

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

**Council Members Present:** David Butler, Thomas Dunn, Marty Martinez, Katie Sheldon Hammler, and Mayor Umstattd.

**Council Members Absent:** Council Members Burk and Wright.

**Staff Present:** Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Assistant Town Manager Scott Parker, Director of Utilities Amy Wyks, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Irish Grandfield, Director of Plan Review Bill Ackman, and Clerk of Council Lee Ann Green

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**AGENDA****ITEMS****1. CALL TO ORDER**

**2. INVOCATION:** Candace Brinkley

**3. SALUTE TO THE FLAG:** Council Member Dunn

**4. ROLL CALL:** Showing Council Members Burk and Wright absent.

**5. MINUTES**

a. Work Session Minutes of October 21, 2013

*On a motion by Vice Mayor Butler, seconded by Council Member Martinez, the minutes of the work session meeting of October 21, 2013 were approved by a vote of 5-0-2 (Burk/ Wright absent).*

b. Regular Session Minutes of October 22, 2013

*On a motion by Vice Mayor Butler, seconded by Council Member Martinez, the minutes of the regular session of October 22, 2013 were approved by a vote of 5-0-2 (Burk/ Wright absent).*

**6. ADOPTING THE MEETING AGENDA**

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

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

*Nay: None*

*Vote: 5-0-2 (Burk/ Wright absent)*

**7. PRESENTATIONS**

a. Proclamation – Leesburg Volunteer Fire Company 210<sup>th</sup> Anniversary

*On a motion by Council Member Hammler, seconded by Vice Mayor Butler, the following was proclaimed:*

# PROCLAMATION

## *Commending the Leesburg Volunteer Fire Company on its 210<sup>th</sup> Anniversary*

**WHEREAS**, in 1803 the people of the Town of Leesburg agreed to form a fire company in the form of a bucket brigade team; and

**WHEREAS**, the bucket brigade team reorganized into the Leesburg Fire Company; and

**WHEREAS**, over the next several decades the Leesburg Fire Company continued to expand, modernizing equipment and increasing membership to better serve a growing community; and

**WHEREAS**, by 2012, the Leesburg Volunteer Fire Company received 1,723 calls for service and dedicated countless hours to protecting the community; and

**WHEREAS**, commending the members of the Leesburg Volunteer Fire Company for their integrity, honor, dedication and bravery is a fitting tribute.

**THEREFORE PROCLAIMED**, by the Council of the Town of Leesburg in Virginia that the Leesburg Volunteer Fire Company is commended on its 210 years of dedication to the safety of the community.

**AND BE IT FURTHER PROCLAIMED**, that Company 1 will forevermore be known as “*The Pride of Old Town*”.

**PROCLAIMED** this 12<sup>th</sup> day of November 2013.

- b. Proclamation – Native American Indian Heritage Month  
*On a motion by Council Member Hammler, seconded by Vice Mayor Butler, the following was proclaimed:*

# PROCLAMATION

## **NATIONAL AMERICAN INDIAN HERITAGE MONTH** *NOVEMBER 2013*

**WHEREAS**, on November 15, 1994 President Clinton issued a proclamation based on Senate Joint Resolution 271, designating the month of November as “National American Indian Heritage Month; and

**WHEREAS**, American Indians, the first Americans, have made enormous contributions to the life of our Country and the earliest beginnings of its history; and

**WHEREAS**, American Indians have greatly enhanced the culture, prosperity and greatness of our Commonwealth and nation; and

**WHEREAS**, local organizations such as the Loudoun Museum and the Thomas Balch Library both offer a variety of information for individuals who wish to discover the contributions that American Indians have made to Loudoun County and nationwide; and

**WHEREAS**, it is fitting to recognize the many accomplishments and contributions of American Indians to our shared culture and to the preservation of our lands and of the tradition of America's first inhabitants.

**THEREFORE PROCLAIMED**, by the Council of the Town of Leesburg in Virginia the month of November of the Year 2013 as National American Indian Heritage Month in the Town of Leesburg and urge the citizens of Leesburg, as well as all community organizations, to preserve and remember the accomplishments of Native Americans throughout the history of our nation.

**PROCLAIMED** this 12<sup>th</sup> day of November 2013.

c. Presentation by Beckham Dickerson and Jennifer Lassiter

Mr. Dickerson and Ms. Lassiter presented plans by the Aurora School to develop the barns complex at the Paxton Home for the use of developmentally disabled children. They displayed the amenities that are planned for the site and noted that this would be the first facility of its type in the country.

**8. PETITIONERS**

The Petitioner's Section was opened at 8:05 p.m.

There were no speakers wishing to address Council.

The Petitioner's Section was closed at 8:05 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. Initiating an Amendment to the Town Code Regarding Electronic Participation and Rules of Order

**RESOLUTION 2013-127**

*Initiating an Amendment to the Town Code Governing the Participation of Town Council Members and Members of Boards and Commissions in Meetings through Electronic Participation*

- b. *Authorizing the Town Manager to Execute the Grant Application for the Virginia Department of Environmental Quality's Virginia Stormwater Local Assistance Fund*

**RESOLUTION 2013-128**

*Authorizing the Town Manager to Execute the Grant Application for the Virginia Department of Environmental Quality's Virginia Stormwater Local Assistance Fund*

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

**RESOLUTION 2013-130**

*Town Hall Art Gallery – Approval of the Next Art Exhibit by Monroe Technology Center*

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

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

*Nay: None*

*Vote: 5-0-2 (Burk/Wright absent)*

**10. PUBLIC HEARINGS**

- a. Special Exception TLSE 2013-0011 Eva's Day Care  
The public hearing was opened at 8:11 p.m.

Irish Grandfield presented this special exception application for a Home Day Care.

Key Points:

- Application processed under previous Zoning Ordinance regulations
- Interior townhouse unit next to an end unit.
- Parking beside the end unit
- Outside play area size limits number of children outside at any given time
- Planning Commission recommended approval
- One speaker at the Planning Commission public hearing spoke against the application voicing concern that the use would reduce the value of his nearby rental units

Council Comments/Questions:

- What is process for enforcement of conditions?  
Staff answer: It would be through zoning complaint

- Is the Homeowner's Association in agreement with using HOA parking areas for pick up and drop off?  
Staff answer: The HOA was notified of the application and did not express concern over pick up and drop off usage of the parking spaces

Evelyn Gray, stated she is a parent whose son attends this daycare. She stated it is very important for working parents to have a daycare provider that they can trust.

Diane Lancor, stated that Eva is a very important part of the children's lives. She stated finding daycare that they are comfortable using is very important. She stated that the neighbors have never expressed any concerns to her when picking up or dropping off her child.

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

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

***RESOLUTION 2013-131***

*Approving TLSE 2013-0011, Eva's Home Daycare, a Child Care Center located on Property Identified as PIN Number 187-30-6945 and Located at 814 Ferndale Terrace, N.E.*

Council Member Comments/Questions:

- Is the gate at the rear of the townhouse unit kept locked?  
Applicant answer: Yes.
- Noise is not an issue because of the close proximity of the school
- How many assistants will be working for the applicant?  
Applicant answer: Currently have three infants and two assistants. Another assistant will be added if more infants are added.  
Staff answer: Requirements are state requirements. Two assistants are enough to watch the maximum number of children allowed

*The motion was approved by the following vote:*

*Aye Butler, Dunn, Hammler, Martinez, and Mayor Umstatt*

*Nay: None*

*Vote: 5-0-2 (Burk/Wright absent)*

- b. Special Exception TLSE 2013-0012 My Dog's Day Care  
The public hearing was opened at 8:32 p.m.

Irish Grandfield presented this application for a Special Exception to allow an indoor dog day care facility.

Key Points:

- No outdoor activity
- Not an overnight kennel
- Subject to kennel use standards in the Zoning Ordinance
- Most like a child day care facility in pick up and drop off needs
- No exterior changes so no site plan is required
- Asking for modification of distances to neighboring properties since facility is completely indoors
- Planning Commission recommended approval, although several commissioners expressed a desire to see less dogs cared for at this site
- No use standards exist to limit number of dogs

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

The public hearing was closed at 8:43 p.m.

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

***RESOLUTION 2013-132***

*Approving TLSE 2013-0012, My Dog's Day Care, an Indoor Daytime Dog Care Facility Located on Property Identified as PIN Number 189-26-8520-009 and Located at Unit 110, 75 Lawson Road, S.E.*

Council Member Comments/Questions:

- Have precautions to limit spread of disease among dogs been considered?  
Applicant answer: Yes. Old Mill Veterinary is located across the street and will be able to handle any healthcare emergencies. All dogs will need up to date vaccinations.
- What is handler to dog ratio?  
Applicant answer: 1/10 plus non-handler managers
- Are there indoor relief areas for the dogs?  
Applicant answer: Yes.
- Is there any cost to the town for additional waste management?  
Staff answer: Utilities did not comment on any additional fees.
- How did the applicant decide on 60 dogs as the capacity?  
Applicant answer: Felt that this is a comfortable number for the space.
- According to ASPCA, more space per dog is needed.  
Applicant answer: Facility would not be full the majority of the time; however, all dogs would not be out in the open play area at the same time. Some dogs will be in quiet confinement where they cannot view the dogs at play
- Will dogs that are kept indoors all day be subject to stress?  
Applicant answer: Dogs can be transported to Old Mill to get outside play time. Plan is to fit the activity to the temperament of the dog

Council Member Butler stated he would be abstaining from voting on this since his wife walks dogs and gets income from dog walking.

*The motion was approved by the following vote:*

*Aye* Dunn, Hammler, Martinez, and Mayor Umstattd

*Nay:* None

*Vote:* 4-0-2-1 (Burk/ Wright absent, Butler abstaining)

## 11. RESOLUTIONS AND MOTIONS

- a. Authorizing a Reduction of a Performance Guarantee for PMW Farms, Section 4 and Authorizing a Reduction of a Performance Guarantee and a Time Extension for PMW Farms, Section 3 and 5

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

### **RESOLUTION 2013-129**

*Authorizing a Reduction of the Performance Guarantee for Public Improvements Installed at PMW Farms – Section 4 (TLCD 2010-0004) and Authorizing a Reduction of the Performance Guarantee and a Time Extension for Public Improvements Installed at PMW Farms – Section 3 and 5 (TLCD 2010-0006).*

Council Comments/Questions:

*The motion was approved by the following vote:*

*Aye* Butler, Dunn, Hammler, Martinez, and Mayor Umstattd

*Nay:* None

*Vote:* 5-0-2 (Burk/ Wright absent)

- b. Initiating an Amendment to the Zoning Ordinance and DCSM to meet current FEMA and Virginia DCR Standards

*On a motion by Vice Mayor Butler, seconded by Mayor Umstattd, the following was proposed:*

### **RESOLUTION 2013-133**

*Initiating Amendments to the Zoning Ordinance, Article 13; and the Design and Construction Standards Manual, Article 5, Section 5-400 to Conform to Current FEMA and Virginia DCR Standards*

*The motion was approved by the following vote:*

*Aye* Butler, Dunn, Hammler, Martinez, and Mayor Umstattd

*Nay:* None

*Vote:* 5-0-2 (Burk/ Wright absent)

- c. Setting the Calendar Year 2014 Meeting Calendar

*On a motion by Mayor Umstattd, seconded by Vice Mayor Butler, the following was proposed:*

**RESOLUTION 2013-134***Setting the CY 2014 Town Council Calendar*

Council Comments:

- Support for moving the meetings from the week of Thanksgiving.
- Would like to keep the meetings on the second and fourth week to keep things predictable for the public
- Concern for Back to School nights for Council Members with children  
Staff answer: Individual school schedules are not available this early
- Council would not meet on Veteran's Day

*Council Member Dunn offered a friendly amendment to meet on the 10<sup>th</sup> and 24<sup>th</sup> as combination work/regular meetings. The amendment was accepted as friendly.*

*The motion was approved by the following vote:*

*Aye Butler, Dunn, Hammler, Martinez, and Mayor Umstattd*

*Nay: None*

*Vote: 5-0-2 (Burk/Wright absent)*

**12. ORDINANCES**

- a. None.

**13. UNFINISHED BUSINESS**

- a. Crosstrail Referral to County

Susan Berry Hill confirmed that this item will be heard by the Board of Supervisors for public hearing on Wednesday evening.

Michael Banzhaf, representative for the applicant, Petersen Companies, addressed several of the issues.

- Proposed uses would bring more income to the county than permitted uses
- Applicant cannot afford to build both sewer lines

Staff answer: Applicant is responsible for the 100% of the pro-rata as they are the only landowner

*On a motion by Vice Mayor Butler, seconded by Mayor Umstattd, the following was proposed:*

**RESOLUTION 2013-135**

*Town's Concerns Pertaining to ZMAP 2012-0021, Crosstrail Commercial Center; SPX 2012-0047, Hotel; SPEX 2012-0048, Gas Pumps and SPEX 2012-0039, Outdoor Sales*

## Council Comments/Questions:

- Is there an agreement that can be worked out using temporary services until the developer can afford the southern line?  
Staff answer: Lines were designed with this property owner's needs in mind. Connecting from the north makes the town system less efficient.
- How would the use of the northern route cost the town more?  
Staff answer: By using the northern route, it makes the southern route, which was sized to accommodate this development, inefficient.
- Is there a legitimate concern that the utilities will not be ready for the applicant?  
Staff answer: Lower Sycolin system was based on and phased by information provided by the applicant.
- Can language be added to proffers to ensure that the pump station is not permanent?  
Staff answer: Recommendation is to build the southern route since property owner will need to build the southern route at some point.  
Applicant's answer: Not aware that the property owner would be the only one responsible for the southern route
- When do you need wastewater service from the town?  
Applicant answer: By site plan approval – 2015/2016
- Would like to add language capturing the fact that the Town is the water and sewer provider for the property

*Council Member Dunn made a motion to add language stating that the town supports the Crosstrail development with the concerns as listed. The motion was seconded by Council Member Hammler for discussion purposes.*

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

*Aye: Dunn*

*Nay: Butler, Hammler, Martinez, and Mayor Umstatt*

*Vote: 1-4*

*Council Member Hammler made a motion to add language specifying that the town would prefer the property to be brought into the town limits via boundary line adjustment. The motion was seconded by Council Member Dunn for discussion purposes.*

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

*Aye: Dunn and Hammler*

*Nay: Butler, Martinez, and Mayor Umstatt*

*Vote: 2-3*

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

*Aye: Butler, Hammler, Martinez and Mayor Umstatt*

*Nay: Dunn*

*Vote: 4-1 (Burk/Wright absent)*

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

**MOTION 2013-046**

*Approval of letter concerning Crosstrail's utilities*

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 5-0-2 (Burk/ Wright absent)*

**14. NEW BUSINESS**

- a. None.

**15. COUNCIL COMMENTS**

Council Member Martinez disclosed meetings with Gigi Robinson, Gem Bingol and Ed Gorski regarding the Crescent Place application. He requested an agenda item discussing making the Loudoun Street property a pocket park.

Council Member Hammler asked for an amendment to initiate changes to Section 10.4.5.c.2 of the Zoning Ordinance regarding the location of HVAC equipment. She also requested a charette to discuss options for Loudoun Street and information on the viability of a building for the site. She requested an information item regarding the possible negative impacts of a "heat plume" from the hybrid energy plant on flight patterns at the airport. She disclosed telephone calls with Hobie Mitchell and a meeting with Mr. Mitchell, his associates and town staff. She also disclosed a meeting with Gem Bingol, Gigi Robinson, and Ed Gorski. She reminded everyone about the ribbon cutting for Sweetz Bakery in Battlefield Shopping Center. She thanked the Mayor for allowing the Tuscarora High School National Honor Society to join Council in the Halloween Parade.

Vice Mayor Butler requested potential options for making the proposed widened sidewalks on King Street wider. He stated he has patronized WhichWich and it is very, very good.

Council Member Dunn requested a discussion on the search process for a Town Manager.

**16. MAYOR'S COMMENTS**

Mayor Umstatt thanked the VFW, Dodona Manor, and American Legion for the Veteran's Day ceremonies.

**17. MANAGER'S COMMENTS**

Mr. Wells stated an item needs to be added to a future agenda to discuss regional NVTAs funding request priorities.

**18. CLOSED SESSION**

a. None.

**19. ADJOURNMENT**

*On a motion by Council Member Hammler, seconded by Council Member Dunn, the meeting was adjourned at 10:40 p.m.*

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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

**Council Members Present:** David Butler, Thomas Dunn, Katie Sheldon Hammler, Marty Martinez and Mayor Umstattd.

**Council Members Absent:** Council Members Kelly Burk and Kevin Wright were absent.

**Staff Present:** Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Assistant Town Manager Scott Parker, Director of Economic Development Marantha Edwards, Director of Utilities Amy Wyks, Director of Plan Review Bill Ackman, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Michael Watkins, and Clerk of Council Lee Ann Green

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**AGENDA****ITEMS****1. Closed Session**

*On a motion by Mayor Umstattd, seconded by Council Member Butler, 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. Personnel Matter*

The Council convened in Closed Session at 7:30 p.m. Council Member Dunn declined attending the Closed Session.

The Council reconvened in Open Session at 8:47 p.m.

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

*In accordance with Section 2.2-3712 of the Code of Virginia, I move that Council certify that 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: Butler, Hammler, Martinez, and Mayor Umstattd*

*Nay: None*

*Vote: 4-0-2-1 (Burk/ Wright absent, Dunn abstaining)*

**2. Work Session Items for Discussion**a. Crescent Place

Michael Watkins noted that since the last Council meeting, the applicant and staff have met and some revisions to the plans have been the result. He noted that they anticipate updated plans after this work session.

## Key Changes:

- Additional on-street parking added on Harrison Street
- Removal of an access point in the parking lot allowing more spaces in the parking lot
- Addition of street trees
- Converted units to Live/Work units

## Council Comments/Questions:

- Fence around the project will keep residents from being able to easily access Catoctin and the W&OD
- Harrison Street parking lot is an option for a new home for the skate park
- Approval of this proposal would effectively encumber the town's property (parking lot)
- Are fitness center amenities included in this development?  
Applicant answer: No onsite fitness amenities are included
- Need more concrete numbers for "home office" option

## Discussion Points:

- Sale of parking lot
  - Must offer property to the public
  - Must take the best offer
- Fencing around the development
  - Would prefer wrought iron fencing over opaque
- Floodplain concerns
  - Altering the flood plain causes changes up and down stream
- Structured parking costs
  - Cost is prohibitive for price point of units
- More intensive home office uses
  - Allow a wider variety of home office uses
- Developer concerns for timeline
  - Currently scheduled for public hearing November 26
  - Additional commercial or residential will require re-advertisement
  - Additional work session can be held on November 25
  - Any changes agreed to at that work session cannot be advertised in time for public hearing at the December meeting
- Possibility of adding first floor commercial to several blocks

**3. Adjournment**

*On a motion by Council Member Martinez, seconded by Vice Mayor Butler, the meeting was adjourned at 10:35 p.m.*

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Clerk of Council  
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