

Council Chambers, 25 West Market Street, 7:30 p.m. Mayor Umstattd presiding.

**Council Members Present:** David Butler, Kelly Burk, Thomas S. Dunn, Katie Sheldon Hammler, Marty Martinez, Kevin Wright and Mayor Umstattd.

**Council Members Absent:** None.

**Staff Present:** Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Utilities Amy Wyks, Director of Finance Norm Butts, Deputy Director of Utilities Aref Etemadi, Land Acquisition Manager Keith Wilson, and Clerk of Council Lee Ann Green

AGENDA ITEMS

1. **CALL TO ORDER**

2. **INVOCATION:** Council Member Kelly Burk

3. **SALUTE TO THE FLAG:** Vice Mayor Kevin Wright

4. **ROLL CALL:** Showing all members present

5. **MINUTES**

a. Regular Session Minutes of June 12, 2012

*On a motion by Council Member Burk, seconded by Vice Mayor Wright, the minutes of the Regular Session of June 12, 2012 were approved by a vote of 6-0-1 (Dunn abstaining).*

6. **ADOPTING THE MEETING AGENDA**

*On the motion of Vice Mayor Wright, seconded by Council Member Dunn, the meeting agenda was approved as presented by the following vote:*

*Aye: Butler, Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstattd*

*Nay: None*

*Vote: 7-0*

7. **PRESENTATIONS**

a. Certificate of Recognition – Eagle Scout Aaron Branch

*On a motion by Council Member Burk, seconded by Council Member Hammler, Aaron Branch was awarded a Certificate of Recognition on achieving the rank of Eagle Scout.*

b. Certificates of Recognition - Winners of the 2012 Patriot Cup

*On a motion by Council Member Burk, seconded by Vice Mayor Wright, the Patriotic Pedalers were awarded Certificates of Recognition for their entry in the 2012 Independence Day Parade.*

8. **PETITIONERS**

The petitioner's section was opened at 7:43 p.m.

Chelsie Kneen, stated she represents Supervisor Geary Higgins, and wants to address the issues facing the Raspberry Falls residents and possible solutions to those issues. She stated Supervisor Higgins has a board meeting this evening and is unable to attend the Council meeting. She stated the Board of Supervisors is interested in finding a solution to this problem and have authorized county staff to pursue the issue. She stated the county is willing to fund a study to assess the feasibility of the project, but needs assurance from the Town Council that Leesburg is willing to participate by providing bulk water to Loudoun Water consistent with industry standards. She stated Loudoun Water has proposed a membrane filtration system to allow us of the Goudy well. She stated that well will solve the quantity problem but the residents are concerned that this is not a long term solution to their quantity problem which is why they are interested in pursuing the pipeline option.

Richard Wolfe/ JB Anderson, Leesburg Volunteer Fire Department, stated they have been researching the history of the Volunteer Fire Department and are looking to have an anniversary celebration for the fire company. They asked Council to provide waiver of fees associated with their search.

Theresa Crane, stated she is the treasurer of the Loudoun Symphony. She stated they are very excited about the potential of the 1812 concert. She stated without the funding, they will have a much smaller event.

Sandy Kane, 815 Kenneth Place, stated she has served on the Board of Loudoun Symphony for three years and it has been a wonderful experience. She encouraged Council to partner with the symphony to produce the 1812 anniversary concert at Morven Park. She introduced Maestro Mark McCoy.

Mark McCoy, stated he has been music director of the organization for the past 14 years. He stated they are the largest and leading arts organization in Loudoun County. He stated this event will benefit the people of Loudoun County and they partnered with the Journey Through Hallowed Ground to bring an educational entertainment opportunity to the County.

Ara Bagdasarian, stated he is the president of the Board of Loudoun Symphony. He stated the war of 1812 was an important event to the Town of Leesburg. He stated they have partnered with other organizations. He stated the dollars spent will go towards promoting Leesburg to the region and on a national basis. He stated they have secured some media partnerships and they want to promote Leesburg.

The petitioner's section was closed at 7:59 p.m.

## **9. APPROVAL OF THE CONSENT AGENDA**

*On a motion by Council Member Martinez, seconded by Vice Mayor Wright, the following items were moved for approval as part of the Consent Agenda:*

- a. Awarding a Construction Contract – Police Technical Support Building

**RESOLUTION 2012-078**

Awarding the Police Station Technical Support Building Expansion and Renovation Project Construction Contract

- b. Accepting the Public Improvements and Releasing the Performance Guarantee for Oaklawn Townhouses, Section II

**RESOLUTION 2012-079**

Accepting Public Improvements, Releasing the Performance Guarantee and Approving a Maintenance Guarantee for Oaklawn Townhouses – Section II (TLCD) 2005-0002)

- c. Approval of the Next Town Hall Art Gallery Exhibit- Jennifer DeAngelo

**RESOLUTION 2012-080**

Town Hall Art Gallery – Approval of the Next Art Exhibit by Jennifer DeAngelo

*The Consent Agenda was approved by the following vote:*

*Aye: Butler, Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstattd*

*Nay: None*

*Vote: 7-0*

**10. PUBLIC HEARING**

- a. Lowenbach Phase III – Prince Street Land Condemnation Authorization  
The public hearing was opened at 8:01 p.m.

Keith Wilson gave a brief presentation regarding this public hearing:

- Funded capital project for drainage and street improvements
- Land rights were needed from 29 landowners in the 100-200 block of Prince Street and the 400 block of Blue Ridge Avenue
- 26 of the 29 landowners have agreed to the acquisition of the necessary land rights
- Negotiations continue for the remaining three parcels to secure voluntary conveyance of the necessary land rights
- Authorization is requested for the use of condemnation for the properties where the land rights cannot be acquired by negotiation or where release consent of the mortgage holder cannot be obtained

Council Comments:

- Why is staff requesting the public hearing be kept open?  
Staff answer: Negotiations are continuing with the land owners and consent may be able to be obtained.

Larr Kelly, 404 Edwards Ferry Road, stated he is one of the landowners that have not agreed to the acquisition yet. He stated this has been stressful and difficult to swallow since the town said they would not need any property. He stated they have made good progress to coming to an agreement and urged Council to hold the hearing open so they can continue to negotiate. He asked that the fire hydrant not be placed on the corner of his property.

The public hearing was kept open until the next Council meeting.

b. Amending the Town Code – Utility Fee Revisions

The public hearing was opened at 8:08 p.m.

Amy Wyks gave Council a brief presentation on the proposed Code amendments:

- Some amendments stem from action taken at the 2012 General Assembly session
- HB567 allows the town to place a lien on the landlord's property in the event that a tenant does not pay their water bill
- Does not affect any landlord/tenant relationships that currently exist
- Clarification of a "new account"
- Amending language to change "director of finance" to "town" – utility billing will move to the Utilities Department in the future
- Clarifies definition of "public meter"
- New miscellaneous fee and charge section to cover existing services that the town provides but did not previously charge
- Fees are within industry standards in the local area

Council Comments/Questions:

- What is the expected increase in revenue?  
Staff answer: Estimate between \$40,000-60,000 per year.
- New account fee covers water and sewer?  
Staff answer: Current new account fee is \$10 for water, \$10 for sewer. This would raise both new account fees to \$15 each, or \$30 for both.
- Will residents be able to check their water usage online in the future?  
Staff answer: Estimated date for the system to be live is November/December.
- Is there a problem with unauthorized trucks loading water at public hydrants?  
Staff answer: Occasionally, but Leesburg residents are diligent about reporting this. Pictures of the navy blue/royal blue meter are posted on the website.
- Has the Utility Rate Advisory Committee had the opportunity to review these changes?  
Staff answer: Yes and they have endorsed them.

- Will the homeowner be charged the fee if the town comes out to determine whether the problem is on the town's side or the homeowner's side?  
Staff answer: Typically no. The technician will call the homeowner back after receiving the dispatch to understand what the problem might be before going to the residence.

There were no members of the public wishing to address this public hearing.

The public hearing was closed at 8:27 p.m.

*On a motion by Council Member Burk, seconded by Vice Mayor Wright, the following was proposed:*

**ORDINANCE 2012-O-018**

*To Amend and Reordain Sections of Chapter 34 (Utilities), Article II (Water System) and III (Sewers and Sewage Disposal) of the Town Code of Leesburg, Virginia, 2009, as amended and Section 34 of Appendix B, Fee Schedule regarding Water and Sewer Charges*

*The motion was approved by the following vote:*

*Aye: Butler, Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: None*

*Vote: 7-0*

**11. RESOLUTIONS AND MOTIONS**

a. 1812 Concert Funding

Jeanette Irby stated since this event is commemorating a historical event, the fact that it is not planned to be held within town limits will be allowed.

*On a motion by Council Member Martinez, seconded by Council Member Burk, the following was proposed:*

**MOTION**

*I move that the Town Council provide \$5,000 from the undesignated fund balance to the Loudoun Symphony to support the War of 1812 Centennial Event at Morven Park*

Council Comments/Questions:

- Good partnership and beneficial to the town
- What is the level of funding expected from Visit Loudoun and Loudoun County?

Symphony response: Journey through Hallowed Ground submitted a grant request to Visit Loudoun in partnership with the Symphony but it has not been awarded at this time

- Town provides a significant amount of funding to Visit Loudoun to support this type of event on behalf of Leesburg
- The Friends of the Balch Library are sponsoring a similar educational fundraising event on August 19 at the Birkby House
- Does the town know what the level of the undesignated fund balance will be yet?  
Staff answer: The town will end the year with a positive balance, but the books for the fiscal year do not officially close until 45 days after the fiscal year because of accruals. Any funds, based on the policy adopted with last year's budget, will be used to meet the 15% fiscal reserve and remaining funds go towards the fiscal 2017 debt service reserve fund.
- The only grants/donations made by the town in the past fiscal year budget were the grants to the volunteer fire company, Bluemont Concert series and Visit Loudoun
- Concern with donation requests out of the budget cycle
- Is the symphony nonprofit?  
Symphony response: Yes.
- What is the symphony's fundraising goal?  
Symphony response: to raise \$30,000 to cover the production costs for the event. Not intended as a fundraiser, but to raise awareness of the symphony
- What are ticket prices and expected attendance?  
Symphony response: Estimating about 1,000 up to 5,000 guests. Break even number is about 1,500 paid tickets (children are free).
- Council Members are stewards of public funds
- Will there be an additional request for town staff hours?  
Staff answer: Because the proposed location is outside town limits, there would be no need for street crews; however, there may be a need for traffic mitigation.
- The Town has lost a lot of events because Council did not support them

*Mayor Umstatted made a motion to amend the main motion to change the amount of contribution to \$1,000. The motion failed for lack of a second.*

*The main motion failed by the following vote:*

*Aye: Butler, Burk, and Martinez*

*Nay: Dunn, Hammler, Wright and Mayor Umstatted*

*Vote: 3-4*

b. Raspberry Falls

*On a motion by Council Member Butler, seconded by Council Member Dunn, the following was proposed:*

**RESOLUTION**

*Consideration of Negotiating Bulk Water Sales to Loudoun Water*

*Council Member Dunn offered a friendly amendment to add the words “if necessary” to the end of the last whereas clause on page 1. Council Member Butler accepted the amendment as friendly.*

Council Comments:

- Allows study to go forward
- Raspberry Falls can decide whether they want to absorb the cost
- Leesburg can still opt out
- Have to find new customers for the utility plant
- There is no health, safety or welfare issue according to Loudoun Water
- In 2015-2017 built out estimates, the town will become close to capacity numbers that require plant expansion or design
- No guarantee that water would only go to Raspberry Falls
- Disservice to ratepayers to not consider extra income

*The motion failed by the following vote:*

*Aye: Dunn and Butler*

*Nay: Burk, Hammler, Martinez, Wright and Mayor Umstatt*

*Vote: 2-5*

*On a motion by Vice Mayor Wright, seconded by Council Member Burk, the following alternate resolution was proposed:*

**RESOLUTION 2012-081**

*Extension of Leesburg Town Water to Raspberry Falls*

*The motion was approved by the following vote:*

*Aye: Burk, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: Butler and Dunn*

*Vote: 5-2*

**12. ORDINANCES**

- a. None.

**13. UNFINISHED BUSINESS**

- a. None.

**14. NEW BUSINESS**

- a. None.

**15. COUNCIL COMMENTS**

Council Member Dunn: stated the Fourth of July Parade was enjoyable despite the heat. He stated the Town Plan does state that if the town should provide water outside its service area, the town needs agreements with the county. He thanked everyone for their consideration of the Raspberry Falls water issue.

Vice Mayor Wright: complimented the Patriot Cup winners. He encouraged everyone to check on their neighbors, particularly the elderly, during the summer heat wave.

Council Member Burk: stated she enjoyed the parade, which she felt was well organized and fun. She stated she had the opportunity to participate in Aaron Branch's Eagle Scout ceremony and encouraged everyone to attend an Eagle Scout ceremony as they are very inspiring. She stated she has received complaints about the sound level on Comcast.

Council Member Martinez: apologized for missing the parade as he was celebrating his daughter's 25<sup>th</sup> birthday. He stated his daughter, Hillary, has passed her Boards and is now a doctor of physical therapy.

Council Member Hammler: stated she attended the executive committee meeting of VML last weekend and brought forth the discussion about eminent domain and working statewide to get the message out that local taxpayers will be paying hidden costs with respect to this legislation. She thanked Council Member Martinez for covering the Technology and Communication Commission meeting for her.

Council Member Butler: had no comments.

**16. MAYOR'S COMMENTS**

Mayor Umstatted disclosed two meetings with town staff and Hobie Mitchell regarding a proposal for the Barber and Ross site. She thanked Leesburg Today for their sponsorship of the Patriot Cup.

**17. MANAGER'S COMMENTS**

No comments.

**18. CLOSED SESSION**

None.

**19. ADJOURNMENT**

*On a motion by Council Member Martinez, seconded by Vice Mayor Wright, the meeting was adjourned at 9:47 p.m.*

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Kristen C. Umstatted, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2012\_tcm0710

Council Chambers, 25 West Market Street, 7:30 p.m. Mayor Kristen C. Umstattd presiding.

**Council Members Present:** Thomas Dunn, Katie Sheldon Hammler, Kelly Burk, Kevin Wright and Mayor Umstattd.

**Council Members Absent:** Council Member Dunn arrived at 7:36 p.m. Council Members Butler and Martinez were absent.

**Staff Present:** Town Manager John Wells, Town Attorney Jeanette Irby, Director of Public Works Tom Mason, Director of Planning and Zoning Susan Berry Hill, Research and Communications Manager Betsy Fields, Director of Parks and Recreation Rich Williams, Deputy Director of Planning and Zoning Brian Boucher, Zoning Administrator Chris Murphy and Clerk of Council Lee Ann Green

## AGENDA

## ITEMS

### 1. **Work Session Items for Discussion**

#### a. Legislative Session with Legislators – Recap and Eminent Domain Discussion

Mayor Umstattd welcomed Virginia Representatives Joe May and Randy Minchew, Senators Mark Herring and Barbara Favola, and Virginia Municipal League Director Mark Flynn to give their perspectives on the 2012 General Assembly session, issues affecting the Town and the prognosis for transportation funding in the future including town maintenance payments as well as efforts to take authority away from local governments.

Barbara Favola

- General Assembly did not do as much harm to local governments as expected.
- Personally had seven budget amendments, of which six were passed

Joe May

- 19<sup>th</sup> session as representative
- Pleased to have gotten judgeship funding reinstated
- Cautious approach to devolution
- Reduction of amount of drive in emissions tests required
- Settlement of cable attachment fee issue
- Over-weight truck fee instituted
- Gas taxes are going down, but working on uniform energy tax to reflect usage of the roadways

Randy Minchew

- Northern Virginia delegation worked well together
- Town Charter amendment was approved

- Bill for Middleburg to allow VDOT to work with localities on appropriate places for Children at Play signage
- Bill to allow cash proffers to be used for alternative purposes if they are in furtherance of the Town Plan in building infrastructure.
- Possibility of a bill to define lost profits and lost access
- Bill failed to protect the Transportation Trust Fund from being used for maintenance

#### Mark Herring

- Stormwater bill was the town's idea
- Originally a supporter of the eminent domain bill
- Referendum language for eminent domain bill will be confusing for voters
- Selling naming rights for bridges and transportation infrastructure is not a good way to raise money for improvements
- Must be vigilante because General Assembly has a history of pushing off responsibilities to localities
- Disappointed there was no additional funding for the Dulles Rail Phase II project

#### Mark Flynn

- Towns around the state were very interested in the nonpartisan language in the town's charter amendment

#### Council Comments/Questions:

- Transferring state responsibilities to localities is not fair
- Discussion on the Eminent Domain referendum
  - Based on actions of New London, CT
  - Public need and private development may be entangled
  - Condemning authority has an obligation to make a bonafide offer at fair market value
  - Temporary interruption of a business or farm operation is not included unless there is an actual taking, so street fairs and parades would not be affected
  - State and municipalities are not working together
- How can the town bring general assembly action to the public's view?
  - No support in the house for indexing the gasoline tax because people thought it had the patina of a tax
- Thank you to legislators for support of Charter Amendment and keeping town elections nonpartisan
- Seek support for ending the moratorium on city status
- Compensate business owners for nonscheduled emission testing, if not already done
- Consideration of legislation allowing utility provider to offer service to a single service customer, but no one in between

- b. Bike Rack Update  
John Wells gave a brief update of bike initiatives.
- Bike way-station at Raflo Park is completed except for final landscaping
    - Includes free air station
    - Water fountain for riders and pets
    - Portable toilet
  - EDC task force working with LDBA to develop a map that will be housed in the kiosk on W&OD Trail at S. King Street to direct riders to businesses in the area
  - Addition of public bike racks around town
- c. Form Based Code Progress Report  
Brian Boucher gave a report on the progress of Form Based Code:
- No regulating map
  - Roadway placement dependent on land use applications
  - All required regulation changes combined into one initiating resolution

Council Member Comments/Questions:

- Only one area with proffers located in the district
- More use based rather than form based code
- Everything except Dodona and Barber & Ross are outside the H-1 overlay district

## 2. **Additions to Future Council Meetings**

Mayor Umstadd asked to put the new Symphony request in-kind contributions on the agenda for Tuesday night.

Journey through Hallowed Ground will be bringing a request for funding before Council.

Council Member Burk noted she will be nominating someone for the Commission on Public Art at Tuesday night's meeting.

Council Member Dunn noted he will be nominating someone for the vacancy on the Utility Rate Advisory Committee. He requested a letter from Council asking Richmond to look for funds for the Edwards Ferry Road/Bypass intersection improvements.

## 3. **Closed Session**

*On a motion by Mayor Umstadd, seconded by Vice Mayor Wright, the following was proposed:*

*Pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, I move that the Leesburg Town Council convene in a closed meeting for the purpose of receiving information and discussion regarding:*

a. *Arcadia*

*The motion was approved by the following vote:*

*Aye: Burk, Dunn, Hammler, Wright and Mayor Umstatted*

*Nay: None*

*Vote: 5-0-2 (Butler/Martinez absent)*

The Council convened in Closed Session at 10:13 p.m.

The Council reconvened in Open Session at 10:33 p.m.

*On a motion by Mayor Umstatted, seconded by Vice Mayor Wright, the following was proposed:*

*In accordance with Section 2.2-3712 of the Code of Virginia, I move that Council certify that to best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by Council*

*The motion was approved by the following roll call vote:*

*Aye: Burk, Dunn, Hammler, Wright and Mayor Umstatted*

*Nay: None*

*Vote: 5-0-2 (Butler/Martinez absent)*

**4. Adjournment**

*On a motion by Council Member Burk, seconded by Vice Mayor Wright, the meeting was adjourned at 10:33 p.m.*

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Clerk of Council  
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Council Chambers, 25 West Market Street, 7:30 p.m. Mayor Umstattd presiding.

**Council Members Present:** Kelly Burk, Thomas S. Dunn, Katie Sheldon Hammler, Marty Martinez, Kevin Wright and Mayor Umstattd.

**Council Members Absent:** Council Member David Butler.

**Staff Present:** Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Public Works Tom Mason, Director of Parks and Recreation Rich Williams, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Planning and Zoning Brian Boucher, Land Acquisition Manager Keith Wilson, Deputy Director of Capital Projects Tom Brandon, and Clerk of Council Lee Ann Green

AGENDA ITEMS

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1. **CALL TO ORDER**

2. **INVOCATION:** Council Member Thomas Dunn

3. **SALUTE TO THE FLAG:** Council Member Marty Martinez

4. **ROLL CALL:** Showing Council Member David Butler absent.

5. **MINUTES**

a. Work Session Minutes of June 25, 2012

*On a motion by Council Member Burk, seconded by Council Member Martinez, the minutes of the Work Session of June 25, 2012 were approved by a vote of 6-0-1 (Butler absent).*

b. Regular Session Minutes of June 26, 2012

*On a motion by Council Member Martinez, seconded by Council Member Burk, the minutes of the June 26, 2012 meeting were approved by a vote of 6-0-1 (Butler absent).*

c. Work Session Minutes of July 9, 2012

*On a motion by Council Member Martinez, seconded by Council Member Burk, the minutes of the Work Session of July 9, 2012 were approved by a vote of 6-0-1 (Butler absent).*

6. **ADOPTING THE MEETING AGENDA**

*On the motion of Council Member Hammler, seconded by Vice Mayor Wright, the meeting agenda was approved as presented by the following vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstattd*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

**7. PRESENTATIONS**

- a. Certificates of Recognition – Special Olympics Summer Games  
*On a motion by Council Member Dunn, seconded by Council Member Martinez, the following participants in the Special Olympics Summer Games were presented with Certificates of Recognition:*

Robert Kaylor  
 Sophia Crook  
 Russell Turner

Kelly Erikson  
 Adam Bell  
 Josh Huston

- b. Certificates of Recognition - Leesburg Basketball Club  
*On a motion by Council Member Dunn, seconded by Council Member Martinez, the following participants were presented with Certificates of Recognition on their national Championship title:*

Coach Charles Bushrod

Coach William Paige

Matthew Anderson  
 Bradley Barrett  
 Luke Brenner  
 Jared Cross  
 Charles Harris, Jr.  
 Sam O'Brien  
 Jeremy Roach

Bryce Bare  
 Justin Braswell  
 Caleb Coombs  
 Josiah Hardy  
 William Johnson  
 William Paige  
 Jacob Wilson

**8. PETITIONERS**

The petitioner's section was opened at 7:47 p.m.

Esther Turner, Journey Through Hallowed Ground Partnership, stated they are thrilled to partner with the Loudoun Symphony to present the 1812 Concert. She stated this event will bring visitors to Leesburg.

Scott Gustavson, Chair, Leesburg Economic Development Commission, 15 North King Street, voiced support for the JTHG and Loudoun Symphony for the 1812 Concert. He stated it is important to support this event because of the role that Leesburg played in the war and for the economic benefits.

Ara Bagdasarian, Loudoun Symphony, stated the previous request for sponsorship has been changed to a request for partnership with the town, moving the event into the Town of Leesburg boundaries at Ida Lee Park. He requested waiver of the labor and facility costs. He stated the return investment will include a boost to the downtown Leesburg business community and tax income from attendees.

Gary \_\_\_\_\_, stated he is representing Leesburg Magazine, which is an electronic magazine. He stated he has launched another venture entitled "Catocin Vistas" which is a preservation and history magazine, that has a more regional voice. He stated he is in support of the in-kind support for Loudoun Symphony.

The petitioner's section was closed at 7:57 p.m.

**9. APPROVAL OF THE CONSENT AGENDA**

*On a motion by Vice Mayor Wright, seconded by Council Member Burk, the following items were moved for approval as part of the Consent Agenda:*

- a. Awarding Comprehensive and Civil Engineering Continuing Services Contracts

**RESOLUTION 2012-083**

*Awarding Comprehensive Civil Engineering Continuing Services Contracts to AMEC Environment & Infrastructure, Inc. of Chantilly, Virginia; Bowman Consulting Group, LTD of Leesburg, Virginia; Paciulli, Simmons & Associates, LTC of Leesburg, Virginia; Rinker Design Associates, PC of Manassas, Virginia; and Rummel, Klepper & Kahl, LLP of Fairfax, Virginia*

- b. FY 2013 Annual Program for Street Milling, Resurfacing, Concrete Repairs and Handicap Ramp Installations

**RESOLUTION 2012-084**

*FY 2013 Annual Program for Street Milling, Resurfacing, Concrete Repairs and Handicap Ramp Installations*

- c. Awarding the 2012 Annual Street Milling and Resurfacing Contract Award

**RESOLUTION 2012-085**

*Awarding the 2012 Annual Street Milling and Resurfacing Construction Contract Award to Arthur Construction Company, Inc. of Dulles, Virginia*

- d. Amending the CIP and Making Supplemental Appropriations for Miller Drive Extension

**RESOLUTION 2012-086**

*Amending the FY 2012-2017 Capital Improvement Program to Add the Miller Drive Extension and Appropriating Funding to Complete the Design and Construction of the Project*

- e. Making an Appointment to the Standing Residential Traffic Committee

**RESOLUTION 2012-087**

*Making an Appointment to the Standing Residential Traffic Committee – John Thomas*

- f. Making an Appointment to the Utility Rate Advisory Committee

**MOTION 2012-017**

*I move to appoint Greg Hudson to the Utility Rate Advisory Committee for a term expiring December 31, 2012*

- g. Delegation of Authority for Performance Bonds during the Town Council's August Recess

**MOTION 2012-018**

*I move that the Town Council delegate authority to the Town Manager for the acceptance of performance guarantees, reduction of performance guarantees, and acceptance of work and release of performance guarantees for land development projects from July 25 until August 27 and that the Town Manager will report to the Town Council any approvals granted under this temporary authority at the August meeting*

*The Consent Agenda was approved by the following vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstattd*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

**10. PUBLIC HEARING**

- a. Lowenbach Phase III – Prince Street Land Condemnation Authorization  
The public hearing was held open from the July 10, 2012 meeting.

Keith Wilson gave a brief summary of the request for authorization:

- Capital Projects has continued to work for the past two weeks to secure signatures and mortgage lender consent to transfer of the land rights
- Two more landowners have signed the deeds
- Authorization is requested for the remaining three properties where land rights have not been acquired by negotiation or consent of the mortgage holder had not be obtained
- Staff will continue to work with the last three remaining landowners

Nicholas Richard, 116 Prince Street, NE, stated his mortgage company has not been responsive, but he would be more than happy to sign the papers. He expressed his gratitude at all the assistance that has been provided to him in understanding the process.

Town Attorney Jeanette Irby stated this is not an unusual situation. She stated the town will file the Certificate of Take and notify the lien holder of a hearing. She noted the lien holder will generally not show up at the hearing and then the homeowner is released from any further obligation of having to satisfy the requirements of the lien holder. She stated if the mortgage company does not respond, the proceeds may be distributed to the homeowner.

The public hearing was closed at 8:09 p.m.

Council Member Comments/Questions:

- Verified that previous petitioner's have been satisfied
- Status of the other two property owners:
  - One property is another mortgage lien holder situation
  - The other property is still being negotiated, but agreement is expected

*On a motion by Council Member Martinez, seconded by Vice Mayor Wright, the following was proposed:*

**RESOLUTION 2012-088**

*Declaring that a Public Necessity and Use Exists, Authorizing an Offer to Acquire Right of Way Dedication and Easements from PIN 188-35-5359-000, PIN 188-35-3472-000, and PIN 188-45-5203-000 for the Lowenbach Street Improvements Phase III (Prince Street) Project, and Authorizing Condemnation if the Offer is Not Accepted*

*The motion was approved by the following vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

**11. RESOLUTIONS AND MOTIONS**

- a. Design Change Order Authorization – South King Street Widening, Phase II

*On a motion by Vice Mayor Wright, seconded by Council Member Martinez, the following was proposed:*

**RESOLUTION 2012-082**

*South King Street Widening Project Change Order No. 20 for Design and Engineering Services*

Council Member Comments/Questions:

- Do not think this project is necessary and has caused issues for residents on this side of town

*The motion was approved by the following vote*

*Aye: Burk, Martinez, Wright, and Mayor Umstatt*

*Nay: Dunn and Hammler*

*Vote: 4-2-1 (Butler absent)*

- b. Making an Appointment to the Commission on Public Art

*On a motion by Council Member Burk, seconded by Vice Mayor Wright, the following was proposed:*

**MOTION 2012-016**

*I move to appoint Lisa Strout to the Commission on Public Art for a term expiring December 31, 2014*

Council Member Comments/Questions:

- Verification of vacancy – Mr. Miller has submitted his resignation
- Candidate does not live in town limits, but has a business in town

*The motion was approved by the following vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

c. **Form Based Code Progress Report**

*On a motion by Vice Mayor Wright, seconded by Council Member Burk, the following was proposed:*

**RESOLUTION 2012-089**

*To Initiate Amendments to Zoning Ordinance Section 7.10 Crescent Form-Based District to Consider Changes to Improve the District; to the Official Zoning Map to Consider Additional Land for Inclusion in the District; to the Design and Construction Standards Manual, the Subdivision and Land Development Regulations, the Zoning Ordinance and the Official Zoning Map, and Updates to the Town Plan to Implement the Revised Crescent Form-Based Zoning District*

Council Member Comments/Questions:

- Update has been made on the residential area around Madison Court/Monroe Street
- This starts the public process that includes the general public, the Planning Commission and the Form Based Code Steering Committee
- Question of whether it is appropriate to have the school sites included
- Addition of a requirement that new developments have a public art component should be considered

*On a motion by Council Member Dunn, seconded by Council Member Hammler, an amendment to remove the word “Crescent” in the second line of the next to last whereas clause, was proposed.*

Council Comments/Questions:

- Allows Council to expand form-based code into other areas of town
- Adds a confusion level that is unnecessary since Council can look at other areas if it wishes
- Does not change the resolution because all the other whereas clauses reference the Crescent Form-Based District
- Looking a bigger area is a separate process
- Missing an opportunity to look at other areas of town

*The motion to amend failed by the following vote:*

*Aye: Dunn and Hammler*

*Nay: Burk, Martinez, Wright and Mayor Umstatt*

*Vote: 2-4-1 (Butler absent)*

Council Comments/Questions:

- Disappointed that regulations, not how the town should look, will be used
  - Staff answer: A lot of the vacant land is under a proffered rezoning and therefore would not be applicable
- Concerns over higher allowable density and larger land area
- There are still means to address applying principles of Form-Based Code outside the bypass

*The main motion was approved by the following vote:*

*Aye: Burk, Hammler, Martinez and Wright*

*Nay: Dunn and Mayor Umstatt*

*Vote: 4-2-1 (Butler absent)*

## 12. ORDINANCES

- a. None.

## 13. UNFINISHED BUSINESS

- a. None.

## 14. NEW BUSINESS

- a. Funding for 1812 Concert

*On a motion by Council Member Hammler, seconded by Council Member Martinez, the following was proposed:*

### **RESOLUTION 2012-090**

*Approving a Waiver of Fees in the Amount of \$4,300 Associated with the Loudoun Symphony Orchestra's Concert at Ida Lee to Commemorate the Bicentennial of Leesburg's Role in the War of 1812*

*Council Member Hammler offered a friendly amendment to add a fifth whereas clause, "Every effort will be made to absorb the cost without expending taxpayer funds".*

Council Member Martinez did not accept the amendment as friendly.

Council Member Comments/Questions:

- Thank you to the symphony for listening to the Council's comments and being willing to be flexible
- Support for this type of event is an investment in the community
- Event will attract people from all over the area to Leesburg
- Fee waiver support is not inconsistent with support given to other events

- The \$2,000 fee waiver for use of the Ida Lee grounds is not an expense to the taxpayers since no one had sought to use the grounds for the date in question
- Change in venue to Ida Lee adds an economic benefit to downtown businesses
- Journey through Hallowed Ground has brought tourists from Europe that may not have visited Leesburg except through the Journey's efforts

*The motion was approved by the following vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

#### 15. COUNCIL COMMENTS

Council Member Hammler: Reminded everyone of the August 19 Friends of the Thomas Balch Library fundraiser on the War of 1812. She thanked Jim Morgan and the Balch Commission for the request for a flagpole at the Balch Library. She thanked Senators Favola and Herring and Delegates May and Minchew for attending the work session on Monday night.

Council Member Martinez: Wished his oldest daughter a happy birthday.

Council Member Burk: Disclosed a meeting with Ben Leigh concerning a possible building. She commended the Village at Leesburg for commissioning three sculptures through the Loudoun Arts Council.

Vice Mayor Wright: stated he is looking forward to break and noted that he will have a rising high school junior so he will be looking for information on the college application process.

Council Member Dunn: stated the Journey through Hallowed Ground's expense for summer kid's camp is high and their productions are a little bloated so he is hesitant to give them money.

#### 16. MAYOR'S COMMENTS

Mayor Umstatt disclosed a meeting with representatives of Auto Zone on Monday before the BAR meeting. She stated they will be going to a BAR work session on a proposed Auto Zone store in Prosperity Shopping Center. She stated she and Council Member Burk attended the grand opening of the second BB&T. She stated there is a bbq fundraiser for Final Salute to be held at Fortessa in Sterling.

#### 17. MANAGER'S COMMENTS

No comments.

**18. CLOSED SESSION**

*On a motion by Mayor Umstatt, seconded by Vice Mayor Wright, the following was proposed:*

*Pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, I move that the Leesburg Town Council convene in a closed meeting for the purpose of receiving information and discussion regarding Arcadia*

*The motion was approved by the following vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

The Council convened in closed session at 9:02 p.m.

The Council reconvened in open session at 9:07 p.m.

*On a motion by Mayor Umstatt, seconded by Vice Mayor Wright, the following was proposed:*

*In accordance with Section 2.2-3712 of the Code of Virginia, I move that Council certify to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and such business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by Council.*

*The motion was approved by the following roll call vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

*On a motion by Council Member Martinez, seconded by Council Member Burk, the following was proposed:*

**MOTION 2012-019**

*I move to authorize the Town Manager to execute a settlement agreement with Arcadia containing the terms presented in the draft settlement agreement.*

*The motion was approved by the following vote:*

*Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatt*

*Nay: None*

*Vote: 6-0-1 (Butler absent)*

**19. ADJOURNMENT**

*On a motion by Council Member Martinez, seconded by Vice Mayor Wright, the meeting was adjourned at 9:07 p.m.*

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2012\_tmin0724

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