

Regular Council Meeting

June 18, 2012

The Town Council met in regular session on Monday, June 18, 2012, in the Council Room of the Charles A. Robinson, Jr. Town Hall at 127 Center Street, South in Vienna, Virginia. Mayor M. Jane Seeman called the meeting to order at 8:00 p.m. with the following members of Council present: Laurie A. DiRocco, Michael J. Polychrones, Carey J. Sienicki and Howard J. Springsteen. Councilmembers Laurie Genevra Cole and Edythe Frankel Kelleher were absent. Also present were Mercury T. Payton, Town Manager, Steven D. Briglia, Town Attorney and Melanie J. Clark, Town Clerk.

Reverend Dr. Chad Van Dixhoorn of the Grace Presbyterian Church opened the meeting with an invocation. The meeting continued with the recitation of the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF THE MINUTES

It was moved to defer the approval of the minutes of the Regular Council meeting and three Public Hearings of June 4, 2012 until the Regular meeting of July 2, 2012.

Kelleher

- ~~M~~Motion: Councilmember DiRocco
- Second: Councilmember Sienicki
- Absent: Council-members Cole and
- Carried Unanimously- Poll Vote

PRESENTATIONS

Senator Chap Petersen presented Councilmember Polychrones with a Resolution honoring his Mother, long time former Town Clerk Carol Orndorff, who passed away on November 2, 2011.

RECEIPT OF PETITIONS AND COMMUNICATIONS FROM THE PUBLIC

Lisa Poff, 511 Heritage Lane NW, addressed Council regarding a continuing and growing problem on the bike path within the Town of Vienna limits. She and her husband have been running on the path for several years and have noticed that the bikers on the path are increasingly taking more risks, which has become necessary as the bike path is being used more by pedestrians and bicyclists in the Town of

Vienna. She feels that the signage for the right of way is not adequate within the Town of Vienna limits. There are two signs that show right of way that are small triangles and are impossible for bicyclist to see when they are on their bikes. She would like to suggest that the Town install more signage and more frequent signage within the town limits so that everyone understands what the right of way is. She also suggests that there be a better education program for the use of the trail and proposes that they have a right of way awareness day and hand out flyers to bicyclists at the Maple Avenue or Church Street entrance to the trail that tell them that they don't have the right of way and they need to slow down, particularly on Saturdays and Sundays when there is a lot more going on in Town. She stated that there seems to be the highest concentration of usage from the Community Center to the Center Street entrance. Councilmember Springsteen asked Chief Carlisle if the officers on bike patrol could patrol that area. Chief Carlisle agrees that it is difficult from a strict enforcement standpoint and perhaps education and signage is the better way to go, but he thinks they can be of assistance in that regard. Mayor Seeman asked if the Town has the right to put the signage out on the trail. Chief Carlisle stated he would defer that to the Parks & Recreation Director. Mayor Seeman asked that the Bicycle Advisory Committee sponsor a Bike Right of Way Day as suggested, particularly on a weekend during the summer. Councilmember DiRocco stated that she believes the Bicycle Advisory Committee has looked into other bike routes that would take bicycles around the area mentioned. Mayor Seeman will send an email to the Bicycle Advisory Committee.

Melissa Wiedeman, 403 Mashie Drive SE, addressed Council and stated that she is so happy to hear that someone has brought forward the issue with the bike trail. Two years ago she was walking on the bike trail and she was hit by a bicycle and ended up with broken ribs. She also believes there should be some form of education.

Mr. Ken Foley, 511 Mashie Drive, addressed Council to speak about the ongoing noise issue emanating from the office building at 801 Follin Lane. He first contacted the Department of Planning & Zoning in August 2010, regarding this problem. This is an ongoing issue and they just don't want it to get put on the back burner and would like to have some kind of idea of when they can expect some relief from this. The noise is maddening and they would just like some idea of what they are going to do, talking about is not doing any good since they are not paying any attention. They have promised injunctive relief since the first time they addressed Council almost two years ago. He would like to know if there is anything in the Town's noise ordinance, is there anything they can do to actually enforce the ordinance in order to get someone's attention because right now they are not paying attention. They have been in clear violation since the report came out last September and nothing has been done. Mayor Seeman read a letter that was received as a result of their meeting on June 6; it stated that there is a test plan that the tenant is going to review and that the test plan will significantly reduce the

number of fans associated with the dry coolers that are running at the building during the night. The proposed modification will schedule dry coolers on the southeast side of the building towards Electric Avenue for evening and nighttime operation, which should minimize the noise levels observed by the home owners on Mashie Drive. The northwest and the southeast corner of the building is more distant from the residential development and the noise associated with the dry cooler fans will be shielded by the Navy Federal Credit Union parking garage. In addition, the sound levels will be reduced by ensuring that only the required number of dry cooler fans will be running consistent with actual facility load. The proposed test will be conducted on a weekend, probably a Sunday evening, in order to minimize the background noise from vehicles including commercial vehicles on adjacent roads and an adjacent commercial HVAC system. The weather needs to be consistent with a typical summer day of at least 85 degrees with no rain. During the test period sound measurements will be taken by a professional noise consultant at the property line to verify compliance with the Town of Vienna Code. The tenant will then review the lessor's calculations so that the parties can agree on the number of fans that are necessary for operation. The tenant will need a week to two weeks to review the proposed plans that have been submitted by the lessor; once the review is complete the test will occur as weather conditions are appropriate. In addition, the tenant has conducted preliminary tests that will result in modifying the fans on the dry cooler units. The lessor's engineer has provided the tenant with a test procedure in order to determine the effect of this modification and will inform the Town when each of these tests occur. Mr. Foley asked what guarantee do they have that this is going to be a policy that's enforceable. Mayor Seeman stated it is going to have to be constant monitoring. Mr. Briglia stated that the Town is very frustrated by the progress. He does not want the public to think that this has been placed on the back burner. The nature of the operations at this facility is basically deemed to be of vital national security, which they have kept that in mind during the conversations with the owner of the building and the tenant. The GSA is also involved as they are the agent for the FBI. Trying to get all three parties together and agree on anything is a difficult proposition. He does think they have some good representation from all three of the groups and that some progress has been made recently. He is baffled that they were not told sooner that the baffles were not going to be tested earlier and it did not take place nor is it going to take place. They have decided that they want to go with a different alternative which is turning some of the fans off and see if they can adjust the tone; this is the alternative that the Town had proposed to them almost two years ago. The good news is they now have an engineer more actively involved that was involved in the original design and understands the issue a little better. The patience of the Town has run out and enforcement will proceed this summer if the noise levels do not go down. Mr. Briglia also explained the provisions of the County Code relating to noise. The primary code that the Town is looking at is in their zoning ordinance relating to the light industrial area which is a decibel based ordinance and is a zoning violation that would be enforced through fines in the General District Court. The Town always has the right to seek

injunctive relief in the Circuit Court for enforcement of zoning violations as well. There is also a possibility of a public nuisance action which is separate and apart from a zoning violation. Mr. Foley stated that their problem is with Gold Star - they built the building improperly and they used the inexpensive fans that are loud. He has been told by heating and air conditioning commercial contractors that if those units were the more expensive units, you would not even know they were there. It is Gold Star that needs to be brought to the table and the ones that are fined. He has been advocating for a public nuisance charge for a year and a half. This is a mechanical problem that just takes money to fix and Gold Star just doesn't want to spend the money and this issue has gone on long enough.

A local Boy Scout from Troop 976 introduced himself to Council. He is working on his Citizenship in Community Merit Badge.

REPORT AND INQUIRIES OF COUNCIL MEMBERS

Councilmember DiRocco brought up an issue regarding the Town's Zoning Ordinance for Church Street. Right now, if you want to open up any type of restaurant it needs to be a large full service restaurant with an occupancy limit of 120 people or you have to be part of a shopping center of four or more businesses and as the redevelopment is happening on Church Street some of the buildings are not that large. She thinks that if they want to continue to have businesses such as Café Amore, Neilsen's or the Italian Gourmet which are allowed because they are part of a shopping center they should possibly look at the Town Code and perhaps modify it where it doesn't necessarily have to be four businesses in a particular building especially along Church Street. Mr. Hembree stated they may want to try this in the C1-B zone since it is part of the Church Street vision and see how it works. Council directed Mr. Hembree to bring to the Planning Commission.

Councilmember Springsteen reported that he has received the sidewalk list from Mr. Johnson and he has calculated that the Town has at least \$21,000,000 in sidewalk needs and that does not include all the sidewalks in Town.

REPORT OF THE TOWN MANAGER

None

REPORT OF THE MAYOR

Mayor Seeman thanked Councilmember Sienicki for helping her in attending Tysons meetings as they come fast and furious and she is not always able to go and Councilmember Sienicki fills in. There will be a public input meeting with the full

Planning Commission and she will be speaking for Vienna. They will be discussing the financing of the transportation needs for the neighborhood improvements and the spot improvements in the neighborhoods. So far they have stated that the transportation costs inside Tysons will be borne by the private land owners and developer; however, traffic is going to spill out on to Gallows Road, 123 etc. and it's those costs that the Town should be concerned about. Once she has the report done that she is presenting to them, she will forward it to Council.

Mayor Seeman reported that Council will have a special meeting on June 26, for the Bond Sale and then the final meeting for the summer will be on July 2.

CLOSED SESSION

It was moved that the members of the Vienna Town Council be polled to affirm that during the Closed Session convened this date, Monday June 18, 2012, the Town Council met for purposes of discussion of personnel matters, specifically the interviewing of candidates interested in appointment and/or re-appointment to a Town Board or Commission and Council appointments to Local Committees.

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, June 18, 2012, at the conclusion of the regular meeting in accordance with VA Code 2.2-3711.A (3) for purposes of discussion of the acquisition of real property for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, and Virginia Code Section 2.2-3711.A(7), for purposes or consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by counsel.

Motion: Councilmember Sienicki

Second: Councilmember DiRocco

Absent: Councilmembers Cole and Kelleher

Carried Unanimously – Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

It was moved that Alice Roney be appointed as student representative to the Community Enhancement Commission for a one year term of office. Said term shall be effective June 18, 2012, and will expire June 18, 2013.

Motion: Councilmember Sienicki
Second: Councilmember DiRocco
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – No poll vote

It was further moved that Laine Hyde be re-appointed to the Board of Architectural Review for a two year term of office. Said term shall be effective July 6, 2012, and will expire July 6, 2014.

Motion: Councilmember Sienicki
Second: Councilmember DiRocco
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – No Poll vote

It was further moved that David Lanphear be appointed to the Planning Commission, replacing William Womack, for a two year term of office. Said term shall be effective June 18, 2012 and will expire June 18, 2014.

Motion: Councilmember Sienicki
Second: Councilmember DiRocco
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – No Poll vote

AGENDA ITEM #5

CONSENT AGENDA:

5A - Annual one-year Town contract renewals and funding for the attached contract list.

It was moved for approval of the one-year contract renewals identified in the attached list and approval of the corresponding funding of \$998,540.46 from the listed account numbers.

Motion: Councilmember Polychrones
Second: Councilmember Sienicki

Absent: Councilmembers Cole and Kelleher

Carried Unanimously –Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

5B - The renewing and funding of existing contracts issued by other municipalities.

It was moved for the approval to continue riding the contracts listed on the attached table and approve the corresponding \$968,721 funding with acceptance of any contract renewals issued to these vendors from July 1, 2012 to June 30, 2013.

Motion: Councilmember Polychrones

Second: Councilmember Sienicki

Absent: Councilmembers Cole and Kelleher

Carried Unanimously –Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #6

THE POLICE DEPARTMENT REQUESTS APPROVAL TO RIDE LOUDOUN COUNTY CONTRACT NUMBER QQ-01524 FOR THE PURCHASE OF CONSULTING SERVICES TO DESIGN AND ADMINISTER AN ASSESSMENT CENTER PROCESS TO ESTABLISH AN ELIGIBILITY LIST FOR THE RANK OF SERGEANT.

It was moved for the approval to ride the Loudoun County contract QQ-01524 for the purchase of consulting services from Fields Consulting Group, Inc. to design and administer an assessment center process to establish an eligibility list for the rank of Sergeant at a total cost not to exceed \$16,000.00 from account #10390-48300.

Motion: Councilmember DiRocco

Second: Mayor Seeman

Absent: Councilmembers Cole and Kelleher

Carried Unanimously –Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #7

RENEWAL OF SUNGARD ASP CONTRACT. THE TOWN USES SUNGARD FOR GENERAL LEDGER, PURCHASING, ACCOUNTS PAYABLE, PAYROLL, CASH RECEIPTING, BUDGETING, EMPLOYEE ACCESS CENTER, REAL ESTATE BILLING AND VEHICLE LICENSE BILLING SYSTEMS.

It was moved to approve the contract renewal with Sungard Pentamation covering fiscal years 2013 through 2016. Annual approval will be required for years 2014 through 2016.

Motion: Councilmember DiRocco

Second: Councilmember Sienicki

Absent: Councilmembers Cole and Kelleher

Carried Unanimously –Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #8

AWARD A CONTRACT TO SLURRY PAVERS, INC. UNDER IFB 13-01 FOR 2012 SLURRY SEAL PROJECTS.

It was moved for approval of award IFB 13-01 to Slurry Pavers, Inc. for an estimated cost of \$57,617 from FY 12/13 funds. Contract term July 1, 2012 through June 30, 2013.

Motion: Councilmember Springsteen

Second: Councilmember Sienicki

Absent: Councilmembers Cole and Kelleher

Carried Unanimously –Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #9

AWARD CONTRACTS TO WILEY|WILSON FOR CIP STORM DRAINAGE IMPROVEMENTS AND DRAINAGE ASSESSMENTS FOR THE LOCATIONS IDENTIFIED IN THE ATTACHMENTS AS WELL AS IN THIS AGENDA ITEM UNDER RFP 10-02.

It was moved for award of the contracts listed above and attached to Wiley|Wilson under RFP 10-02 for an estimated cost of \$312,795 contingent upon Council approval of the 2012 CIP Bonds. Account numbers to be determined by the Director of Finance.

Motion: Councilmember Springsteen
Second: Councilmember Polychrones
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – No Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #10

AWARD PARK STREET NE SIDEWALK CONSTRUCTION CONTRACT.

It was moved for award of a Park Street NE sidewalk construction contract to Arthur Construction under IFB 10-08 in an amount not to exceed \$93,000 with the account number determined by the Director of Finance.

Motion: Councilmember DiRocco
Second: Councilmember -Polychrones
Absent: Councilmembers Cole and Kelleher
Carried Unanimously –Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #11

AWARD A SOLE SOURCE CONTRACT TO VIRGINIA UTILITY PROTECTION SERVICE, LLC FOR THE UNDERGROUND UTILITY LOCATING CALL CENTER FOR FY 12/13.

It was moved for the approval of a waiver of purchasing requirements and the award of an underground utility locating call center contract to VUPS as a sole source vendor utilizing FY 12/13 Water & Sewer budgeted funds, 50111-43308 and 50114-43308 for an estimated cost of \$20,000.

Motion: Councilmember DiRocco

Second: Councilmember Sienicki
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #12

WAIVER OF COMPETITIVE BIDDING FOR LABORATORY DRINKING WATER ANALYSIS TO CONTINUE TO USE FAIRFAX WATER FOR FY 12/13.

It was moved for the approval to waive the competitive bidding for laboratory drinking water analysis and authorization to continue using Fairfax Water as a sole source vendor for these services from approved FY 12/13 Water & Sewer budgeted funds, account number 50112-43308 for an estimated cost of \$30,000.

Motion: Councilmember Springsteen
Second: Councilmember Sienicki
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

AGENDA ITEM #13

SIGNING OF THREE ON-STREET BIKE ROUTES APPROVED BY TOWN COUNCIL IN 2007 AND PUBLISHED AS PART OF THE 2008 FAIRFAX COUNTY BIKE ROUTE MAP.

It was moved for Town Council to approve the installation of "Bike Route" signage on the routes detailed on the attached map.

Motion: Councilmember DiRocco
Second: Mayor Seeman
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – No Poll vote

AGENDA ITEM #14

COUNCIL APPROVAL OF BOND AND BASIC DOCUMENTS

It was moved for Council approval of the Bond and Basic Documents as detailed in the attached Resolution.

Motion: Councilmember Springsteen
Second: Councilmember DiRocco
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

It was moved and seconded to enter into Closed Session at 9:21 p.m.

Mayor Seeman called the regular council meeting back in session at 10:09 p.m.

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, June 18, 2012, the Council met for purposes of consultation with legal counsel and/or briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

It was further moved that the Certification Resolution be adopted in accordance with State Statutes, and the town Clerk is authorized to execute the Certification Resolution

Motion: Councilmember Sienicki
Second: Councilmember Polychrones
Absent: Councilmembers Cole and Kelleher
Carried Unanimously – Poll vote

Voting Aye: DiRocco, Polychrones, Sienicki, Springsteen
Mayor Seeman

It was moved to adjourn the Regular Council Meeting of June 18, 2012 at 10:11 p.m.

–Motion: Councilmember DiRocco

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– ~~Second~~: Councilmember Polychrones

Absent: Councilmembers Cole and Kelleher

– Carried Unanimously- No Poll Vote

Signed / Dated: _____

M. Jane Seeman, Mayor

Attest:

Melanie J. Clark, CMC
Town Clerk