

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

Council Members Present: Kelly Burk, David Butler, Thomas 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 Finance Norm Butts, Assistant Town Manager Scott Parker, Director of Public Works Tom Mason, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Planning and Zoning Brian Boucher, Director of Plan Review Bill Ackman, Director of Utilities Amy Wyks, Senior Planner Mike Watkins, Zoning Administrator Chris Murphy, and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. Work Session Items for Discussion

a. FY 14/FY15 Preliminary Budget Overview
Will be taken up with Item 1b.

b. Long Range Financial Forecast Update
John Wells stated the Council memorialized the long range fiscal strategy that identified long range budget needs through 2017 after completing the FY 2012/2013 budget.

Key Points:

- Preliminary numbers from departments and revenue numbers do not include official information on assessments
- Should be a roughly 2% growth rate
- BPOL and sales tax revenues should also grow about 2%
- Expenditures based on preliminary requests have only increased by 1%
- Overall budget is in a good starting position
- Unsure of how the 'fiscal cliff' will impact employees and disposable income
- Federal budget deficits could trickle down to state government, which would then be passed down to local governments
- Locally positive economic picture
- Budget update will be provided in January

Council Comments/Questions:

- Looking forward to the full budget proposal
- Explain for the benefit of the audience why the spending goes up in 2017.

Staff answer: Because debt service increases.

- Important to show an equalized tax rate
- Very aggressive reassessment campaign by the county

c. Courthouse Follow-up to the Board of Supervisors

John Wells stated the draft letter presented to the Council is in response to the letter the Town Manager's office received from the County regarding responses to a specific set of questions. The county Finance Committee will discuss this at their January 8 meeting.

Council Comments/Questions:

- Has there been a request to meet with the Council?
Staff answer: County staff was directed to ask Town staff what the process questions are. Town staff is not in a position to provide policy direction to those questions that were worded as to require a policy answer
- Letter is good if the target audience is county staff.
- Suggest a flowchart or a similar visual aid to lay out the process
- Suggest a separate letter from the Mayor addressing the Board of Supervisors to show commitment towards working together
- Must include a message of "expedited review" and commitment towards a smooth partnership

d. Crescent Design District Code Amendments

Brian Boucher stated the main issue from the last discussion was the issue of by-right versus rezoning.

Key Points:

- Discussion of five stories by-right in the corridor that extends 300 feet to each side of Market and Catocin Circle with mandatory commercial and no residential uses on the bottom floor with the remaining four stories residential by-right
- How to incentivize redevelopment along main routes without creating infrastructure problems including traffic, increased need for schools, etc.
- No corridor map – subdistricts that limit uses in the subdistricts. Several residential subdistricts closer to existing residential (periphery)
- Main district is primarily commercial with three stories by-right, two bottom floors with non-residential uses, third and fourth floors allow residential by-right.
- Rezoning according to the height map to allow an additional floor of residential
- Discussion of a mandatory 20 foot step back to soften the impact of the taller buildings on the road
- Discussion of four stories by-right with non-residential on the ground floor and a possible fifth story by rezoning

- Discussion of five stories by-right with a step-back and commercial uses only
- Discussion of uses – could ask for mixed use or an all-residential use through rezoning
- No residential by-right in the corridor could inhibit redevelopment
- All available options give more by-right height than currently existing in the district

Council Comments/Questions:

- No opportunity to rezone to anything with less than two stories of commercial
- No options exceed five floors
- Discussion regarding shared uses in a single building
- Current proposal is an effort to control development
- Question is do we sacrifice proffer dollars in exchange for a town that looks the way we want
- Would propose one floor of commercial and two floors of residential with rezoning to allow additional floors of residential up to the height maximum for the location
- Tax rate will be impacted if public facilities cannot be provided by proffer dollars
- How do we incentivize re-development that is not residential?
- Should be incentivizing commercial other than retail
- Redevelopment will not happen overnight
- Form based code was supposed to let market forces drive development

2. Additions to Future Council Meetings

Council Member Dunn asked for a letter requesting cooperation with Loudoun County for building inspections. It was agreed to add this to the agenda for Tuesday night's meeting.

Council Member Burk asked for staff direction to hold a youth job fair.

Vice Mayor Wright requested a town orientation seminar aimed at new residents. He stated outreach for the Sycolin Road closing and issues related to the Bypass/Edwards Ferry Road interchange could be included. Further, he asked for a traffic safety initiative.

Council Member Hammler requested Certificates of Appreciation for outgoing Boards and Commission members.

Council Member Butler requested recognition for Lyme Disease Awareness Month.

Council Member Dunn questioned whether Council would like to discuss the possibility of compensation increases for Council and Boards and Commissions. It was decided to add to a January Council agenda for initiation of the code amendment and to include it in budget discussions. Further, Council Member Dunn requested health insurance for Council Members be included in the discussion.

3. Closed Session

None.

4. Adjournment

On a motion by Council Member Martinez, seconded by Council Member Butler, the meeting was adjourned at 9:52 p.m.

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, David Butler, Thomas S. Dunn, Katie Sheldon Hammler, Marty Martinez, Kevin Wright and Mayor Umstattd.

Council Members Absent: Council Member Martinez arrived at 7:36 p.m., Council Member Burk arrived at 7:40 p.m.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Planning and Zoning Susan Berry Hill, Assistant Town Manager Scott Parker, Director of Capital Projects Renee Lafollette, Senior Planner Irish Grandfield, Land Acquisition Manager Keith Wilson and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. **CALL TO ORDER**

2. **INVOCATION:** Mayor Kristen Umstattd

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

4. **ROLL CALL:** Showing Council Member Marty Martinez arriving at 7:36 p.m., Council Member Kelly Burk arriving at 7:40 p.m.

5. **MINUTES**

a. Special Session Minutes of November 15, 2012

On a motion by Council Member Butler, seconded by Vice Mayor Wright, the minutes of the Special Session meeting of November 15, 2012 were approved by a vote of 5-0-2 (Burk/Dunn absent).

b. Work Session Minutes of November 26, 2012

On a motion by Council Member Butler, seconded by Vice Mayor Wright, the minutes of the work session meeting of November 26, 2012 were approved by a vote of 5-0-2 (Burk/Dunn absent)

c. Regular Session Minutes of November 27, 2012

On a motion by Council Member Butler, seconded by Vice Mayor Wright, the minutes of the Regular Session meeting of November 27, 2012 were approved by a vote of 5-0-2 (Burk/Dunn absent).

6. **ADOPTING THE MEETING AGENDA**

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

Aye: Butler, Hammler, Martinez, Wright and Mayor Umstattd

Nay: None

Vote: 5-0-2 (Burk/Dunn absent)

7. PRESENTATIONS

- a. None.

8. PETITIONERS

- a. The General Petitioner's Section was opened at 7:33 p.m.
- b. The Courts Expansion Petitioner's Section was opened at 7:42 p.m.
(Verbatim transcription follows)

Chad Campbell: Thank you, Madam Mayor. Sorry for the mix up. Thank you, Council, for the chance to speak tonight. Of course, my name is Chad Campbell. I am an aide to the Leesburg District Supervisor, Ken Reid, and because of our Board of Supervisors Meeting tonight...our public hearing...he asked me to come read a statement on his behalf, so I will begin with that. I am grateful to the Council for its consideration of the letter addressed to the Board regarding the proposed expansion of the Court's Complex. I am pleased to outline the process for approval and request providing examples of how the town processes would not be a hindrance but a positive to the county. As you know, the Finance Committee has changed its meeting schedule so the Courts Expansion issue will come to us on January 8, not January 14th as previously scheduled. It is my hope that the Finance Committee will recommend at that time to go ahead and proceed with the engineering and design for the phase III expansion site on the old jail site, also known as the Church Street site and move the matter to the full Board of Supervisors for action on January 16th. Additionally, I am pleased that the Petersen Company withdrew their proposal to provide land to build an entirely new Courts Complex on their Crosstrail Development. I had asked them to withdraw it and they did so. However, just as I had warned the other Finance Committee members, the Board has been inundated with additional offers for land for the Courts complex from all around the county. None of these are being considered by the Finance Committee and it is my expectation that will continue. I will be continue to push for support for the courts to remain in their proper location in downtown Leesburg. I want to thank the Council for their support on this as well as their willingness to partner to make this expansion work. I hope that we will move forward with this in January without any further delay.

Dieter Meyer: First of all, just for full disclosure, about a year ago when the design teams were originally being put together to go after the RFP that has since been delayed, I was a member of one of the groups that had responded to the RFP at that time, but I am here completely outside of that role that I had at that time. I am here as a resident of the immediate neighborhood that is affected by this...living at 214 Andover right off of Harrison Street is actually in an area that is most like directly impacted by anything that happens with the courts. In looking at some of the preliminary planning, possibly new access to the Pennington lot and increased traffic...those kinds of things. In spite of that, I think that the loss of the courts downtown would far outweigh any slight negative

impact that it might have on myself personally as a resident in that area and I am really happy to hear that the town is trying to keep the courts in the downtown where they should be and I do urge you to send the strongest signal possible to the county that the town will work diligently with the county to come to a mutually agreeable solution to keep the courts downtown. Thank you.

Bob O'Connor: I'm Bob O'Connor. I live at 108 Church Street, NE, so pretty close to the courthouse. I concur with this gentleman as far as keeping the courts in town. I think it is a benefit to having them in town. I think we have put the infrastructure in place with the parking lots...Pennington and I forget the other parking lot that is behind...so my concern is what I have read about as far as the expansion and what it might do as far as impacting closing part of Church Street. That would be a big concern of ours, not being able to get to our house or possibly worst case...I guess there were a couple of things that talked about night court and some other options they were looking at. That was one of my favorite shows growing up. But, also I think if you haven't walked down Church Street to North Street recently, I encourage all of you to do so. We are doing a lot of improvements in Leesburg right now. Bricking the sidewalks and putting sidewalks on actually both sides of the street would be a benefit aesthetically and from a safety standpoint as well. We just kind of watch the pedestrian traffic. If there is anything going on on the sidewalk...anybody working on the sidewalks...people are constantly walking in the street there. Cars tend to cut through there from Market Street to get to Route 15. You might want to look at that if you haven't done so. But again, I am in favor of the courts expansion. I would just like to keep the impact minimal for the people who live on Church Street. Thank you for your time.

Jeanne Rogers: My name is Jean Rogers and I live at 110 Church Street, NE in Leesburg. I have lived there for 20 years. I have emailed the Town Council and I have emailed members of the Board of Supervisors. I really am opposed to moving the Courts out of Leesburg for any number of reasons. I am sure of all you know and maybe more than I don't know. I cannot understand the reasoning of the Board of Supervisors. The way I understand it, they are afraid...I suppose it's a security problem with the prisoners. Well, there are all sorts of ways to get around that right here in Leesburg. In Hong Kong, they do it by building two skyscrapers that have the same interests and they build skywalks between the two skyscrapers about 60 feet off the ground...you know 60 stories. It's beautiful. In London they do it that way, but another way. I have had many occasion to go underground to get to places. They build their underground stations way underground. Some of them down there 400-500 feet, if necessary. But you know that could be done in Leesburg so easily and your prisoners could be kept safe and secure underground and you could also do that for pedestrians. You could have a double walkway and elevators at both sides. It would be kind of fun. But a skyway would be very pretty just for the pedestrians, of course. It is also to hold a tradition...to keep a tradition and that's this is the county seat and it belongs here. As far as Church Street, I can only imagine and it is a very...Church Street is a very...if you have been down it, or if you have lived on

it as I have after all these years you have seen a lot of changes go on that street. It used to be a quiet little backwater place, but when the courts expanded and the Semones and Pennington Parking lots were opened to the public, that's the way they get to those parking lots. That's the way the rescue squad gets to my house. That's the way people walk. That's the way cars go when they close the downtown areas for the almost iconic garden fair. What are those merchants going to do? What are those people going to do? What is going to happen to our traffic problem if the Board of Supervisors insists upon this when I think that you could even do it the old fashioned traditional way...you can continue to do what you are doing. Have any prisoners escaped lately? They come in vans. They come by my house...they used to...well never mind. They come by my house. They go down underground into the courthouse. They could do that with the new complex and just drive a half a mile. As far as the pedestrians are concerned, you know, what do they want to close? About 300 feet of Church Street. About 300 feet? They don't even want to close the whole first block, do they? But you could still close the first floor. You don't need to close it. You could put a safety crosswalk there for pedestrians and get them to use it. That's the old fashioned way. It won't cost any money. I just think my time is up. It is just unfathomable to me why they want to do that. There must be something else and I don't know what it is. I am not privy to that but it seems to be ridiculous. Thank you for listening.

Peter Burnett: Madam Mayor, Members of Council. Thank you for having me. My name is Peter Burnett. My office is at 105 Loudoun Street, SE. I have with me...I am appearing both personally and as chair of the Loudoun County Bar Association Courthouse Planning Committee, of which I was appointed by Randy Minchew in 1996. He claims I was appointed for life. So far, he is right. We were tasked with evaluating the BAR's response to the notion of moving all or part of the courts out of downtown Leesburg and we conducted a survey of the BAR membership, which is a little under 200 lawyers are members of the Loudoun County BAR Association and we have summarized those survey responses in this letter. I know, Madam Mayor, that you have seen this letter and it is part of the County's record, but I thought it would be helpful to have it as part of yours. If I might hand it up to Ms. Green...Just three points really. The first one is economics. It is clear from Loudoun County staff analysis, and the analysis of others that moving the courts in their entirety or dividing the courts would be an extraordinary greater expense to the County taxpayers which of course includes the Town of Leesburg taxpayers as well. Just for the cost along, the move of the courts in their entirety would be well in excess of \$100 million. A way to get that in perspective, the cost of a new high school. My thought is we have a facility that really hasn't been used more than about a dozen years right there. If the holding facility, which Ms. Rogers referred to is adequate in size and was designed to handle the expansion across the way...at the jail lot. My architect friends tell me that the cost of part of a facility like that is about \$600 a foot. My view is let's get our investment out of that before we abandon that. We would have to be building probably two of them if we move the courts in their entirety out of town. So, cost is a major component. The

other comment I would make is the Loudoun County Court facility...courthouse...is the longest continuously operated court in Virginia north of the James River. Just about every other circuit court...all of the other circuit courts north of the James have at one time or another moved. Courthouse Road is at Tysons for a reason. Arlington has moved theirs, Winchester has moved theirs, Harrisonburg...all over the state. We have the distinction, which is pretty neat, to have had that site since the time of the formation of this country to be operated from that same location. That's something that is almost of national recognition, I think. My last comment is about decision making. It strikes me that some of the thoughts of folks over at the county, having the town commit to any number of paths or concessions, if you will. Call them what you like, but is cart before the horse. We don't know...and I am a great believer in my architectural friends coming up with imaging solutions. We see them all around us. Whether it's tunnels or bridges. Harrisonburg has got a jail and bridge downtown from its courthouse that you wouldn't recognize as that. You would look at it as an office building and it works just fine for them. Others...Virginia Beach has a tunnel between the jail and their courthouse. They like the consolidation of having them connected. I just think that we should let the architects bring solutions and weigh what the concessions might need to be but it's just shooting in the dark at this point trying to guess what they should do. I would hope that the town will remain open-minded to various ways to keep the courts here and various solutions but that we not be pushing ourselves into any corners by making commitments that may be unnecessary when the courts are actually designed.

(End verbatim)

The Petitioner's Section was closed at 7:57 p.m.

9. APPROVAL OF THE CONSENT AGENDA

On a motion by Council Member Martinez, seconded by Council Member Butler, the following items were moved for approval as the Consent Agenda:

- a. *457 Plan Contract Award*

RESOLUTION 2012-127

Awarding the Employee Deferred Compensation Contract

- b. *Endorsement of Courthouse Follow-up to the Board of Supervisors*

MOTION 2012-031

I move that the Town Council endorse the draft letters included in Tab 08

The Consent Agenda was approved by the following vote:

Aye: Burk, Butler, Dunn, Hammler, Martinez, Wright and Mayor Umstatted

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

- a. Special Exception TLSE 2012-0008 Ladybug Child Care – A Child Care Center located at 812 Linfield Terrace, NE

The public hearing was opened at 8:01 p.m.

Irish Grandfield gave a brief presentation on the request for a special exception to operate a child care center out of the home located at 812 Linfield Terrace, NE in the Potomac Crossing neighborhood

Key points:

- Zoning Ordinance allows child care centers by special exception in Planned Residential Neighborhoods
- Currently operates under a home occupation permit for five children
- No new building or improvements
- Applicant holds a valid state license for 12 children
- There are five criteria for a child care center
 - Minimum of 100 square feet of usable outdoor recreational area for each child that may use the space at the time – can only credit 724 square feet of play area – condition of approval limits area to seven children at a time
 - Must have a continuous four foot high fence that completely encloses the outdoor recreation area – site has a six foot fence that meets use criteria
 - No play equipment in the required yard setbacks – criteria applies to permanently affixed play equipment – no permanently affixed play equipment exists on site
 - Recreation location needs to be safely separated from parking and loading – play area is in the back yard
 - Parking, entrance and departure zone – very little traffic at this end of Linfield Terrace. Parents walk children from curb to front door. Numerous parking spaces are available.
- Four general special exception approval criteria include no adverse impact to neighboring properties, compliance with zoning and town plan, does not hinder the development of nearby lands and traffic generation does not create a problem
- Traffic generated is low. Site is on a private travelway. Traffic analysis was waived by the Department of Public Works
- All nearby lands are developed
- Complies with zoning and Town Plan
- Staff has determined no adverse impact on neighboring properties
- Staff and Planning Commission recommend conditional approval subject to the eight conditions listed in the staff report

The applicant, Viktoriya Zubkova, asked to be allowed to continue what she loves doing.

Kyle Monarch: 214 Heaton Court, Purcellville, VA stated his son attends day care at Ladybug Day Care and they have had a positive experience. He stated he hopes to continue to be able to have his son attend this day care.

Edward Custis: 10362 Bear Creek Drive, Manassas, VA stated he has a couple of concerns with children playing in the parking lot. He stated the equipment and toys are left outside. Further he stated there is traffic in the parking area in the morning and afternoons and noise in the back yard from the children make it difficult to use the back deck. He stated there are too many kids there now and adding more will make it worse.

Brandon Donahue: 109 Carnaby Way, Leesburg, VA stated his daughter goes to Ms. Viktoriya's house. He stated his daughter loves being there and loves the cooking.

Tomeka Dade, 109 Carnaby Way, Leesburg, VA stated her daughter, Asia, has been at Ms. Viktoriya's house for over a year and has improved dramatically with her learning, speaking, manners and eating. She stated the food provided is fresh and has no preservatives. She stated the children love the backyard and grow vegetables which they cook. She stated she hopes Council approves this application.

Chris Pithan: 813 Blufield Square, Leesburg, VA stated he lives across the street from Ladybug Day Care and his son attends the day care since October of last year. He stated he is very happy to attend the day care facility. He asked Council to approve the special exception. He stated the occasional traffic is handled well and the outside of the facility only has occasional toys left outside and it is probably mostly the neighborhood kids and not the day care kids. He stated the elementary school nearby causes more noise than the day care.

Bethany Andino: 523 Richmond Square, NE, Leesburg, stated her day care in Loudoun County was forced to go from 12 to 9 and she was expecting a newborn. She stated her daughter and newborn are very happy there. Further, she stated the toys are from neighborhood kids, not the day care because the children do not play out front.

Louis Zunino: 810 Linfield Terrace, Leesburg, VA stated the children making the noise are his or his neighbors. He stated the toys are also probably from his kids. He stated the daycare is exceptional and very clean.

Shauna Zunino: 810 Linfield Terrace, Leesburg, VA stated that she loves her neighbor. She stated all the children play in the backyard. She stated anyone playing in the front yards are neighborhood children. She stated they bake their own bread, grow their own vegetables and she will not get any more children as the day care is at the maximum right now. She stated all the parents drive carefully and she would tell Council if they didn't.

The public hearing was closed at 8:21 p.m.

Council Member Comments/Questions:

- Currently how many children are there?
Staff answer: She is currently permitted for five, but there are 12 children there now. License from the state allows 12.
- Do more than seven children play outside currently?
Staff answer: That will be a new condition, but the applicant says it will not be difficult to meet as there are typically not more than seven outside at any given time.
- Why do we require a fence that is already there?
Staff answer: It is a use criteria of the zoning ordinance and it is clearer to list it as a condition
- How many of these special exceptions have been granted?
Staff answer: Just one other – Davis Day Care. Website of the Virginia Department of Social Services shows approximately 15 home based day care operators in the town that are permitted for up to 12 children. Some of those may not be serving at capacity. Staff is planning public outreach to help them be in compliance and get the approvals that they need.
- Conditions allow up to two employees to support the home based operation. How many employees are allowed in other home occupations?
Staff answer: Usually only one employee is allowed, but this is no longer considered a home occupation, but a special exception use for a home child care center. State standards dictate how many employees must be provided depending on the number of children
- Where do employees park?
Staff answer: There is a parking court in the front and there is adequate parking.
- Good day care is hard to find.
- This type of service adds to the quality of life in Leesburg

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

RESOLUTION 2012-129

Approving TLSE 2012-0008 Ladybug Day Care, a Child Care Center Located on Property Identified as PIN Number 198-10-9087 and Located at 817 Linfield Terrace, NE

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

b. Authorizing Acquisition of Easements for Lower Sycolin Sewage Conveyance System

Keith Wilson gave a brief presentation regarding the public hearing for easements for the Lower Sycolin Sewage Conveyance Project – Sycolin Branch

Key points:

- Outside the corporate boundary between the Dulles Greenway and the W&OD trail
- Within the Urban Growth Area, Joint Land Management Area
- Sycolin Branch Sewer Project will be constructed as the need for service arises.
- First phase is currently under construction
- Land rights required from seven landowners for 12 parcels of land for phases II and III of the project
- Capital Projects has been unable to acquire the necessary land rights by voluntary conveyance
- Request for authorization for condemnation for the remaining land rights needed for construction of the project

Council Comments/Questions:

- Why won't landowners agree?
Staff answer: Some landowners are requesting an alignment change which is being worked out with designers
- Why is not this being done first?
Staff answer: Eminent Domain bill takes effect January 1, 2013 – the town would like to acquire the parcels prior to that date

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

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

RESOLUTION 2012-130

Declaring that a Public Necessity and Use Exists, Authorizing an Offer to Acquire Permanent and Temporary Easements from PIN 193-46-2814-000, PIN 193-46-1044-000, PIN 193-46-3445-000, PIN 193-46-7168-000, PIN 193-27-9018-000, PIN 193-48-5687-000, PIN 151-16-0598-000, PIN 152-36-1675-000, PIN 151-37-7403-000, PIN 151-36-2959-000, PIN 151-36-5081-000, AND PIN 151-36-6971-000 for the Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer Project and Authorizing Condemnation

Council Comments:

- There is a public need and use present
- Area is within the town's service area
- Feel that concerns over the impending legislation is overblown

The motion was approved by the following vote:

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

Nay: Dunn

Vote: 6-1

c. Authorizing Acquisition of Easements for Construction of Church Street Improvements, Phase I

Keith Wilson gave a brief presentation regarding the public hearing for easements related to Church Street Improvements, Phase I.

Key points:

- Fully funded capital project for the construction of curb and gutter, brick sidewalks along both sides of Church Street on the block between Loudoun Street and Royal Street.
- Improvements will improve pedestrian access and complete that section of Church Street
- Project is coordinated with the planned improvements of the Downtown Improvement Project
- Land rights were needed for four parcels of land
- Two landowners have executed the town's deed of easement agreement for conveyance of the land rights for the project
- An additional landowner has executed the town's deed of easement agreement conditioned upon the town's acceptance and approval of the proposed settlement
- Necessary land rights for the remaining property will still be needed
- Requesting Council to approve settlement for the third parcel
- Authorize condemnation for the remaining land rights needed for construction of the project

There were no members of the public wishing to speak to Council regarding this public hearing.

The public hearing was closed at 8:36 p.m.

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

MOTION 2012-032

I move to authorize the Town Attorney to accept the counter offer by the owner for PIN 231-38-6319-000 upon the terms set forth in the Statement of Justification dated December 10, 2012.

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

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

RESOLUTION 2012-131

Declaring that a Public Necessity and Use Exists, Authorizing an Offer to Acquire Permanent and Temporary Easements from PIN 231-38-6627 for the Church Street Improvements – Phase I Project and to Authorize Condemnation

The motion was approved by the following vote:

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

Nay: Dunn

Vote: 6-1

d. 2012 Zoning Ordinance Batch Amendments

The public hearing was called to order at 8:40 p.m.

Chris Murphy gave a brief presentation for the 2012 Zoning Ordinance Batch Amendments.

Key points:

- Changes to meet the recently adopted state law revisions (4)
 - Require proof of payment of real estate taxes
 - Public hearing notice requirements – state code requires that all property owners of an original rezoning be notified within ten days that an application changing that rezoning has been submitted
 - Civil violations – codifies present practice
 - Definition of cemetery – state code change is much more detailed
- Addresses ease of use and interpretation issues (4)
 - Substantial application changes – sets threshold to establish when an accepted application must be resubmitted due to substantial changes. Used Loudoun County’s formula (5%) to decide.
 - Certificates of Occupancy – will only accept landscape bonds during months when planting is not recommended (December-February, June-August) prior to issuing occupancy permit
 - Real estate signs are currently defined as temporary signs – Remove reference to temporary from the definition of real estate signs so that they can be left up longer than two weeks
 - Outdoor sales area – establishes outdoor sales areas as auxiliary to a retail use and establishes limits for that use regarding outdoor displays of seasonal merchandise. Does not include special exception for outdoor sales
- Responsive to changing needs of the community or Town Council objectives (2)
 - Establishes a microbrewery use – allowed by-right in the I-1 zoning district with use limitations. Also redefines brewpub.
 - Murals – Town Council directed; will define and regulate

- Planning Commission recommended approval with comments that have been integrated

Council Questions/Comments:

- Why do we care if a business wants to take up their parking spaces to put plants outside?
Staff answer: Under the ordinance, a certain amount of parking is supposed to be available. Using parking to display merchandise eliminates some of the required parking. An outdoor storage special exception gives the town some control over what it will look like
- If a store sells the same merchandise inside as outside such as pumpkins, do they need a special exception?
Staff answer: Definition for outdoor sales expressly excludes the wayside stands, Christmas tree sales, outdoor retail sales events, which qualify as temporary uses.
- Is the outdoor display of mowers under the overhang at Home Depot considered as outdoor sales?
Staff answer: This was included as part of their special exception application
- Does this apply to restaurants with outdoor seating?
Staff answer: No.
- Mural policy takes the Board of Architectural Review out of the process
- Input from the BAR is sought as part of the Commission on Public Art process for mural review and approval
- Was any outreach to stakeholders performed?
Staff answer: No, but threshold of 5% was taken from Loudoun County regulations.
- Changes to applications have cost implications to the town

Dieter Meyer: commented that the 5% threshold strikes him as being a pretty low threshold. He stated often the site plan is in progress while design issues are still being worked out on the architectural. He stated he is concerned that the 5% threshold may be problematic. He questioned whether there had been any outreach to interested parties regarding these changes.

The public hearing was closed at 9:14 p.m.

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

ORDINANCE 2012-O-020

Amending Article 3 Review and Approval Procedures, Article 6 Nonresidential Zoning Districts, Article 7 Overlay and Special Purpose Districts, Article 9 Use Regulations, Article 12 Tree Preservation, Landscaping, Screening, Open Space and Outdoor Lighting, Article 15 Signs, Article 17 Enforcement and Penalties, and Article 18 Definitions

Council Member Dunn offered a friendly amendment to change the threshold for changes to applications to 10%. The motion was not accepted as friendly. It was offered as an amendment, but failed for lack of a second.

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

11. RESOLUTIONS AND MOTIONS

- a. Authorization for Construction Change Order – Lower Sycolin Sewage Conveyance System, Phase 1 Project

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

RESOLUTION 2012-128

Lower Sycolin Creek Sewage Conveyance System Project Change Order No. 3 for Construction Services

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

- b. Making a Supplemental Appropriation for Donations for Park Amenities on Loudoun Street, SW

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

MOTION 2012-034

I move that the Town Council authorize expenditures of donated funds (not to exceed \$5,000) on park amenities on the Loudoun Street parcels

Council Member Comments/Questions:

- Willingness to donate money shows the community is interested and excited by this project
- Recommend that additional money be used to spread out the amenities further back from the sidewalk
- Shows the Council is not open to the significant investment in the downtown that these parcels could have become

The motion was approved by the following vote:

Aye: Burk, Butler, Martinez and Mayor Umstattd

Nay: Dunn, Hammler and Wright

Vote: 4-3

- c. Crescent Design District Code Amendments

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

RESOLUTION 2012-132

To Direct Final Revisions to the Crescent Design District

Council Comments/Questions:

- Has Milt Herd's suggestion been taken into consideration?
Council response: Would like to consider the suggestion further
- This is not form based code
- Close to creating incentives to expand the best aspects of the downtown to the Crescent District
- The addition of five story buildings by-right is not an extension of the character of the downtown

Council Member Hammler offered a friendly amendment to change the word "to" in Section 1 to "may". The amendment was not accepted as friendly.

Council Member Hammler offered a friendly amendment to remove the words "with stepback" from Section 1, number 1. The amendment was accepted as friendly.

The motion was approved by the following vote:

Aye: Burk, Butler, Hammler, Martinez and Wright

Nay: Dunn and Mayor Umstatt

Vote: 5-2

12. ORDINANCES

- a. None.

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- a. Building Inspections Memorandum of Understanding

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

MOTION 2012-033

I move to send a letter on behalf of the Council, signed by the Mayor, requesting that the Board of Supervisors approve the draft Memorandum of Understanding to allow the County to enforce the Uniform Building Code within the limits of the Town of Leesburg

Council Comments/Questions:

- Hopefully Board of Supervisors can direct their staff to coordinate efforts and move forward on this

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

15. COUNCIL COMMENTS

Council Member Dunn: Wished everyone a happy Christmas. He disclosed a phone conversation with Morven Park representatives.

Vice Mayor Wright: Stated he looks forward to the Swearing In Ceremony. He stated he enjoyed the tree lighting and the parade. He wished the Tally Ho Theatre well as they embark on a new chapter and also wished everyone a Merry Christmas and Happy New Year.

Council Member Burk: Apologized for being late. She stated she was attending a meeting regarding the Shenandoah Teacher of the Year and reminded the public that nominations are still being accepted. She stated she attended a fundraiser for Dodona Manor. She congratulated Parks and Recreation for the excellent Arts and Crafts show at Ida Lee. She stated she attended the Lights of Love program hosted by the Ladies Auxiliary of the Hospital to remember those who have passed away. She stated she met with a group that is organizing to raise money for the Loudoun Street mural and is very excited about it. She stated she attended the farewell for Catherine Parley of Oatlands. She stated the tree lighting was very exciting and brought out a large crowd. She stated she met with Morven Park representatives regarding their Master Plan. She thanked the Council Members for their support of a job fair for the youth of the community. She stated they had 500-600 youths attending last year and noted that ProJet has already volunteered the use of their facility. She noted it is her wedding anniversary today and gave her regards to her husband of 36 years. She wished everyone a Merry Christmas. She noted that Nightline featured Mom's Apple Pie last night.

Council Member Martinez: Disclosed a meeting with the Board of Morven Park to discuss their future plans. He apologized for not being able to attend the parade. He stated the event he attended on Friday night gave him food poisoning. He wished everyone Merry Christmas.

Council Member Hammler: Disclosed a meeting with representatives from Cooley Goddard and Stanley Martin Homes regarding Leegate. She also disclosed a meeting with Hobie Mitchell and his team regarding the former Barber and Ross property. She stated she met with Morven Park representatives to hear about their Master Plan. She congratulated Sharon Virts Moser who is one of the women business leaders in Leesburg who sits on the Economic Development Commission for Loudoun County. She noted that her company, FCI Federal, has been named a top company in Virginia by Inc. Magazine with a HIRE Award honoring top job creators in the country after adding 767 jobs in the last three years. She thanked the Police Department for their wonderful investigative work in the arrest of those convicted for the car break ins case in Woodlea/Greenway communities. She thanked Mr. Banzhaf for his efforts that

resulted in Mr. Petersen retracting his letter offering Crosstrail for the Courts Expansion. She congratulated her son, John, for being nominated to be a page in the Virginia Senate. She stated she gets feedback from people who wish the parade was still at night. Further, she noted everyone loves Santa on the fire engine. She wished everyone happy Holidays.

Council Member Butler: Disclosed meeting with Cooley and Lowes representatives and Morven Park representatives about their potential BLA. He stated he got lost because he was handing out candy canes. He stated the tree lighting was great and had the opportunity to tour the Tally Ho. He stated the newly renovated space may be appropriate for Loudoun Lyric Opera performances. He congratulated the Mason Enterprise Center on their first anniversary. He wished everyone a Merry Christmas and Happy New Year.

16. MAYOR'S COMMENTS

Mayor Umstattd also disclosed a meeting with representatives of Morven Park. She thanked AJ Levy and his mother, Lisa Levy, for a wonderful job lighting the Menorah during the Christmas Tree and Menorah Lighting ceremony. She thanked Lola's for partnering with Interfaith Relief on their canned food drive. She stated she felt that the Parade was the largest one ever. She thanked Renee Lafollette for figuring out that the wall at the East End Triangle was eight inches too high, which has since been corrected. She thanked those who donated to Toys for Tots and Sweats for Vets collections in the lobby of Town Hall. She wished everyone Merry Christmas.

17. MANAGER'S COMMENTS

Mr. Wells noted that the Council meeting action calendar has been updated with comments from last evening's work session. He asked the newly re-elected to identify those Boards and Commissions nominees that will not be re-appointed as soon as possible. He stated each Council Member has been provided with a summary of employee benefits and which benefits are available to Council members. He reminded Council that disclosure forms are due from the re-elected members prior to taking office and everyone should have theirs in by January 15. He reminded everyone of the employee luncheon on Wednesday and wished everyone a Merry Christmas and Happy New Year.

18. CLOSED SESSION

- a. None.

19. ADJOURNMENT

On a motion by Council Member Martinez, seconded by Vice Mayor Wright, the meeting was adjourned at 9:57 p.m.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council

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