

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, Kevin Wright and Mayor Umstattd.

Council Members Absent: Council Member Martinez.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Public Works Tom Mason, Director of Finance Norm Butts, Director of Parks and Recreation Rich Williams, Director of Capital Projects Renee LaFollette, Director of Utilities Amy Wyks, Director of Plan Review William Ackman, Assistant Town Manager Scott Parker, Chief of Police Joseph Price, Director of Planning and Zoning Susan Berry Hill, Communications and Research Manager Betsy Fields, Airport Manager Scott Coffman, Director of Economic Development Marantha Edwards, Deputy Director of Parks and Recreation Kate Trask, Management Analyst Lisa Haley, Management Analyst Michael Bruckner, Human Resources Manager Karen Dilley, Information Technology Manager Annie Carlson, Balch Library Manager Alexandra Gressitt and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. Work Session Items for Discussion

a. Final Budget Direction

John Wells stated the budget document as presented is what could be approved at the April 8 Council meeting in the absence of any desired changes.

Council Comments/Questions:

- Does the current budget document assume an equalized tax rate?
Staff answer: If Council adopts an equalized rate, the numbers will be readjusted to reflect the equalized rate.
- Would like to see what needs to be done to eliminate the need for summer help in the Public Works department because that would more closely align with the maintenance that the state funds.
- Would like a dollar amount for the impact of the Affordable Health Care Act along with a breakdown of where the dollars will come from.
- Do we have the capital projects cost for the Stormwater Management requirements? Would like to see them so that the public can understand the effect of the unfunded mandate. Would also like to know how much more projects in the pipeline will cost because of these new requirements.
Staff answer: We have the capital projects costs for the first phase of projects included in the CIP and can provide a percentage cost that compliance with the new stormwater regs will require.
- Would like an analysis of outsourcing mowing.

- Will bring forward an item for a future agenda for Council to delineate its goals and objectives for FY2015
- The new project for the Woodberry/Browns Meadow Storm Drainage is included.
Staff answer: Yes – preliminary design has been started and once the budget is approved, staff will begin final design and acquiring easements.
- Some homeowners in the HOA affected by the Tuscarora Creek Flood Mitigation Project are opposed to it; however, there is a health/safety/welfare issue associated with this project for the homeowners on the street that floods.
Staff answer: This project was added to the CIP in 2005 as a result of resident requests. After initial design was completed, the HOA expressed displeasure over the negative effect to common area. Staff will be working closely with the directly impacted residents and the HOA. Work will be done with the Department of Forestry to determine the health of the trees in the affected area.
- Would like to secure county tax dollars back into the town for Capital Projects
- Should we slow down Utilities Capital Projects or wait until the report returns from the rate consultant? When does the decision need to be made about a bond sale?
Staff answer: Would advise waiting until the rate consultant returns the report and then look at capital needs with the financial advisor. The decision on the bonds will probably not need to be made until next January.
- VML is tracking, at the national level, the serious risk that municipal bonds will no longer be tax deductible.
- Is the \$75 million for availability fees what the town expects to receive?
Staff answer: Yes, the assumption is made on undeveloped land that is approved in the project pipeline.
- Would like detail on the Capital Asset Replacement Reserve Fund
- What percentage of the NVTAF fund will the town need to use towards funding bus service?
Staff answer: Funds are not specifically appropriated for bus service.
- Concerned that the town continues to provide the same level of service despite growth of the town – would vote for the equalized rate, but would prefer the \$0.186
- Natural growth of the town has increased revenues enough to make the pro forma work
- Comfortable with the equalized rate, but open to cost cutting measures or ways to increase revenue or get more services from the county
- Want to be careful to remember that the town does get services from the county

- Cannot support the equalized rate as the equalized rate is an inflation adjusted tax cut, which has occurred for the past seven out of eight years – need the standard goal to be an inflation adjusted equalized rate which would be \$0.186
- Would be in favor of a \$0.159 tax rate – which could be done with different management processes
- The town does get some services from the county – in some cases more than its fair share, but in other cases, not enough to balance out
- Of the \$198 million county CIP, no projects are in Leesburg
- How can different management processes allow the town to function on a \$0.159 tax rate?
Council Member answer: Better management of the brush pick up program, outsourcing of some town services, Balch Library only open on an appointment basis
- Equalized rate is preferable because not all residents can afford to pay even a small increase
- Do not want to assume that taxes should be inflated the way prices are on an annual basis as the reason Leesburg has a HUBzone is the income level

b. Downtown Improvements Update

Scott Parker gave a brief update on this capital improvements project.

Key Points:

- Met with Avis Renshaw on-site at Mom's Apple Pie
- Construction bids were received on March 18 for the Loudoun Street waterline – award will be made at tomorrow night's Council meeting with construction to begin after Flower and Garden
- Attended the EDC meeting on March 5 to provide an update on the Downtown Improvements
- Finalizing plans for King Street between Royal and Loudoun
- Finalizing plans for Loudoun Street between Harrison Street and the East End Triangle which includes sidewalk on the La Chosita side
- Finalizing marketing concepts and discussing deployment strategy for Loudoun Street after the plans are finalized later this week

Council Comments/Questions:

- What are the marketing concepts?
Staff answer: The consultant, through AECOM, will be providing input received from local businesses, LDBA, EDC, Visit Loudoun and staff.
- Who will finalize the marketing concept?
Staff answer: Ultimately, the town will have final say, but the consultant will present a package of options.
- What drawings were provided to Ms. Renshaw?

Staff answer: Renderings of the flat curb, as requested.

- Will Council see the proposed marketing plan prior to distribution to the public?

Staff answer: Yes.

- When will parking issues as relates to the improvements be brought back to Council?

Staff answer: The next work session.

- What does reducing the “legs” of the triangle for Mom’s Apple Pie mean?

Staff answer: The curb sections extending down from the triangle will be shortened. Ms. Renshaw has asked that they be removed; however, staff maintains that some of the leg has to remain in order to provide handicapped access to the Black History monument on the triangle

- Would rather the legs not be changed unless necessary for ADA compliance
- Would like to see accident reports from the police department as to accidents at this site

- When did Council agree to shorten or remove the legs?

Staff answer: There was direction from Council to try to accommodate Ms. Renshaw’s desires in terms of parking

c. Final Legislative Wrap Up

- Betsy Fields stated it is premature to call this a “final” legislative wrap up. She stated the packet contained the legislative tracking sheet.

Key Points:

- Veto session has not yet concluded, but will reconvene in April
- Budget has not yet been passed by the state
- Completed projects total approximately \$21 million of work
- Subdivision plats bill, if passed, will require the town to readjust the fee structure

Council Comments/Questions:

- If the town believes that a bill will negatively impact its taxpayers, the town should continue to oppose that bill even though other opponents have backed down

d. Friends of Public Art – Clarification of Roles

Vice Mayor Butler stated he would like to make clear the relationship between the Friends of Leesburg Public Art (FOLPA) and the Town of Leesburg

Key Points:

- Was not created as a fundraiser for the mural

- Originally created to provide a small budget for the Commission on Public Art and to provide a vehicle for the Paragon Arts Festival
- FOLPA, as a non-profit, is the host of the Festival and can accept the hosting fee which can be used for small arts projects
- Can provide donations to other 501(c)(3) organizations
- Completely separate from the Town of Leesburg
- Mural was approved, but FOLPA is not a funding source
- Per FOLPA's articles of incorporation, they can only disperse money to other 501(c)(3) organizations and it is unclear whether they would even be able to disperse money to the Town
- If FOLPA cannot provide money to the town, FOLPA would have to contract for the mural and give it to the Town – similar to the what happened at Franklin Park.
- Will money that has been collected for the mural have to be returned? Staff answers: The Town is considered a charitable organization under IRS law or the Articles of Incorporation can be amended to include municipal governments
- There is a question of whether the town would be willing to front FOLPA the money to start the project and be paid back as money is raised
- Concern over staff time spent working on the mural - there is town support of COPA, but the question is when does it rise above normal commission support

2. **Additions to Future Council Meetings**

Mayor Umstatt asked if a majority of Council would be willing to initiate an ordinance or procedure change that would require an application form and felony background check for any prospective nominee for a Board or Commission at tomorrow night's meeting. It was agreed to have this item on the next work session agenda.

Council Member Burk requested information on how all members of Council could sign proclamations and certificates.

Council Member Wright questioned where the Keep Leesburg Beautiful clean up will be located and what time it will start.

Council Member Hammler questioned when Council will work on their goals and objectives for FY 2015. She asked for an information memo regarding consistent town-wide policy as relates to some employees being required to stand all day. She questioned if Council could adopt – for ongoing clean up – the bypass between Fort Evans and Battlefield.

Council Member Dunn requested a letter to the governor requesting he pass the two-year budget without the Medicaid 'hook'.

Vice Mayor Butler questioned whether the town is a member of International Council for Local Environmental Initiatives. He stated membership is \$1,200 per year and he will be bringing that up as a budget amendment.

3. Closed Session

On a motion by Mayor Umstatt, seconded by Council Member Wright, 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 motion was approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Martinez absent)

The Council convened in closed session at 9:33 p.m.

The Council reconvened in open session at 9:50 p.m.

On a motion by Mayor Umstatt, 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 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: Burk, Butler, Dunn, Hammler, Wright and Mayor Umstatt

Nay: None

Vote: 6-0-1 (Martinez absent)

4. Adjournment

On a motion by Council Member Wright, seconded by Council Member Dunn, the meeting was adjourned at 9:50 p.m.

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

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

Council Members Absent: Council Member Martinez.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Finance Norm Butts, Chief of Police Joseph Price, Police Captain Jeff Van Gilder, Information Technology Manager Annie Carlson, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Planning and Zoning Brian Boucher, Director of Economic Development Marantha Edwards, Senior Planner Kevin Lawlor, Assistant Town Manager Scott Parker, and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. CALL TO ORDER

2. INVOCATION: Vice Mayor Butler

3. SALUTE TO THE FLAG: Council Member Burk

4. ROLL CALL: Showing Council Member Martinez absent

5. MINUTES

a. Regular Session Minutes of February 25, 2014

On a motion by Council Member Hammler, seconded by Vice Mayor Butler, the minutes of the regular session meeting of February 25, 2014 were approved by a vote of 6-0-1 (Martinez absent).

b. Work Session Minutes of March 10, 2014

On a motion by Vice Mayor Butler, seconded by Council Member Hammler, the minutes of the work session meeting of March 10, 2014 were approved by a vote of 6-0-1 (Martinez absent).

c. Regular Session Minutes of March 11, 2014

On a motion by Council Member Hammler, seconded by Council Member Wright, the minutes of the regular session meeting of March 11, 2014 were approved by a vote of 6-0-1 (Martinez absent).

6. ADOPTING THE MEETING AGENDA

On the motion of Council Member Wright, seconded by Vice Mayor Butler, the meeting agenda was approved after moving item 11a to consent, and postponing item 11c to the April 8, 2014 Council meeting:

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

Nay: None

Vote: 6-0-1 (Martinez absent)

7. PRESENTATIONS

a. Introduction of a New Police Department Staff Member

Chief Joseph Price introduced the newest member of the town's police force, K9 Sally, an explosives detecting Springer Spaniel and her handler, PO2 Jessica Sheilds. He stated that Sally has completed 10 weeks of training and an additional five weeks with Officer Sheilds. He stated five Northern Virginia Police agencies (Virginia State Police, Town of Herndon, George Mason University Police Department, and the City of Manassas Park) received grant funds from the Northern Virginia Emergency Response System and used them to obtain Department of Defense certified dogs. He stated Sally is capable of detecting 25 different odors that comprise 1900 different explosive combinations.

b. Tree Commission – Tree Maintenance Program

Tree Commission Chair Tom Seeman stated that on December 17, 2013, the Tree Commission unanimously passed a resolution encouraging Town Council to approve funds for a tree maintenance program in the FY 2015 budget. He invited Council to celebrate Arbor Day with the Tree Commission at Cool Spring Elementary on Friday, April 25 – the day before the Leesburg Flower and Garden Festival. He stated they will be distributing Norway Spruce seedlings at the Flower and Garden Festival this year and invited everyone to stop by. He stated they also have 10 large Norway Spruce trees that will be raffled off.

c. Proclamation – Keep Leesburg Beautiful Month

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

PROCLAMATION

10th ANNUAL KEEP LEESBURG BEAUTIFUL MONTH ***APRIL 2014***

WHEREAS, the Town of Leesburg, Virginia, is committed to environmental stewardship and to maintaining the appearance of Town road corridors and public places; and

WHEREAS, the first “Keep Leesburg Beautiful” community clean up and beautification campaign was held on April 23, 2005; and

WHEREAS, hundreds of volunteers have come forth each April over the past nine years to clean up and beautify Town; and

WHEREAS, the Town Council also appreciates the fine work of the Town staff to keep the Town's roadways, rights-of-ways and parks clean and attractive year round.

THEREFORE, the Mayor and Council of the Town of Leesburg in Virginia hereby proclaim the month of April of the Year 2014 to be the 10th annual Keep Leesburg Beautiful Month and encourage all Leesburg residents, businesses, youth groups, churches and service organizations to participate in Keep Leesburg Beautiful during April 2014 by organizing clean up and beautification activities.

PROCLAIMED this 25th day of March 2014.

Council Member Burk stated that ten years ago, former Council Member Susan Horne and herself started Keep Leesburg Beautiful. She encouraged everyone to participate by coming to Town Hall to pick up a safety vest, gloves, and orange bags to collect trash. She stated Town crews will come pick up the bags after they are filled.

8. PETITIONERS

The Petitioner's Section was opened at 7:44 p.m.

Nicole Hamilton, Loudoun Wildlife Conservancy, stated that the Conservancy formed a partnership with Morven Park about nine months ago. She stated they have taken on stewardship of approximately 350 acres of the property including the forest behind the mansion. She stated this is a wonderful habitat for wildlife and Morven Park has offered a place for the conservancy to offer programs that are well attended by the public.

Frank Milligan, (for David Carty – president, Goose Creek District Camp), stated the Goose Creek District cub scouts have been hosting their annual day camp at Morven Equestrian park for the past four years. He stated the selection was made initially because of the proximity to Leesburg. He stated the next closest location is in Haymarket. He stated the proximity to Leesburg's services gives parents the peace of mind that if there is an emergency, assistance is close by. He stated the location is quiet, serene and away from the beaten path. He stated incorporating this property into the Town of Leesburg will be a win-win.

Karin Aaron, stated she has worked for Visit Loudoun focusing on sports development and sports tourism. She stated that sports tourism is a billion dollar industry. She stated there has been tremendous growth in the sports market in the county over the last few years. Further, she stated all the sports tourism organizations are looking for venues for tournaments and events.

Alex Green, stated he is in favor of Morven Park being incorporated into the Town of Leesburg via boundary line adjustment. He stated he has lived in or worked in or near Leesburg since 1973. He stated that Morven Park will bring more tourist dollars to the town.

Davette Everly, stated she lives in Kincaid Forest. She thanked Council for working with the owners/developers of Tuscarora Crossing to get adjustments that will be more acceptable to the residents of Kincaid Forest. She reminded the Council of the strength of the voices of Kincaid Forest. She requested that the Council send a letter to the Board of Supervisors endorsing the changes to Tuscarora Crossing.

Bruce Forbes, Tutt Lane, stated it is important to give Morven Park the tools it needs to sustain itself financially and keep their property intact. He stated a Morven Park zoning district would be a win-win solution for the town and the Park. He expressed his confidence that Leesburg and Morven Park can find ways to make this relationship work for the benefit of tourism, businesses, and residents.

Rick Tracy, Tutt Lane, stated the evolution of Morven Park has been amazing over the past four or five years. He stated it is a very open and welcoming environment with great programs and facilities that make it a destination for tourism.

Anthony Cavallo, 50 Catocin Circle, stated he works with Vintage 50 and Morven Park hosts their Beer Festival every year. He stated there is a symbiosis between Morven Park and the businesses in the Town of Leesburg. He stated event locations throughout the county are hurting town businesses, but Morven Park can compete with these event locations.

Rory Clark, Old Waterford Road, stated Morven Park is a great contributor to the community with regards to education on the past and can serve as a tremendous resource to the community.

Patty Loftus, stated she supports bringing Morven Park into the Town of Leesburg. She stated her opinion that it is a win-win situation for everyone and will bring more people and dollars to the town.

Richard Whiteley, 6 Wilson Avenue, stated he has lived in Leesburg for 37 years and he sees Morven Park and the issue of the zoning change to be a win-win situation. He stated the improvements to Morven Park will benefit the citizens and businesses of Leesburg as they will bring people from other places to town. He stated if this property is brought into the town, Leesburg will have control over what occurs on this property.

Melissa Ryburn, stated she is the sports manager at Morven Park and is working on developing the field sports complex. She stated there is a shortage of fields for athletics in Loudoun County. She said it is Morven Park's goal to have teams have a permanent residence at Morven Park, thus bringing dollars back into the town. She stated the tournaments will not be big, mega events, but high quality events bringing hotel rooms and meals taxes to the town and the county.

Gwen Pangle, 604 Blue Ridge Avenue, stated she is speaking personally and on behalf of the Board of Directors of Leesburg Downtown Business Association in support

of bringing Morven Park into the Town of Leesburg. She stated it is a wonderful opportunity for the town.

Lara Major, stated she is a parent in the Loudoun Hunt Pony Club which operates out of Morven Park and they have a partnership with Morven Park that has been going on for over 50 years. She stated when holding events, competitors come from all over to attend and they sleeping Leesburg hotels and eat in Leesburg restaurants. She stated that by providing a place for the Pony Club to operate, Morven Park helps to develop community minded citizens and maintain the equestrian heritage that is part of Leesburg's identity.

Jana Shafagoj, stated she is in support of bringing Morven Park into the town through boundary line adjustment. She stated she is the director of perseveration and education at Morven Park. She stated that Morven Park is currently rated #1 of 50 attractions in the Leesburg area on Trip Advisor. She stated they are committed to rehabilitating the historic buildings on the site, but need the steady revenue stream that would be allowed by being in the town. She stated the natural open space of Morven Park is a wonderful place for families to utilize.

Natalie Hughes, 932 Edwards Ferry Road, stated she represents Ace Party Rentals. She stated she is speaking on behalf of small business owners and operators. She stated she feels very confident that Leesburg has a lot to offer small businesses with the goal to grow and bring more revenue and jobs to the town.

Gigi Robinson, 207 Prince Street, stated she is frustrated with the process that this zoning amendment has taken because it was initially advertised as a "repair and restoration" project, but now there are a lot of uses and new buildings included. Ms. Robinson urged caution and proper protection for the land and the citizens.

Gem Bingol, 1508 Shields Terrace, stated she represents Piedmont Environmental Council. She stated it is the Council's responsibility to make sure that the town has a fiscally responsible budget. She stated that expansion to the north of Leesburg has not been envisioned in the past. She stated the unintended consequences of growth, extension of water and sewer and plant capacities, and the precedent that this may set for expansion of the town. She stated these issues may seem like simple win-win situations on the surface, but there are complex issues behind them.

Peter Dean, 43664 Jernigan Terrace, stated he is a newly appointed trustee of the Westmoreland Davis Foundation and wants to become familiar with the issues.

Greg Hudson, 111 Bridgette Place, urged everyone to participate in the Keep Leesburg Beautiful campaign. He stated the area around Walmart is a mess and has been an eyesore to the town for the past year. He stated many things are dumped at the recycling center that should not be dumped there. He stated the town needs better oversight on what is going on with various businesses that are using that facility. He stated someone cleaned up the area in response to the pictures he posted to the Town of Leesburg's Facebook page.

Cindy Urbano stated she supports Morven Park as an individual. She stated she is the president of the Catoctin Crescent Association and they feel that the Morven Park Master Plan has great vision for the town. She stated that the leadership of Morven Park has reached out to the small businesses in town and the events that they will host will mean opportunities for the small businesses in town.

The Petitioner's Section was closed at 8:47 p.m.

9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Supplemental Appropriation for Expansion Storage Array from Utility Fund Reserve*

RESOLUTION 2014-032

Amending the Fiscal Year 2014 Utilities Fund Budget and Making a Supplemental Appropriation in the Amount of \$70,000 for Purchase of an Expansion Storage Array

- b. *Loudoun Street Waterline Construction Contract Award*

RESOLUTION 2014-034

Awarding the Construction Contract for the Downtown Improvements Loudoun Street Waterline, Harrison Street to East Market Street Project to Deborn Construction, Inc., in the Amount of \$198,889.98

- c. *Arts Local Government Challenge Grant*

RESOLUTION 2014-035

Authorizing Staff to Apply for a Local Government Challenge Grant through the Virginia Commission for the Arts and Providing for the Distribution of the Grant Funding and Town Matching Funds to Certain Independent Arts Organizations

The Consent Agenda was approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Martinez absent)

10. PUBLIC HEARINGS

- a. *Amending the Town Code for Elimination of Proration of Personal Property Tax*

The public hearing was opened at 8:51 p.m.

Norm Butts stated this town code amendment would eliminate pro-ration of personal property tax.

Key points:

- Four amendments would eliminate the proration of personal property taxes, eliminate proration of motor vehicle license fees (decal fee), change the due date for the payment of personal property taxes from October 5 to May 5 and to allow the motor vehicle license fee to run for the tax year of January 1 to December 31
- Second part of the efforts to streamline the personal property tax payment for residents – first part was the permanent decal
- Will provide simplification of the tax code and enhance customer service

Council Comments/Questions:

- In the fiscal analysis, it is shown that program administration expenses for proration has caused this to be a loss to the town?
Staff answer: It will depend on the number of new vehicles purchased in the town.
- Will elimination of proration save salary dollars?
Staff answer: There will be savings of employee time which can be better spent on other projects such as field audits for meals taxes and other revenue positive activities.
- General fund revenue will go down by \$34,000 and the expenses will go down by \$2,044, so there will be a net impact to the town of \$32,000 unless that 0.75 FTE is used to generate more revenue or eliminate additional expenses. Using the 0.75 FTE as a savings in salary is incorrect.
- Were car dealerships consulted? They were very concerned that this would have a negative impact on them – it will discourage people from purchasing cars at the end of the year when they most need sales.
- Do we have any numbers associated with the taxes that the 0.75 FTE will be able to recoup?
Staff answer: It was not analyzed, but the 0.75 FTE would be put to work collecting the taxes sooner, rather than later. Would be able to do more field audits – BPOL is a self-reported tax and more resources would assist in collecting more revenue.
- When are automobiles assessed? If I purchased a car on January 2, when I ended up paying taxes a year later, the value would be depreciated it would make the tax owed lower. Do we anticipate tax savings to consumers?
Staff answer: In this situation, yes. The only way there would be a detriment to the tax payer, is if you traded a car in on January 2 and got a car that was less expensive.
- What other categories of personal property will this affect?
Staff answer: Machinery, equipment, computer equipment, furniture and furnishings of businesses and mobile homes.

There were no members of the public wishing to address Council on this Public Hearing.

The public hearing was closed at 9:06 p.m.

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

ORDINANCE 2014-O-007

Amending Chapter 20 (Licenses, Taxation and Miscellaneous Regulations), Article II (Taxation Generally), Section 20-24 (Duty of Finance Director to Collect Taxes and Changing the Due Date of Personal Property Taxes and Chapter 32 (Traffic and Vehicles), Article III (Vehicle Licenses), Section 32-85 (Proration of Fee) and Section 34-87 (Duration)

Council Comments:

- This is a simplification of the tax process
- Between salary cost and printing and mailing costs, the town spent \$53,000 to get \$34,000 with proration – cost and effort is not worth the return
- Beneficial to the individual taxpayer who has a vehicle and wishes to buy a new vehicle
- Appreciate the tax simplification for business owners
- Concern that whenever we might be able to eliminate an FTE, we find more work for that employee

The motion was approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Martinez absent)

b. Amending the Zoning Ordinance – Tents and Setbacks for HVAC Systems

The public hearing was opened at 9:09 p.m.

Kevin Lawlor gave a brief presentation on the proposed amendments to the Zoning Ordinance.

Key Points:

- Would allow tents to be used as accessories to restaurants in the B-1 district
- Currently tents are a temporary use allowed as part of a business special event for a period of no more than 10 days
- Would allow some restaurant uses to expand seating without expensive additions to their buildings
- Other jurisdictions polled only allow tents on a temporary basis
- Tents, by their nature, are only meant to be temporary structures

- Widespread use in the historic district could be detrimental to the character of the downtown
- Extending the season for outdoor activities could also have a detrimental impact on neighboring residential uses
- Staff recommends denial of the proposed amendment allowing tents as accessory uses to restaurants in the B-1 zoning district
- If approved, minimum standards should include:
 - Limitation to the B-1 district
 - Only allowed in rear yards or screened from the public right-of-way
 - 400 sq. ft. maximum or 50 percent of the indoor seating square footage, whichever is greater
 - Limited to four months between October and March
 - Cannot be located on a lot adjacent to a residential zoning district
 - Must be a single color and maintained in good repair
- Planning Commission has recommended denial (5-0-2)

Council Comments/Questions:

- Is a canopy included in these amendments?
Staff answer: The request for a canopy in question refers to a canopy tent, which falls under the definition of tent.
- Canopies for shade in the summer would not be allowed if minimum standards are included to restrict use to winter months

Key points regarding the proposed amendments to permit a reduction of the setback for HVAC equipment:

- Would reduce the setback from a minimum of five (5) feet to a two (2) foot minimum setback.
- Amendment is proposed because some lots do not have the space to allow the five foot setback
- Minimum requirements would include a solid fence or screening installed around any HVAC unit or equipment
- Noise ordinance requirements must be met regardless of setback
- Planning Commission has recommended denial of the amendments (5-0-2)

Council Comments/Questions:

- What were the Planning Commission's reasons for a recommendation of denial?
Staff answer: Noise and the inability to effectively screen the equipment in compliance with BAR design guidelines
- Zoning ordinance change would be town-wide, not just limited to the B-1
- Existing neighborhoods that have small setbacks would be grandfathered
- Units that are not in compliance now, would not be grandfathered

Dave Groy, 16 Wirt Street, NE, stated that the request for tents as an accessory use would make the town more business friendly, but it needs to be the

other way around. He stated if the building is not big enough to make the profit that they want, they should find another, larger structure or build an addition. He requested that Council not permit outside bars and restaurants with amplified music next to residential areas. He stated the noise from the music and loud, inebriated patrons should be kept indoors. He stated that the residents understand and enjoy the special events like First Night and the Flower and Garden Show as they are only for a limited period of time. He stated a permanent tent means noise and illumination all the time. He stated that the push for arts and entertainment downtown cannot be done at the expense of the historic neighborhoods.

Tom Dunlap, 211 Church Street, stated an open air conditioning unit five feet from an open space will be louder than an air conditioning unit that must have a screened fence around it. He stated that half of the jurisdictions polled by staff do not have a setback requirement for HVAC equipment. He stated the legislative intent of a HVAC setback is primarily noise. He stated focusing on a decibel level requirement for HVAC equipment would be fair. He stated new HVAC equipment is much quieter than older units because of changes in technology. He stated keeping the five foot setback without a uniform enforcement policy is useless. He requested that Council consider the reduction in setback.

Kevin Ash, Edwards Ferry Road, stated compressor technology has changed drastically allowing as little as a one foot setback. He stated the Council needs to look at sound rather than setback. He further noted that there are many examples of noncompliant placement of HVAC units in town.

Fred Williams, 21 Wirt Street, stated that no other jurisdiction has a policy allowing semi-permanent tents to be erected. He stated allowing this in a district that has strict architectural requirements makes no sense. He questioned whether tents serve a public necessity or general welfare of the town.

Mel Converse, 203 Cornwall Street, stated an additional problem is that there are many houses around these proposed uses where the residents have no garage or no off-street parking. He stated the permit parking restrictions in these neighborhoods are in effect Monday-Friday, 9-5. He stated expanding the impact of these establishments will increase parking problems in the neighborhoods during the weekend and evening hours.

David Baxter, Village Market Blvd., stated he is a resident of Leesburg and owns properties downtown. He stated he has no affiliation with Shoes or MacDowells, but he feels that tents should be allowed and regulated. He noted many other locations where tents are in use. He stated his feeling that a vibrant downtown has to accommodate people enjoying themselves.

Velda Warner, 17 Cornwall Street, stated she does not want to look at a tent. She stated the noise makes it impossible for her to sit on her deck and talk to someone and the pounding from the bass can be felt inside her home.

Richard Ellison, stated he is affiliated with Shoes. He stated that Shoes wants to be a good neighbor in Leesburg but it is a struggle. He stated that part of the charm of Shoes is the small building. He stated they are interested in something that extends the dining during inclement weather and traps heat a night. He stated the purpose is not to create an eyesore, but to give their patrons the opportunity to dine outside. He stated they will use large umbrellas, if necessary, as they are allowed.

Robert Niwhera, 19 Cornwall Street, NW, stated he has run small businesses in the past and one of the responsibilities is to be cognizant of the community within which you are located. He stated the noise level is the issue as his deaf daughter was disturbed by the noise coming from Shoes. He stated music does not have to be loud to be good and the businesses should be held to the standards in currently in place.

Gail Groy, 16 Wirt Street, NW, stated the residents are at the mercy of the Council. Further, she stated the BAR has no jurisdiction over tents.

Nathaniel Davis, Phillips Drive, NW, stated he is a musician and has seen a huge rise in the cultural scene in Leesburg. He stated tents would allow the businesses to provide a venue for the artists despite weather restrictions.

Eric Tanner, 211 Church Street, SE (letter read into the record):
Dear Mayor and Town Council Members: I write to address the issue concerning setback of HVAC units between 213 and 211 Church Street in case I am unable to attend the upcoming meeting on Tuesday, March 25.

First, I object to unlawful placement of the HVAC units at 211 Church Street. In fact, if the units are viewed in alignment with the property post, they may even be on my property, or at best, inches away. PIC 1156. I cannot fathom how a two foot setback can even be accomplished or created with the units' present placement and proximity to the main building. The units create a whining, head numbing noise and I've only heard two of the eight units operating at any one time. They are unsightly and any maintenance would necessitate property trespass, which certainly should not convey with their approval. I also feel that the "Tent" solution will not solve the problem and is aesthetically unappealing in the Old Town District.

Most of all the units are an egregious, if not, brazen, encroachment on my property and an eyesore and noise nuisance to the Town of Leesburg. They were approved by the Town of Leesburg to be placed in

the rear of the building not the side. Setting a precedent of a two foot setback might lead to four foot alleys between rows of unsightly HVAC units. The side placement may also undermine the useful and aesthetic ways which my and others' property can be developed in the future. At the time construction began next door I was residing in Ashburn and working out of home at Church Street, arriving early afternoons, so the noise from the building and heavy bulldozers, thankfully, was limited to less than a full day. The first day of construction I arrived to find a containment fence leaning up against my porch, I presume, so not to incur the added cost to extend it the entire length of the two properties. I would have appreciated their asking my permission to do so, but I let it pass. As the project proceeded a quid pro quo to remove old sheds for using a crane in my backyard was finally done, but only after a great deal of prompting on my part. In general, I felt an absence of concern or communication from the builder of this project and, unfortunately, that demeanor may be reflected in the misplacement of the HVAC units.

Thank you and feel free to contact me for any concerns.

On a motion by Vice Mayor Butler, seconded by Council Member Wright, the item was deferred to the work session of either April 7 or April 21 for further discussion.

Council Comments:

- As written, this amendment does not address what the business owners were looking for
- Tents are not a noise issue as the noise in the summer will be no different from the noise in the cooler months
- 20 ft. height is too tall
- Sizing by a percentage of indoor seating does not make sense
- Would like to see the definition of canopy as attached to a structure to ensure that the BAR would have review over these
- Council needs to tackle the noise issue before the tent issue
- Concern about safety issues
- Birkby House's tent is taken down in the winter and is a special situation that was grandfathered a long time ago
- Tents were used in the past, but not as an optimal place to house things
- Homeowners have the right to expect the living conditions under which they purchased their homes – business owners should be expected to manage their businesses under the conditions in effect when they started their businesses
- Threatening to use large umbrellas may encourage Council to amend the code to regulate those
- Hesitant on approving tents in the historic district
- Encourage businesses to find other locations within the town to meet their needs
- Tents would not be allowed to be used as a carport unless it is in the backyard and completely screened

The motion to defer was approved by the following vote:

Aye: Butler, Dunn, Hammler and Wright

Nay: Burk and Mayor Umstatted

Vote: 4-2-1 (Martinez absent)

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

ORDINANCE 2014-O-008

Amending Article 10 of the Leesburg Zoning Ordinance to Permit a Reduction of the Setback for HVAC Equipment

Council Comments/Questions:

- Comfortable with this amendment addressing the placement of HVAC equipment – noise is also addressed in the zoning ordinance with measureable decibels at the property line
- More of a visual issue, than a noise issue
- Is the property located at 211 Church Street grandfathered?
Staff answer: No, the property is currently not in compliance and therefore would not be grandfathered.

Council Member Hammler disclosed a professional relationship with Tom Dunlap, whose business located at 211 Church Street has come up during the conversations regarding HVAC equipment.

The public hearing was closed at 10:27 p.m.

The motion was approved by the following vote:

Aye: Butler, Hammler, Wright and Mayor Umstatted

Nay: Burk and Dunn

Vote: 4-2-1 (Martinez absent)

c. Amending the Town Code – Noise Ordinance Amendments

The public hearing was opened at 10:28 p.m.

Scott Parker gave a brief presentation on the proposed changes to the section of the Town Code dealing with noise.

Key Points:

- An effort to better define regulatory standards
- Current noise ordinance works well in the residential areas, but has difficulties in the commercial areas
- Enforcement includes a warning – compliance is typically garnered by LPD after a warning
- Decibel based system would require decibel meters and training and can be harder to enforce

- Plainly audible measurement, as presently used, would include rhythmic bass tones
- Noise generally drops 6 decibels for every 10 feet of distance it travels
- Amendment does not address noise within the commercial district – only as it affects residential properties adjoining commercial districts
- Does not affect the plainly audible section in residential neighborhoods as it pertains to residential noise generated within a residential neighborhood – residential to residential would still be the plainly audible criteria
- Does not prohibit outdoor music or gatherings
- Will be complaint driven enforcement
- Proposed amendment has no means to address business to business noise

Council Comments/Questions:

- Should remove the amplification section, as it would be difficult to enforce
- How would enforcement occur?
Staff answer: The town would need to procure a sound meter and be calibrated
- Would be more objective than subjective
- Why haven't citations fixed the problem?
Staff answer: Complaints vary in type, but compliance (i.e. noise was turned down) was achieved in all specific incidents. Some locations have multiple incidents
- Residential area for the purposes of this ordinance includes residential dwellings in commercial areas

Teri Simonds, 404 S. King Street, stated the current ordinance is continually violated and this behavior should not be rewarded with looser regulations. Private citizens should not be asked to subsidize businesses by sacrificing their privacy.

Velda Warner, 17 Cornwall Street, NW, stated she could not even open her windows when the weather is nice because of the noise. She stated as a business owner downtown, she always followed the rules and does not understand why some people think they can do whatever they want.

Gail Groy, 16 Wirt Street, NW, thanked Council for their work on this. She stated this is a branding issue – what does Council want Leesburg to be about. She stated some of the music being played is offensive to families as well as being louder than 70 decibels. She stated there needs to be some measurement so that the sound is regulated, but they do not want to have to call the police every time the bands don't get their sound regulated correctly. She stated when they moved to the historic district, there was a shoe store behind them.

Linda Ifert, 205 Royal Street, stated she lives right next to MacDowell's and when she bought her home, it was a kitchen design and remodeling business. She stated does not complain through official channels, but chooses to address

the sound with the business owners themselves. She stated when both the Doener and MacDowell's are playing music, they combine and it degrades the quality of life. She stated her opposition to the extension of the hours because the residents need a break from the constant music.

Fred Williams, 21 Wirt Street, stated he and his neighbors consider this an assault on their way of life. He stated he has had to call the police twice, on two successive days. He stated the plainly audible is a fine standard and is acceptable with respect to the Virginia Supreme Court.

Payson Van Orden, 206 Rosemeade Place, stated he manages a business that has music inside on Sunday afternoons. He stated the culture of the town is changing. He stated that the citizens have the right to freedom of expression and to peaceably assemble.

Adam King, 26 West Market Street, stated he was excited to locate his business in Leesburg and came to the meeting to learn more about the proposed ordinance. He expressed his confidence that Council will come up with an acceptable solution.

Robert Niwhera, stated he loves music, but it does not have to be loud to be good. He questioned why music cannot be played at a reasonable level so that the neighbors can enjoy themselves in their own yards. He noted that the loud music is affecting neighboring businesses as well.

Dave Groy, demonstrated 70 decibels on his radio. He questioned whether Council would want to have someone else pick the music they would listen to on their own porch.

Representative from Shoes, stated that it will be difficult to get the musical talent that performs at Shoes to say within the 70 decibel range, but they will do it, if that is the requirement. He stated that they will lose business because that is not what their patrons are expecting.

(Unidentified speaker) stated that plainly audible is very problematic because you can hear music outside other businesses downtown. He stated having the measurement on the property line is a plus. He stated he feels sorry for those that are bothered by music, but the outdoor venues need to step up and be responsible.

Lee Bedou, stated he is the general manager at Shoes and he was notified about noise complaints twice by the police. He stated in both instances, he turned the music down. He apologized to the neighbors for any instances where they have complained and the music was not turned down. He stated even when he is not there, it is his responsibility.

Nils Schnibbe, stated he is the co-owner of MacDowell's Brew Kitchen where they have live music at night because there is a demand for live music. He stated they are trying to turn the music off by 10 p.m. because they do not want any trouble with the neighbors. He asked the neighbors to call him rather than the police so he can take care of it.

Nathaniel Davis, stated the public forum is the whole reason for the process. He state there is a large, growing body that want the cultural scene. He stated many people who are emotional about noise concerns are in favor of a tangible, quantifiable decibel meter. He stated the proposed ordinance gives them a means to do something about it. He asked Council to support the cultural scene as it brings intangibles to the community and revenue to the district.

(Unidentified Speaker) stated he is not a resident of Leesburg. He stated his wife is a dance lover who attends Dance King Studio. He asked that Council balance the needs of the businesses and the residents so that the businesses can continue to grow.

The public hearing was closed at 11:45 p.m.

On a motion by Mayor Umstatt, seconded by Vice Mayor Butler, the item was deferred to the work session of either April 7 or April 21 for further discussion.

Council Comments:

- Appreciation was expressed for the sentiments of the business owners who expressed a desire to work with the neighbors to find an acceptable compromise
- If business owners find they cannot operate in the district, the town can help them find places that are more acceptable for their business model
- Residents have the right to the quiet enjoyment of their property

The motion to defer was approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Martinez absent)

11. RESOLUTIONS AND MOTIONS

- a. NVRPA License Agreement Authorization for Balls Bluff Battlefield Regional Park

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

RESOLUTION 2014-033

Authorizing the Town Manager to Execute a License Agreement Between the Town of Leesburg and the Northern Virginia Regional Park Authority for a Storm Drainage Outfall on the Balls Bluff Battlefield Regional Park

The motion was approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Martinez absent)

b. Requesting County Funds for Parks Capital Projects

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

RESOLUTION 2014-036

Requesting Financial Support from the County of Loudoun in the Amount of \$4,000,000 to Assist in the Development of Veterans Park at Balls Bluff

Council Comments:

- Letter sets the ground work for moving forward
- Need more detailed discussions on how the town can get other services covered by the county to get equal value for the town's taxpayers
- A good first step in trying to get the taxpayer's money from the county
- Trying to fix a big problem with a single resolution
- Want to be cautious of the concept that every election district should have is proportionate share of the CIP
- If asking for \$4 million from the County, Veteran's Park would not be the highest priority – would think that funding for fire and rescue or school funding to be of higher value
- View this as a conversation starter
- Would like a share of the CIP budget

The motion was approved by the following vote:

Aye: Butler, Dunn, Wright and Mayor Umstatt

Nay: None

Vote: 4-0-3 (Burk, Hammler, and Martinez absent)

12. ORDINANCES

- a. None.

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- c. None.

15. COUNCIL COMMENTS

Council Member Wright disclosed that he and Council Member Hammler met with representatives of the antique store at the corner of King and Loudoun (former Hub) about possible redevelopment.

Vice Mayor Butler reminded everyone about the blood drive to be held at Town Hall tomorrow.

Council Member Dunn stated that he spoke with County staff and Morven Park has not approached the county about getting any of their proposed uses approved. Further, he noted that there is nothing that Morven Park wants that would be out of consideration in the county.

16. MAYOR’S COMMENTS

Mayor Umstattd had no comments.

17. MANAGER’S COMMENTS

Mr. Wells had no comments.

18. ADJOURNMENT

On a motion by Council Member Wright, seconded by Vice Mayor Butler, the meeting was adjourned at 12:01 a.m., Wednesday, March 26, 2014.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2014_temin0325