

# **Regular Council Meeting**

**July 2, 2012**

The Town Council met in regular session on Monday, July 2, 2012, in the Council Room of the Charles A. Robinson, Jr. Town Hall at 127 Center Street, South in Vienna, Virginia. Vice Mayor Howard Springsteen called the meeting to order at 8:00 p.m. with the following members of Council present: Laurie Genevro Cole, Laurie A. DiRocco, Edythe Frankel Kelleher, Michael J. Polychrones, Carey J. Sienicki. Mayor Seeman was absent. Also present were Mercury T. Payton, Town Manager, Steven D. Briglia, Town Attorney and Melanie J. Clark, Town Clerk.

Reverend Mark Edwards, Emmanuel Lutheran 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 for approval of the minutes of the Regular Meeting and three Public Hearings of June 4, 2012.

Motion: Councilmember Polychrones  
Second: Councilmember Cole  
Carried Unanimously- Poll Vote

## **RECEIPT OF PETITIONS AND COMMUNICATIONS FROM THE PUBLIC**

Mr. Ken Foley, 511 Mashie Dr. addressed Council regarding the ongoing noise issues at 801 Follin Lane and is inquiring if there is a progress report available. He reported that the Director of the Terrorist Screening Center (TSC), Mr. Tim Healey along with some of his team were in his neighborhood listening to the noise, a sound technician was also there taking some readings. They would like an update on the progress. Mr. Briglia stated that he has some updates and believes there has been progress. They have asked GSA and the Landlord to provide some specifics to pass on to the community. He does know that they have been testing, making some operational changes and doing decibel readings to see what effect the changes have had. The Town sound expert was out at the site as well and met with the GSA folks that were there and also the Goldstar representatives. They have been told that they are changing the number of units that are running. At night they are manual, running no more than seven units. The other aspects of their testing relate to the tone of the fans, which would be adjusting the toning quality by the adjusting the rpm's. The Town's sound expert stated they were very cooperative. On June 29<sup>th</sup> a letter was sent to the Mayor outlining some of the proposed things they were going to do; the results have not been provided. Councilmember

Springsteen stated that if he thinks they are making some progress then his suggestion is to wait until after July 4<sup>th</sup> before they cite them. Mr. Briglia stated they are waiting for updates on a daily basis. If they are making progress then we can convince Council that they are making progress and if they are not making progress then they will issue a zoning violation. Mr. Foley stated that Mr. Healey told him personally that he is on it and he will be proposing a solution within the next couple of weeks for the short term as well as the long term. He was talking about a three point plan and immediate relief with some temporary measures that would get the sound so they can sleep. He would like Town Council to stay on top of the issues.

Mr. Dave Roberts, 501 Mashie Dr. addressed Council to thank them for continuing to push on the noise issue.

Mr. Steve Roberts, 505 Mashie Dr. addressed Council saying he is glad to see the progress; however, he does have some skepticism because they were told two years ago they would work diligently to fix the problem. He would like to know what the hesitation is to cite the zoning violation since there is certainly a violation going on; is there a reason not to cite them, since at the very least it's leverage. Mr. Briglia stated that he is reluctant to talk about the Town's tactics in what we are using as pressure but what he can say is, a violation of the Town zoning ordinance is generally a monetary fine which may have some leverage with the landlord and the government. He thinks some of the responsibility in this case is shared, it is not just Goldstar. Mr. Roberts asked about injunctive relief. Mr. Briglia stated that injunctive relief would be an extreme measure because it would be asking to shut down the Terrorist Screening Center. He thinks we are making progress and he knows that people are not satisfied by the rate of progress, but the fact that there are three entities involved that have to be coordinated makes it a little more difficult. He stated that the frustration in this case is shared, it is easy to cite people but it doesn't always solve the problem and as long as we are getting feedback from them and now that we have gotten some political pressure from Senator Warner and Congressman Connolly, he thinks that is a positive development.

A Local Boy Scout from Troop 1347 introduced himself to Council; he is working on the Citizenship in the Community Merit Badge.

#### **PRESENTATION OF COMMUNITY ENHANCEMENT AWARDS**

Susan Stillman of the Community Enhancement Commission presented Beautification Awards to the McCoy Family of 101 Aponi Road SE and the Simeck Family of 201 Courthouse Road SW.

#### **REPORT AND INQUIRIES OF COUNCIL MEMBERS**

Councilmember Sienicki thanked Town Staff for being around and doing a great job with the storm cleanup. She also stated that she hopes that all the power is restored quickly for all the residents who lost power during the storm.

Councilmember DiRocco thanked Kirstyn Barr for keeping everyone up to date with storm information through Facebook, Twitter and the Town's website. She thought the communication came quickly and people were able to get the information regarding the water, etc.

Councilmember Cole mentioned that even though we have Facebook, Twitter and the website, there are still some limitations and it is not the primary way that people were getting their information, it came back down to mass media, radio broadcasts and television broadcasts. As pressure grows on a Federal level to take spectrum space from these traditional broadcasters who are the basic local sources of information in an emergency, from such areas to provide more space to things like wireless communications, we need to keep in mind the consequences of that and we still need to give the value to the local broadcasters. She appreciates Ms. Barr's communication with them.

Councilmember Polychrones stated that he also thought the Town did a very good job as well and congratulations to everybody. He also congratulated Councilmember Kelleher on becoming President of the Vienna Host Lions Club.

Councilmember Kelleher reported that they were still able to have their Charter night which was the 70<sup>th</sup> anniversary of the Vienna Host Lions Club founding, it was a very special occasion and it was fortunate that the legion did not lose power from the storm.

#### **REPORT OF THE TOWN MANAGER**

Mr. Payton echoed the sentiments made by Council with regard to the emergency response during the storm, over all it was a very good response. He mentioned the work that public works has done over the weekend with clearing trees and working with the Parks & Recreation staff. He was out with employees at some point working and communicating with citizens and he really appreciates the care and consideration and the time they took to do that, as well as the Police Officers and Dispatchers. He wanted to thank the Town's regional partners, in particular, Chuck Murray with Fairfax Water, Wyatt Shields with the City of Falls Church as well as Rob Stalzer with Fairfax County in coordinating efforts with regard to a serious matter of water and serving to our residents and water users as well as coordinating with the Virginia Department of Health. The water concern that the Town had was one of caution to make sure that everyone was safe. They did learn that our water was never really in jeopardy but because we had one pump station fail with Falls Church due to power loss, we erred on the side of caution.

He also mentioned that even with all the media that we have, even television and radio, there sometimes comes a point that we have to get out to people and talk to them making sure they are safe and if matters had gotten worse the Town would have taken other measures to make sure the residents were safe. The Town does rely on the media and other forms of communication but there were discussions that he had with the Police Chief about getting out to people if they needed to and not rely on media formats; however, we did not get to that point and everything worked out.

He also reported that the new refuse collection system starts this week; therefore, with the brush and debris that has occurred over the last couple of days it should be picked up on a daily basis with the new process.

He reported that the Town is in negotiation with Fairfax Water to have wholesale water provided to the Town of Vienna. The wholesale rate that the Town would pay Fairfax Water is \$1.98 and it is amortizing over fifty years, basically of capacity buy in of \$17,000,000. There is a connection that is necessary in order for the Town to receive 100% water which would take about 18 months to complete and with that 2.9 million gallons per day is what the Town is buying with the capacity. Mr. Briglia stated that what has been considered and may ultimately be recommended to Council is a structured buy in that is absorbed in the rate over many years and has the short term effect of lowering or stabilizing the water rates because we would be buying water long term from Fairfax Water. The goal is to make sure that our water rates are lower in the long term.

#### **REPORT OF THE VICE MAYOR**

Vice Mayor Springsteen asked Cathy Salgado and Mr. Briglia how the property donation is coming along with West End Cemetery. Mr. Briglia stated that they have a good survey and now need to set up a meeting with Mr. Carter and based on the survey and assuming that Historic Vienna Inc. is willing to accept it he would recommend Council direct him to assist HVI for the deed work.

**It was moved that the Town Attorney be directed to assist HVI in whatever means necessary to facilitate any potential transfer of property to the West End Cemetery.**

Motion: Councilmember Cole

Second: Councilmember Polychrones

Carried Unanimously – No poll vote

Vice Mayor Springsteen reported that he received an email from a resident that was upset about receiving a speeding ticket during the storm and responded to him. He also received an email from a resident concerned about the power still being out, the Town Clerk responded to him.

Vice Mayor Springsteen read a letter that he received from Peter Stein thanking the Town for putting generators at the street lights on Maple Ave. during the power outage. They helped everyone out that had to drive on or cross Maple Ave. and deserve thanks. He asked that his heartfelt thanks be passed on; he was very impressed that someone could put our safety first.

Vice Mayor Springsteen also read a note from David Salsburg asking that Café Amouri be recognized for opening his café during the storm with no electricity providing coffee to grateful citizens. Due to the power outage Michael was unable to accept payments so they did accept tips. He stated this is the kind of community service that makes Vienna a great place to live and it should be recognized as Café Amouri is preparing to celebrate their 2<sup>nd</sup> anniversary on July 14<sup>th</sup>.

Vice Mayor Springsteen thanked the Town Manager for a great job during the storm.

#### **CLOSED SESSION**

**It was moved that at the conclusion of the Regular Council meeting the Vienna Town Council meet in Closed Session to discuss potential property acquisition, discussion of the possible award of a public contract and discussion of issues of potential litigation all in accordance with VA Code Sections 2.2-3711.A(3) and 2.2-3711.A(7).**

Motion: Councilmember Kelleher  
Second: Councilmember DiRocco  
Absent: Mayor Seeman  
Carried Unanimously – Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

#### **AGENDA ITEM #5**

**PUBLIC HEARING ON A PROPOSED ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE 10, T-TRANSITIONAL ZONE REGULATIONS, SECTION 18- 66, PERMITTED USES AND SECTION 18-67, CONDITIONAL USES TO ALLOW AS A BY-RIGHT PERMITTED USE "CERTIFIED MASSAGE THERAPISTS AS DEFINED IN THIS CODE" AND TO REMOVE SAME FROM THE LIST OF CONDITIONAL USES.**

See official minutes

#### **AGENDA ITEM #6**

**PUBLIC HEARING ON A PROPOSED ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE 18, SUPPLEMENTAL REGULATIONS, SECTION 18-169, BAY WINDOWS, EAVES, DECKS AND OTHER ARCHITECTURAL FEATURES.**

See Official minutes

**AGENDA ITEM #7**

**PUBLIC HEARING ON A PROPOSED CHANGE IN ZONING FROM RM- 2, MULTI-FAMILY, LOW DENSITY TO PR-PARK AND RECREATIONAL FOR FAIRFAX COUNTY TAX MAP PARCEL 38-4 ((2)) 140, A LARGELY UNDEVELOPED PARCEL BETWEEN VIENNA ELEMENTARY SCHOOL AND THE W & O D TRAIL, ADDRESSED AS 140 LOCUST STREET SE, AND ENCLOSING AN AREA OF 9,241 SQUARE FEET.**

See official minutes

**AGENDA ITEM #8**

**SET DATE FOR A NEW PUBLIC HEARING ON A PROPOSED ORDINANCE TO AMEND THE HEIGHT REQUIREMENTS IN SECTION 18-87.3.C. OF THE VIENNA TOWN CODE TO PERMIT THE CONSTRUCTION OF MUNICIPAL PARKING STRUCTURES TO A HEIGHT OF 50 FEET (AND EXCLUDING ANY FUNCTIONAL OR DECORATIVE ELEMENTS ON THE HIGHEST LEVEL OF THE STRUCTURE.)**

**It was moved for the approval of setting a Public Hearing date of August 20, 2012, for consideration of a proposed ordinance to amend the height requirements in Section 18-87.3.C. of the Vienna Town Code to permit the construction of municipal parking structures to a height of 50 feet (and excluding any functional or decorative elements on the highest level of the structure.)**

Motion: Councilmember DiRocco  
Second: Councilmember Sienicki  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #9**

**ADOPTION OF A PROPOSED ORDINANCE AMENDMENT TO THE CODE OF THE TOWN OF VIENNA, CHAPTER 17, SUBDIVISIONS, DIVISION 5, LOTS, BY ADDING NEW SECTION 17-60.1 ENTITLED "LOT SHAPE FACTOR.**

**It was moved for the adoption of a Proposed Ordinance Amendment to the Code of the Town of Vienna, Chapter 17, Subdivisions, Division 5, Lots, by adding new Section 17-60.1 entitled "Lot Shape Factor. It was further moved that the Town Clerk be directed to advertise the Notice of Adoption.**

Motion: Councilmember Kelleher  
Second: Councilmember Sienicki  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #10**

**CABLE TELEVISION PHASE TWO EQUIPMENT PURCHASE**

**It was moved for the award IFB 12-18 using PEG funds to R.A.M. Productions of Burke, Virginia for a purchase order in the amount of \$46,135.00. It was further move that \$46,135.00 be transferred from PEG fund 18900-48719 to an account to be determined by the Finance Director**

Motion: Councilmember DiRocco  
Second: Councilmember Sienicki  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #11**

**CONTINUED USE OF JMT TECHNOLOGY GROUP FOR GEOGRAPHIC INFORMATION SERVICES (GIS).**

**It was moved for the approval of a one year extension of the contract with JMT Technology Services using the current terms of RFP 12-02.**

Motion: Councilmember Cole  
Second: Councilmember Polychrones  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #12**

**ADOPTION OF A PROPOSED ORDINANCE TO CHAPTER 11, PERSONNEL CODE OF THE TOWN OF VIENNA**

**It was moved for the adoption of a proposed ordinance to the Town of Vienna Code, Chapter 11, *Personnel Code* and that the Town Clerk be directed to advertise the Notice of Adoption.**

Motion: Councilmember Kelleher  
Second: Councilmember DiRocco  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #13**

**THE FINANCE DEPARTMENT IS REQUESTING RENEWAL FOR FOUR COPIER LEASES IN TOWN HALL. THIS IS THE SECOND YEAR OF A THREE YEAR CONTRACT.**

**It was move for approval of the annual renewal of one Sharp MX-5111N color copier and three MX-M503N black and white copiers under contract NJPA Contract Number 021808-SP in the amount of \$11,506.44 from account number 10941-45404.**

Motion: Councilmember Polychrones  
Second: Councilmember Kelleher  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #14**

**REQUEST ADDITIONAL FY 11/12 FUNDING FOR OLD DOMINION BRUSH.**

**It was move for approval of additional FY 11/12 funds with Old Dominion Brush in an amount not to exceed \$476.88 from account number 10413-46015 after the fact under Montgomery County, Maryland contract 0367000049AB.**

Motion: Councilmember DiRocco  
Second: Councilmember Sienicki  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #15**

**REQUEST ADDITIONAL FY 11/12 FUNDING FOR FERGUSON WATERWORKS.**

**It was moved for approval of additional FY 11/12 funds to Ferguson Waterworks in an amount not to exceed \$2,677.54 from account numbers listed above after the fact under Falls Church contract IFB 0922-10-PSS and Fairfax Water contract 08-27.**

Motion: Councilmember Polychrones  
Second: Councilmember Sienicki  
Absent: Mayor Seeman  
Carried Unanimously – No Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #16**

**REQUEST APPROVAL TO RIDE FAIRFAX COUNTY CONTRACT NUMBER RQ09- 109434-22A-C FOR THE PURCHASE OF CONTRACTING SERVICES TO RECONSTRUCT BOTH THE MEN'S AND WOMEN'S LOCKER ROOM BATHROOMS IN THE POLICE DEPARTMENT.**

**It was moved for the approval to ride Fairfax County contract number RQ09-109434-22A-C for the purchase of contracting services to reconstruct both the men's and women's locker room bathrooms in the Police Department at a total cost not to exceed \$23,306.10 from account #10432-47403 from the FY11-12 budget.**

Motion: Councilmember Cole  
Second: Councilmember DiRocco  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**AGENDA ITEM #17**

**ADOPTION OF A PROPOSED ORDINANCE TO AMEND THE CODE OF THE TOWN OF VIENNA, CHAPTER 10, OFFENSES- MISCELLANEOUS; ARTICLE 5, OFFENSES AGAINST THE PEACE, DIVISION 1. GENERALLY, SECTION 10-40, AIRGUNS, SLINGSHOTS, ETC. -- USE PROHIBITED.**

**It was moved for adoption of the proposed amendments to Chapter 10 of the Code of Vienna. It was further moved to direct the Town Clerk to advertise a notice of adoption of the proposed amendments.**

Motion: Councilmember Polychrones  
Second: Councilmember DiRocco  
Absent: Mayor Seeman  
Carried Unanimously –Poll vote

Voting Aye: Cole, DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**It was moved to recess to closed session at 9:25 p.m.**

Motion: Councilmember DiRocco  
Second: Councilmember Cole

**Vice Mayor Springsteen called the Regular Meeting back in session at 10:07 p.m. Councilmember Cole left prior to meeting being reconvened. All other members were present.**

**It was moved that the members of the Vienna Town Council be polled to affirm that during the Closed Session convened this date, Monday, July 2, 2012, the Town Council met for purposes of discussion of the award of a public contract involving the expenditure of public funds and discussion of the terms or scope of such contract where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body, and under Virginia Code Section 2.2-3711.A(3), discussion or consideration 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 discussion of issues of potential litigation.**

**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.**

**It was further moved that the Closed Session be continued to Monday, August 20, 2012 at 7:15 p.m. in accordance with VA Code 2.2-3711.A. (1) for purposes of discussion of personnel matters, specifically the interviewing of candidates interested in appointment and or re-appointment to Town Boards and Commissions.**

Motion: Councilmember Kelleher  
Second: Councilmember DiRocco  
Absent: Mayor Seeman  
Absent for vote: Councilmember Cole  
Carried Unanimously –Poll vote

Voting Aye: DiRocco, Kelleher, Polychrones, Sienicki, Springsteen

**It was moved to adjourn the Regular Council Meeting of July 2, 2012 at 10:09 p.m.**

Motion: Councilmember Kelleher  
Second: Councilmember Polychrones  
Carried Unanimously- No Poll Vote

Signed / Dated: \_\_\_\_\_

\_\_\_\_\_  
M. Jane Seeman, Mayor

Attest:

\_\_\_\_\_  
Melanie J. Clark, CMC  
Town Clerk