

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: None.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Utilities Amy Wyks and Clerk of Council Lee Ann Green

AGENDA ITEMS

1. CALL TO ORDER

2. INVOCATION: Council Member Hammler

3. SALUTE TO THE FLAG: Council Member Martinez

4. ROLL CALL: Showing all Council Members present.

5. MINUTES

a. Work Session Minutes of January 7, 2013

On a motion by Council Member Hammler, seconded by Vice Mayor Butler, the minutes of the work session meeting of January 7, 2013 were approved by a vote of 7-0.

b. Regular Session Minutes of January 8, 2013

On a motion by Vice Mayor Butler, seconded by Council Member Hammler, the minutes of the Regular Session meeting of January 8, 2013 were approved by a vote of 7-0.

6. ADOPTING THE MEETING AGENDA

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

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

Nay: None

Vote: 7-0

7. PRESENTATIONS

a. Certificate of Appreciation – Debra Downs

On a motion by Council Member Martinez, seconded by Vice Mayor Butler, a Certificate of Appreciation was approved in recognition of Ms. Down's 35 years of service to the Town of Leesburg.

b. Utility Capacity Report

8. PETITIONERS

- a. The Petitioner's Section was opened at 8:21 p.m.

There were no members of public wishing to address Council.

The Petitioner's Section was closed at 8:21 p.m.

9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Making an Appointment to the Environmental Advisory Commission*

RESOLUTION 2013-025

Making an Appointment to the Environmental Advisory Commission – Michael Childers

- b. *Making an Appointment to the Board of Architectural Review*

RESOLUTION 2013-026

Making an Appointment to the Board of Architectural Review – Dale Goodson

- c. *Making an Appointment to the Standing Residential Traffic Committee*

RESOLUTION 2013-027

Making an Appointment to the Standing Residential Traffic Committee – Dwight Dopilka

- d. *Making an Appointment to the Tree Commission*

RESOLUTION 2013-028

Making an Appointment to the Tree Commission – Amy McMullen

- e. *Supplemental Appropriation of Reimbursement of Police Department Expenses*

RESOLUTION 2013-029

Approving Amendments to the FY 2013 General Fund Budget and Making Appropriations for \$26,312.01 awarded through a Reimbursement from the City of Charlotte, North Carolina, for Law Enforcement Services Rendered during the 2012 Democratic National Convention

- f. *Supplemental Appropriation of Collected Property Damage Fee*

RESOLUTION 2013-030

Approving a Supplemental Appropriation of \$2,425.83 Resulting from the Collection of a Property Damage Fee

- g. *Approval of the Next Town Hall Art Gallery Exhibit by Diane Helentjaris*

RESOLUTION 2013-031

Town Hall Art Gallery – Approval of the Next Art Exhibit by Diane Helentjaris

The Consent Agenda was approved by the following vote:

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

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

a. Amending Chapter 24 of the Town Code Regarding Barment Procedures

The public hearing was opened at 8:24 p.m.

Jeanette Irby stated the police department has had difficulty with respect to enforcing barments, which allows them to give notice to individuals who are trespassing on public or private property. Currently, the Town Code specifies that only the owner can bar someone from their property, and this amendment would expand the definition to someone who is leasing the property, is the custodian of the property, or agent of the custodian or other person who is lawfully in charge. This will give the police department more flexibility with respect to who can sign the barment.

Council Comments/Questions

- Can a lessee issue a trespass notice against the owner of a property?
Staff answer: Theoretically, yes, but the landlord can have the notice removed in court.
- Would allow the lease holder of a commercial property to have an individual barred from the property.

No members of the public wished to address Council on this public hearing.

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

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

ORDINANCE 2013-O-006

To Amend and Reordain Chapter 24 (Offenses and Miscellaneous Provisions), Article III (Offenses Against Property), Division 4 (Trespass), Section 24-113 (Entering or Remaining on Property of Another After Having Been Forbidden to do so; Designation of Police to Enforce Trespass Violations)

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

11. RESOLUTIONS AND MOTIONS

- a. Additions to Legislative Positions Statement
Inclusion of individual items was decided by vote.

MOTION 2013-003

1. *I move that the following items be added to the Town's 2013 Legislative Agenda:*

Town/County Overlapping Powers

Town of Leesburg respectfully asks Delegate Rust to have HB 1535 (Rust) not acted on and passed onto the full committee. The Town requests the full committee to refer this bill to the staff of the Commission on Local Government for a working group composed of the Commission on Local Government Staff, town of Herndon staff, Fairfax County staff, Loudoun County staff, Town of Leesburg staff, and VACO staff, if such personnel are willing to participate. The working group would examine the overlapping powers issues that HB1535 seeks to address and examine specific statutes that may be changed in this regard. The staff of the Commission on Local Government would issue a report to the General Assembly before December 1, 2013.

Moved by Council Member Wright, seconded by Vice Mayor Butler.

Approved by the following vote:

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

Nay: None.

Vote: 7-0

Balch Endowment Fund

The Town Council approves the amendment whereby the authority for the Town to create an endowment for the support of the Balch will be enabled by a Section 1 bill that may be enacted by an ordinance by the Town Council.

Moved by Council Member Hammler, seconded by Council Member Wright. Approved by the following vote:

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

Nay: None.

Vote: 7-0

2. *I move that the following items be added to the Town's 2013 Legislative Positions Statement:*

Local Authority to Prohibit Firearms on Public Property

The Town Council supports legislation that authorizes localities to adopt ordinances that prohibit firearms and ammunition on property owned or leased by the locality.

Moved by Vice Mayor Butler, seconded by Council Member Burk.

Council Comments/Questions:

- Does not specify type of firearm
- Does this bill cover the inability to limit firearms near the preschool at Ida Lee?

Staff answer: Bill may have already been defeated.

- Not asking to prohibit specific types of firearms; asking for the authority to limit firearms – type can be decided by ordinance

Approved by the following vote:

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

Nay: Dunn and Mayor Umstatt

Vote: 5-2

Posting Legal Notices on Websites

The Town Council supports legislation that would give localities the authority to post legal notices on websites as a substitute for publishing legal notices in newspapers.

Moved by Council Member Wright, seconded by Vice Mayor Butler.

Council Comments/Questions:

- Some people do not use internet
- Enhances the town's authority to do something different
- May disenfranchise certain sectors of citizens

Approved by the following vote.

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

Nay: Dunn and Mayor Umstatt

Vote: 5-2

State Funding for School Resource Officers

The Town Council supports legislation that would provide state funding for school resource officers at all public elementary, middle and high schools.

Moved by Council Member Burk, seconded by Vice Mayor Butler.

Vice Mayor Butler offered a friendly amendment to strike the words "at all public elementary, middle and high schools". The amendment was accepted as friendly by Council Member Burk.

Mayor Umstadd made a motion to add the language back into the motion. The motion was seconded by Council Member Martinez.

Council Comments/Questions:

- School resources officers can be strong, positive figures for elementary school students.
- State funding for School Resource Officers would be appreciated.

The motion to put the language back in was approved by the following vote.

Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstadd

Nay: Butler

Vote: 6-1

The motion (as originally worded) was approved by the following vote.

Aye: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstadd

Nay: Butler

Vote: 6-1

Virginia Public Procurement Act

The Town Council supports the position of the Virginia Association of Governmental Purchasing on legislation regarding the Virginia Public Procurement Act

Moved by Council Member Wright, seconded by Council Member Martinez. Approved by the following vote:

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

Nay: None.

Vote: 7-0

3. *I move that the Town Council opposed HB 1401, which would prohibit localities from instituting a judicial sale for delinquent taxes on real property that is the sole dwelling of the taxpayer.*

Moved by Council Member Burk, seconded by Vice Mayor Butler.

Council Comments/Questions:

- Localities should not get involved in foreclosures/titles
- Taxes are paid first when properties are foreclosed upon
Staff answer: Sometimes delinquency has been going on for a long time and property value does not satisfy tax lien. Bill affects only residences valued at less than \$100,000. Burden will be placed on those who do pay taxes.
- Amendment in Richmond seeks to take away authority that the town already has to collect taxes.

Approved by the following vote:

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

Nay: Dunn

Vote: 6-1

4. *I move that the Town Council oppose HB 1430, which would limit the Town's authority to regulate land use on agriculturally-zoned land within the Town.*

Moved by Council Member Martinez, seconded by Council Member Burk.

Council Comments/Questions:

- No land within the town limits is zoned agriculture
Staff answer: Includes language regarding to selling items on your property and assembling on your property as well as personal liability for the zoning administrator

Approved by the following vote:

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

Nay: Dunn

Vote: 6-1

5. *I move that the Town Council oppose SB 1073 and HB 1429, which would allow courts to award attorney's fees in successful challenges on the Town's Zoning ordinance, administrative acts or other local actions related to land use.*

Moved by Council Member Martinez, seconded by Vice Mayor Butler.

Approved by the following vote:

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

Nay: None.

Vote: 7-0

6. *I move that the Town Council oppose SB 1336 which would provide a significant change to Boundary adjustments and the notice required. Provides that all affected landowners shall be given notice by certified mail of a proposed voluntary boundary adjustment. The bill authorizes landowners to file a petition to intervene in the action under certain circumstances.*

Moved by Vice Mayor Butler and seconded by Council Member Wright for discussion purposes.

Motion was withdrawn.

- b. Loudoun Water Raw Water Intake
This item was deferred.

- c. Virginia Commission for the Arts Local Government Challenge Grant
Pam Butler, Chair of the Commission on Public Art, gave a brief presentation on the proposed competitive process. She stated the Commission for the Arts will match up to \$5,000 which has historically been awarded to one organization. This process will open eligibility up to other programs.

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

MOTION 2013-004

I move that the Town Council approve the Public Art Commission's proposal to create a competitive process for awarding funding from the Virginia Commission for the Arts' Local Government Challenge Grant and matching Town funds

Council Member Comments/Questions:

- Timing would not change.
- No new budgeted funds – possible change of recipient
- Possibility exists for conflict of interests if COPA members sit on Boards of other arts organizations
- Notify Bluemont Concert Series of the change

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

12. ORDINANCES

- a. None.

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- a. None.

15. COUNCIL COMMENTS

Council Member Dunn: Had no comments.

Vice Mayor Butler: Martin Luther King Day march was very nice.

Council Member Burk: Stated the Martin Luther King Day march is in its 21st year, and also celebrated the emancipation proclamation and the inauguration that day. She stated she attended the Volunteer Rescue Squad event. She stated she is amazed at how much of their time these volunteers give. She stated she has been going to various PTAs to encourage people to nominate educators for the Shenandoah University Teacher of the Year award. She stated the parents are very dedicated as well.

Council Member Martinez: Stated he saw several people stop and look at the Martin Luther King march plaque. He stated he was excited to see how many people attended the march despite the inauguration in D.C. He stated he attended the volunteer Fire and Rescue dinner and agreed that it is amazing how much time these volunteers volunteer.

Council Member Hammler: Thanked Mark McGregor, CEO of Virginia Regional Transit, for his efforts to find alternate funding. He thanked Congressman Wolf's office for his assistance. She thanked Congressman Wolf's aides, Dan Scandlan and Maryann Cannon, for their assistance. She stated she is looking forward to VML Day next Thursday. She stated she would be attending the Executive meeting and noted that Michael Amyx, the executive director, has announced his retirement.

Council Member Wright: Disclosed a meeting with Colleen Gillis Snow and representatives of NVR regarding a potential rezoning application for Market Square at Potomac Station. He encouraged additional time and effort in the Keep Leesburg Beautiful effort as he has been noticing more trash around town and people not cleaning up after their dogs.

16. MAYOR'S COMMENTS

Mayor Umstatt stated the keynote speaker at the Martin Luther King Day ceremony commented on how she read each and every stone along the route of the march and how she took inspiration from all of them. She thanked Paxton School and the ARC of Loudoun for hosting the National Day of Service in Leesburg. She stated it was very well organized. She stated the Town Manager is on top of what is going on with respect to the funding issues for Virginia Regional Transit. She stated the outcome of the conference call was not encouraging.

17. MANAGER'S COMMENTS

Mr. Wells summarized the Friday conference call. He stated the conference call lasted 2 ½ hours and nothing was decided or completed. He stated he does not feel that the public is aware of this potential loss of funding. He stated they got the package of information needed submitted for a potential budget amendment for potential bridge funding. He stated one of the possible solutions would be to move from a rural funding model to an urban funding model. Unfortunately, the nine-month window of time in which to find a solution is not long enough to make that change. He stated staff is working on grants that might cover the needed funds.

Council Member Martinez made a motion to suspend the rules. The motion was seconded by Council Member Wright.

Motion to suspend the rules was approved by the following vote:

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

Nay: None.

Vote: 6-0-1

Council Member Hammler made a motion to ask the federal and state legislators to work together to find a solution. The motion was seconded by Council Member Martinez.

Mayor Umstattd restated the motion as:

“The Leesburg Town Council adds to its legislative agenda support for requesting that our state and federal representatives work together to try to find a solution to the impending loss of funding to Virginia Regional Transit or the bus systems currently in place in Loudoun County and Leesburg. Furthermore, we direct town staff to work with VRT to distribute flyers on the bus routes informing members of the public who ride that this service could disappear September 30, 2013 and suggest that members of the public contact their federal and state legislators”.

The motion was approved by the following vote:

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

Nay: None.

Vote: 6-0-1

18. CLOSED SESSION

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

Pursuant to Section 2.2-3711(A)(1) 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. Town Manager’s Evaluation*

The motion was approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Dunn absent)

Council convened in closed session at 10:00 p.m.

Council reconvened in open session at 10:45 p.m.

On a motion by Mayor Umstattd, seconded by Vice Mayor Butler, 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 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, Butler, Hammler, Martinez, Wright and Mayor Umstattd

Nay: None

Vote: 6-0-1 (Dunn absent)

19. ADJOURNMENT

On a motion by Council Member Wright, seconded by Vice Mayor Butler, the meeting was adjourned at 10:45 p.m.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
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