaps not the time for discussion.

Council Member Patel inquired regarding the correct process for adding an item to the agenda.

Town Attorney Briglia indicated that any Council has the right to add an item and it is placed at the end of the agenda. Council Member Somers requested the specific language.

Town Attorney Briglia recited from the Town of Vienna Code, Chapter 2, Sec. 2-51 Procedure for adding items:

No item which does not appear on the written prepared agenda for a regular council meeting, as provided in sections 2-52 and 2-53, may be proposed for consideration unless the Town Manager or a member of the Town Council determines that it is a matter of such an emergency nature that its consideration

cannot be postponed to the next regular council meeting, provided that such a proposal shall be stated during consideration of section 2-50(f)(6). The affirmative vote of a majority of the members present and voting shall be required to add such items to the agenda.

This language also appears under Order of Business in the Town Code. Town Attorney Briglia noted that Council has heretofore been flexible as a collective body regarding adding matters to the agenda.

Mayor Colbert called on Council Member Springsteen to continue Council reports.

Council Member Springsteen reminded all that the Fire station will be holding an open house for the first time in two years. The event is scheduled for Saturday, October 15, 2022. He also mentioned that he hasn't received email from residents in the past couple months.

Council Member Brill confirmed that he hasn't received email from Ms. Trimm. He also noted that today is the 177th celebration of the founding of the Naval Academy. He further asks Council to continue to recognize the courage of the Ukrainians. Finally, he recognized how fortunate he is to live in a Town like Vienna.

Council Member Somers remarked that every day he observes residents pushing strollers, children walking to school and people relying on walking aides. It appears that this activity is increasing.

Moving on to another matter Council Member Somers noted attending the Virginia Municipal League workshop on recycling. Based upon the information received he raised the question of whether Vienna has conducted recent studies on the practicality and efficiency of the Town's recycling program. Does data exist analyzing manual vs. Automated Side Load (ASL or electronic arm collection)?

Interim Director Horner responded that they continually assess the situation, as it has been changing rapidly. There exists abundant information regarding costs, etc. She noted that the current trash trucks are not equipped to handle ASL and that two recent trash truck orders have been consistent with existing styles. Council Member Somers requested a conference session on this subject, noting that the current system is antiquated. He stated that Vienna residents are very environmentally astute; they want to recycle, but need to know they are doing so properly and that it is making a difference.

Council Member Potter wished to follow up on the blight situation on Maple Avenue. While the lot at 444 Maple Avenue has improved significantly, the area in front of the former Amphora continues to be a pile of bricks, concrete and junk – a terrible reflection on the Town. Noting that a prior notice was sent to both owners, Council Member Potter requested Town Manager Payton contact the appropriate department heads to conduct a follow-up.

Council Member Potter also addressed the issue of Town trash trucks. Other jurisdictions that employ ASL require citizens to pay for containers specifically designed for this feature. These trucks are limited to one side of a street at a time suggesting additional costs considerations. While this would be a good topic for discussion, a brief look suggests that it would raise current costs and decrease efficiency.

Council Member Somers provided a brief follow-up stating that research yielded evidence where one Town raised rates for one year, provided the upgraded cans and evaluated the results. He agrees that it is complicated, but deems it worthy of discussion. Town Manager Payton indicated that the earliest available date to schedule a Conference Session would be March 2023.

Council Member Patel requested feedback on steps taken to reassess the recently passed Chapter 22 ordinance. Town Attorney Briglia indicated that a word document of the revised ordinance has been sent. He recommends a Conference Session for further discussion. Town Manager Payton indicated that enforcement will begin January 1, 2022 so any discussion should take place prior. Mayor Colbert and Town Manager Payton will discuss and forward a plan to Council. Council Member Anderson agreed with this but requested that those businesses interested in the topic provide proposed language for elements found objectionable.

B. Report of the Town Manager

Town Manager Payton called on Director Serfass and Police Chief Morris who reported that the police station project is currently over budget due, primarily to change orders. A meeting is planned for October 12, 2022 where figures will be provided. Council Member Springsteen, questioning completion of the air conditioning for the new facility, was informed that this would need to follow completion of all IT work.

Town Manager Payton called on Interim Director Horner to provide an update on the elevator repair at Town Hall. She reported that due to damage of the elevator platform during shipment, the project timeline has changed. She will inform Council upon receipt of new information; all Council Meetings will remain at Town Hall until further notice.

Town Manager Payton indicated that he will meet with Melanie Clark, Town Clerk, to gather information regarding dropped resident emails. This will inform his scheduled discussion with Tony Mull, Director, IT. He further reported that, along with Council Member Potter, he attended a Virginia Municipal League workshop on use of outside services. He informed Council that a check list of criteria for outside service decisions is in development and will be presented for discussion at the October 24, 2022 Town Council meeting.

C. Report of the Mayor

Mayor Colbert reported that she attended the Mayor's Institute on October 1, 2022. She was joined by Council, Town Manager Payton and Town Attorney Briglia for the Virginia Municipal League Conference, October 2-4, 2022 and expressed her appreciation for their service. She also thanked the Police department for their assistance with the Madison High School Homecoming parade. While it was unfortunate that Oktoberfest was canceled, she expressed gratitude to all who stepped up to support the businesses affected. Vienna Foodies and the VBA helped to spread the word of alternate events and residents came out in support. The plant sale, also canceled, was rescheduled and well attended. Lastly, Mayor Colbert noted that she, along with Director Serfass, will be participating with Town Manager Payton for Tuesday night's Mercury on Deck. The topic for discussion will be the upcoming budget.

D. Proposals for Additional Items to the Agenda

Council Member Patel requested the addition of an item to the agenda related to Chapter 22. Council made the decision to adopt the new written ordinance but since that decision there have arisen previously unidentified consequences that must be addressed. Chapter 22 has stood for many years, so rather than rush the rewrite, it would be better to postpone.

A motion was made to add to the agenda for consideration a temporary repeal of the recently approved changes to Chapter 22 of Vienna Town Code until further review and revision.

Motion, Council Member Patel; second, Council Member Springsteen. Motion passed in a 6-1 vote.

E. Closed Session

It was moved that the members of the Vienna Town Council be polled to affirm that a Closed Session was held on September 26, 2022 in accordance with Virginia Code, for discussion or consideration of personnel matters, specifically a discussion with the human resource director regarding the evaluation process of the Town Clerk and the Town Manager.

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 October 24, 2022 at 7:00 PM in accordance with Virginia Code, Section 2.2-3711.A.(1), for discussion or consideration of personnel matters, specifically the interviewing of individuals for consideration of appointment and/or reappointment to Town Boards and Commissions.

Council Member Somers amended motion to read “a closed session was held on October 10, 2022...”

Motion, Council Member Somers; second, Council Member Anderson. Motion carried unanimously.

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

5. Regular Business

A. [22-3385](#) Increase Limits to Small Purchases, Town Code Chapter 6, Article 8 - Procurement

Mayor Colbert called on Director Serfass to present the Item for consideration. The following includes comments from Council:

- *County limits are set at \$80,000 for Professional Services;*
- *Any purchase under \$2,000 and up to \$5,000 can be approved by the procurement officer, the Director of Finance and the Town Manager;*
- *Any purchase of at least \$5,000 but not exceeding \$30,000.00 shall be competitively procured by the affected department head or procurement officer by written request for quotation to the vendors on the Town's bidders list, with approval by the Director of Finance and the Town Manager;*
- *This proposal will separate the competitive procurement limit and the Council approval limit in effort to take less important items off Council agenda;*
- *Language proposed by Council Member Potter shall be added prior to advertisement.*

It was moved to adopt changes to the Vienna Town Code, Chapter 6, Article 8 to read “provided that the aggregate or sum of all phases is not expected to exceed” including raising the Council approval limit to \$75,000 and over. Council shall

direct the Town Clerk to advertise notice of adoption.

Motion, Council Member Potter; second, Council Member Anderson.

The proposed language will be added toward the beginning of Chapter 6, Sec. 74.

-Methods of Procurement.

Motion carried unanimously.

A motion was made by Council Member Potter, seconded by Council Member Springsteen, 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

B. [22-3386](#)

Consideration to Initiate Final Design of Robinson Trust Sidewalk Projects with Urban, Ltd.

Mayor Colbert called on Interim Director Horner for presentation of the Item for consideration. The following summarizes comments by Council:

- Assure that disruption to residents is minimized;*
- Attempt to save and relocate trees as much as possible;*
- Sidewalk location decisions determined by issues such as need for grading, length, and impact on large mature trees.*

A motion was made to authorize the Town Manager to apply to the Maud Robinson Trust for final design of sidewalk projects on the following streets:

- West side of Oak St SW from Center Street S to Birch Street SW*
 - West side of Birch St SW from Battle Street SW to Plum Street SW*
 - West side of Elmar Dr SE/SW from Desale Street SW to Park Street SE*
- in a total amount not to exceed \$132,450.*

Motion, Council Member Somers; second, Council Member Anderson.

Additional comments are summarized as follows:

- Sidewalks are not just for those who live on that street, but for the community as a whole;*
- Land was set aside as a right-of-way for potential future sidewalk;*
- Sidewalk grid is good for the entire community;*
- Council tasked with making decision based on facts; Sidewalks included in Comprehensive Plan, the Pedestrian Master Plan, and in the Strategic Plan to increase health and safety of Vienna residents and visitors;*
- Encourage sidewalk selection criteria to include "improve safety for walking to center of Town".*

Mayor Colbert thanked Staff for their work and called for a vote on the motion.

Motion carried unanimously.

A motion was made by Council Member Somers, 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

[22-3439](#)

Mayor Colbert called on Council Member Patel to present the Item for consideration.

Council Member Patel reiterated that passage of the Chapter 22 Ordinance resulted in unintended consequences. She would like to propose a temporary repeal that will keep it on the identified time table.

Town Manager Payton affirmed that a six-month repeal would change the implementation date from January 1, 2023 to July 1, 2023. This would allow for Conference Session discussion on April 17, 2023.

Council comments are summarized as follows:

- *Chapter 22 is already in effect; additions approved to the Ordinance were already in effect in Fairfax County; Fee structure changes can be achieved without a repeal;*
- *Industry professional's feedback may provide necessary edits prior to January implementation;*
- *Outcall (in home services) yet to be addressed;*
- *Repeal is premature – best to research and edit prior to implementation on January 1, 2023;*
- *Cannot approve without funding; Lowering fee will negatively affect ability to fund enforcement;*
- *Public hearing should be scheduled to gather community input.*

A motion was made to add to the agenda for consideration a temporary repeal of the recently approved changes to Chapter 22 of Vienna Town Code until further review and revision.

Motion, Council Member Patel. Failed due to lack of second.

A revised motion was offered as follows:

It was moved for a temporary repeal of the recently approved changes to Chapter 22 of the Vienna Town Code until further review and revision.

Motion, Council Member Patel; second, Council Member Somers.

Town Attorney Briglia reminded Council that, if desired, prior to a motion to consider any changes to the Ordinance, Council can make a motion to set a public hearing; both can appear on the same agenda. Further, any consideration to repeal must be advertised as a Notice of Intent to Repeal for two consecutive weeks prior to discussion.

Council Member Patel withdrew the motion.

Town Attorney Briglia emphasized that current licensed massage therapists have no requirement to pay additional fees until Ordinance changes become effective January 1, 2023.

A motion was made to direct the Town Clerk to advertise the Intent to adopt the Indefinite Repeal of the effective date of the amendments adopted on August 29, 2022, to Chapter 22, Massage Salons, Health Clubs Etc.

Motion, Council Member Somers; second, Council Member Patel.

Town Attorney Briglia clarified that the Chapter 22 ordinance must be amended

because the edited ordinance is currently in effect; fees must be paid when licenses expire after January 1, 2023. Should a new massage therapy facility open today, the \$500 fee enacted with the edited ordinance must be paid.

An amendment to the motion was made by Council Member Anderson to delay the January 1, 2023 date to March 1, 2023. Amendment failed due to lack of second.

The original motion passed in a 4-3 vote.

A motion was made by Council Member Somers, seconded by Council Member Patel, 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

6. Meeting Adjournment

Mayor Colbert called for a motion to adjourn at 10:30 PM.

Motion, Council Member Patel; second, Council Member Springsteen.

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.