

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: None.

Staff Present: Town Manager John Wells, Deputy Town Attorney Barbara Notar, 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, Director of Economic Development Marantha Edwards, Assistant Town Manager Scott Parker, Director of Parks and Recreation Rich Williams, Airport Manager Scott Coffman, Director of Capital Projects Renee LaFollette, Director of Utilities Amy Wyks, Director of Plan Review Bill Ackman, Human Resources Manager Karen Dilley, Management Analyst Lisa Haley and Executive Associate I Tara Belote

AGENDA

ITEMS

1. CALL TO ORDER

2. INVOCATION: Council Member Dunn

3. SALUTE TO THE FLAG: Council Member Hammler

4. ROLL CALL: Showing all members present

5. MINUTES

a. Work Session Minutes of March 24, 2014

On a motion by Council Member Martinez, seconded by Vice Mayor Butler, the minutes of the work session meeting of March 24, 2014 were approved by a vote of 7-0.

b. Regular Session Minutes of March 25, 2014

On a motion by Council Member Martinez, seconded by Vice Mayor Butler, the minutes of the regular session meeting of March 25, 2014 were approved by a vote of 7-0.

6. ADOPTING THE MEETING AGENDA

On the motion of Council Member Wright, seconded by Council Member Martinez, the meeting agenda was approved moving item 12e to the Consent Agenda by the following vote:

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

Nay: None

Vote: 7-0

7. PRESENTATIONS

a. Proclamation – Hunger Awareness Month

On a motion by Council Member Hammler, seconded by Council Member Burk, the following was Proclaimed:

PROCLAMATION

Hunger Awareness Month May 2014

WHEREAS, in the same year Loudoun County earned its “Wealthiest County” status, approximately 19,000 people in Loudoun County (or six percent of the population) were identified as “food insecure” or hungry; and

WHEREAS, 69% of Loudoun’s food insecure population do not qualify for government assistance; and

WHEREAS, local food pantries see a significant decrease in donations over the summer months, while needs increase as families no longer have the security of school-based food programs; and

WHEREAS, May 3 marks the third year of the “Love Your Neighbor, Feed Your Neighbor” multi-faith food drive sponsored by 12 faith-based organizations in Loudoun County; and

WHEREAS, in 2013, as part of this food drive, residents of Loudoun County donated 69,000 pounds of food to six food pantries and two Backpack Buddies programs in 2013 which was a 27% increase in donations over the previous year; and

WHEREAS, Loudoun Interfaith Relief and Catholic Charities food pantries benefit from this food drive.

THEREFORE, PROCLAIMED by the Council of the Town of Leesburg in Virginia that May is Hunger Awareness Month in the Town of Leesburg and all citizens are encouraged to spread awareness of the issue of hunger and food insecurity in the community.

b. Presentation – Multi-Faith Food Drive

Rona Scott stated the Love Your Neighbor, Feed Your Neighbor food drive is organized by 22 churches of various denominations across Loudoun County, including Leesburg. Representatives of some of the participating churches were introduced – St. James Episcopal, Leesburg Presbyterian, Church of Jesus Christ of Latter Day Saints, and Headway Church.

It was noted that the food would be given to Catholic Charities, LINK, Loudoun Interfaith Relief, Messiah’s Market, Seven Loaves and Tree of Life

food pantries. She stated there will be a door-to-door campaign on May 3. Volunteers will be going door to door to distribute door tags the week before. She stated that volunteers will be needed for sorting stations.

c. Proclamation – Lyme Disease Awareness Month

On a motion by Council Member Hammler, seconded by Council Member Burk, the following was Proclaimed:

PROCLAMATION

Lyme Disease Awareness Month May 2014

WHEREAS, the health and safety of all Leesburg residents is important to the happiness, prosperity and well-being of our Town’s families and communities; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), Lyme disease is the most commonly reported vectorborne illness in the United States; and

WHEREAS, 165 new cases of Lyme disease were reported in Loudoun County in 2013; and

WHEREAS, the CDC estimates that the total number of people diagnosed with Lyme disease in the United States is roughly 10 times higher than the yearly reported number of cases and that many more cases may go undiagnosed each year; and

WHEREAS, in 2013 Loudoun County’s “Loudoun Targets Lyme” initiative was recognized by the Virginia Association of Counties for being a model local government program; and

WHEREAS, the Loudoun Lyme Disease Commission has been actively addressing the Board of Supervisors 10 Point Plan to Mitigate Lyme Disease in Loudoun County; and

WHEREAS, Lyme disease is almost always caused by the bite of an infected black legged tick and is caused by a type of bacteria that gives early symptoms, such as a bulls-eye rash, fever, aching muscles, headache, and fatigue; and

WHEREAS, checking for ticks and proper tick removal are imperative, and if done correctly and promptly, can aid in the prevention of the disease;

THEREFORE, BE IT RESOLVED, that the Leesburg Town Council hereby proclaims May 2014 as LYME DISEASE AWARENESS MONTH in the Town of Leesburg.

d. Proclamation – National Volunteer Week

On a motion by Council Member Hammler, seconded by Council Member Burk, the following was Proclaimed:

PROCLAMATION

NATIONAL VOLUNTEER WEEK

April 6-12, 2014

WHEREAS, the week of April 6-12, 2014 has been designated as National Volunteer Week; and

WHEREAS, volunteering of one's time and resources is an essential part of our country's tradition and is essential to its spirit; and

WHEREAS, volunteerism is increasingly recognized as a central partner with government, education and industry in doing the work of our nation; and

WHEREAS, the members of the Leesburg Police Citizens Support Team play an essential role in assisting the Leesburg Police Department and other departments within the Town of Leesburg; and

WHEREAS, the men and women of the Leesburg Citizens Support Team provide a valuable public service at their own time and expense, and their exceptional work in the prevention of crime and the promotion of public safety that has benefited numerous citizens in the Town of Leesburg;

THEREFORE, the Mayor and Council of the Town of Leesburg wishes to honor and to thank the members of the Leesburg Police Citizens Support Team who give so freely of their valuable time, energy and abilities by proclaiming this week of April 6-12, 2014 to be officially designated as National Volunteer Week and to recognize the efforts of the Leesburg Police Citizens Support Team who, by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their community and, in doing so, have established for themselves an enviable and enduring reputation.

PASSED this 8th day of April 2014.

e. Environmental Advisory Commission Annual Report
Joseph Sanchez, Chair of the Leesburg Environmental Advisory Commission, gave a brief presentation regarding the activities of the Commission during 2013, and planned activities for 2014.

f. Trash Clean Up Award
John Wells stated the second annual Council versus Staff trash pick up challenge was won by the Council team with over 320 pounds of the 600 pounds of trash collected.

g. Noise Ordinance Overview (Parker)
Scott Parker reviewed the key points of the existing ordinance and the proposed ordinance in order to address misunderstanding, miscommunication, and misinformation about the noise ordinance. He stated the current ordinance is completely enforceable and is based on the “plainly audible” standard. He stated that if plainly audible noise bothers someone, it becomes “excessive noise” and is a class II misdemeanor which is enforced by the Leesburg Police Department and achieves compliance in almost all cases. This standard applies to the entire town.

He stated the proposed amendment is an effort to address the prohibitive plainly audible standard for commercial activities in a downtown that is experiencing an increase in nighttime and outside activities. He listed the following key points of the proposed ordinance amendment:

- Creation of a distinction between a commercial and a residential area.
- Creation of a decibel standard in a commercial area as it affects a residential area
 - Commercial areas would not be allowed to create noise that exceeds 70 decibels between 8 a.m. and 10 p.m. Monday through Wednesday in a residential area and 55 decibels between 10:01 p.m. and 7:59 a.m. Monday through Wednesday in a residential area.
 - On Thursdays through Saturday, the time is extended until 11 p.m.
 - At all other times, the plainly audible standard will still apply.
 - Decibel limit and times currently proposed apply only to noise from a commercial area as it affects a residential area, not how one commercial area affects another commercial area.
- The decibel limit as proposed would be enforced by the Leesburg Police Department utilizing sound meter equipment on a complaint driven basis.
- In a specifically residential area, the plainly audible standard will still apply and the current ordinance will remain unchanged.
- Some other changes include the addition of a section to address noise generated by a gathering of 10 or more people since the plainly audible

section currently applies only to sound that is mechanically produced. The section addresses noise from gatherings of people in residential or commercial areas that is created from non-mechanical means such as yelling, shouting, parties, etc.

- The elimination from the definitions section of the term “sound amplifying equipment” and elimination of the section of the ordinance that requires registration of sound amplifying equipment. This section is problematic and needs to be address regardless of the direction of the ordinance as pertains to plainly audible or decibels.

Council Comments/Questions:

- There was some miscommunication that this ordinance would apply to indoor music, which it does not, unless it exceeds the decibel standard outside affecting a residential area.
- Does not apply to special events such as Acoustics on the Green, parades, the Fourth of July event, and other town permitted special events.
- The type of music makes a difference as to what sounds “too loud”.
- Even 50 decibels at 100 feet was too loud to have to deal with on a regular basis

8. PETITIONERS

The Petitioner’s Section was opened at 8:17 p.m.

State Senator Jennifer Wexton, 20 West Market Street, spoke in favor of the resolution urging the General Assembly to increase access for the uninsured and to return Virginia taxpayer dollars to Virginia. She stated the senate passed a budget bill that incorporates many of the governor’s amendments that take advantage of state income that the Commonwealth will receive if, and when, it participates in some form of health care expansion under the Affordable Care Act. She noted that passage of Marketplace Virginia would make hundreds of thousands of Virginians eligible for health insurance for the first time. She stated the two issues, Medicaid and the budget, cannot be separated in order to pass a “clean budget”. She asked Council to support the proposed resolution. She added that the Republican budget does not propose any solutions, but calls for throwing money at a broken system.

State Delegate LaRock, stated he came to talk about the budget because people of the community expect services that are partially funded by the state government. He encouraged Council to not send a message to the governor that would prolong the impasse. He stated a delayed budget creates uncertainty for local governments, schools, hospitals and law enforcement. He expressed his hope that the governor will not hold the budget hostage over the controversial Obamacare.

Tom Seeman, 752 Vanderbilt Terrace, urged Council to approve the motion sending a letter to the governor asking for approval of the FY2015 budget without the Medicaid expansion. He stated that last year both parties in the General Assembly

agreed that before expanding Medicaid, it had to be reform it first. As such, Virginia established a process to address Medicaid expansion outside the budget process and created a body – the Medicaid Innovation and Reform Commission – for this purpose. He noted that during MacAuliffe’s campaign, he promised not to hold the budget hostage and criticized the US Congress for using a budget shutdown as a bargaining chip in negotiations.

Patti Maslinoff, 671 Burnside Terrace, encouraged Council to authorize the mayor to sign the letter to the governor asking for passage of the budget that includes Medicaid expansion. She stated healthcare is the most important issue for the future and the issue cannot wait until everything is perfect.

Bob Patterson, 610 Diskin Place, stated he has worked extensively in the nation’s Medicaid and welfare system at both the federal and state levels. He stated he served as a senior policy advisor in the Bush administration at Health and Human Services. He stated his consulting firm has done a study for the state of Maine regarding Medicaid expansion and the Affordable Care Act and noted that Sen. Wexton is correct that during the first few years, there are some “goodies” that will come from expansion, but ten years down the road it will be a huge expense. He advised Council to ask the governor to pass a “clean budget” and not hold the budget hostage for an expansion of Medicaid that the full costs of which are unknown.

Frank Milligan, representing Morven Park, stated his purpose is to briefly reiterate the message conveyed to the Mayor in a letter dated April 1, 2014. He stated given concerns raised by some members of the Leesburg Planning Commission and Town Council regarding the proposed Boundary Line Adjustment and the Morven Park Historic District zoning ordinance amendment, they respectfully request deferral of further consideration of these initiatives until after the May 5 meeting of the Westmoreland Davis Memorial Foundation Board of Trustees. He stated the procedural pause will provide the trustees with the opportunity to consider all the issues.

Evan Macbeth, 333 Whipp Drive, asked Council to vote to allow the Mayor to send a letter to the governor in support of Medicaid expansion in the Commonwealth of Virginia. He stated that no one knows what will happen in ten years, so the threat of future cost is a poor argument. He noted that there are 400,000 Virginians who will benefit from the money that will come back to Virginia.

Shamus O’Hara, 118 Claude Court, asked Council to support the letter asking for expansion of Medicaid.

Patti Nelson, 455 Heartleaf Terrace, stated she is the program manager for Nursing Services at Loudoun County Mental Health. She stated she is advocating for the people of Loudoun County who cannot qualify for Medicaid for two years after they become too sick to work.

Teri Simonds, 404 S. King Street, stated she lives a half mile from MacDowell's. She stated during the summer, they can clearly hear the music including lyrics inside their house. She stated she does not feel that outdoor, amplified music is necessary for a vibrant downtown, adding that there are plenty of indoor venues for music. She noted that these businesses were recently converted from other, less impactful types of uses to outdoor music venues. She asked Council to keep in mind the effect their vote will have on the residents of the area.

Fred Williams, 21 Wirt Street, N.W., thanked Council for participating in the Love Your Neighbor, Feed Your Neighbor campaign. He thanked staff for demonstrating decibel levels. He stated after hearing what 70 decibels sounds like, he is more convinced that it is unacceptable. He urged Council to consider the health and quality of life of the neighbors when making their decision.

Fabian Saiedi, 15 South King Street, stated he spoke to Mr. Parker and has no other comments.

Greg Hudson, 111 Bridgette Place, introduced his children. He stated there needs to be more information shared about Morven Park and the town in regards to the real reasons that they want to be part of the town. He questioned the costs to the taxpayer.

Nathaniel Davis, 32 Phillips Drive, NW, stated he is a full-time musician and a music instructor. He stated making it easier to attract the arts to downtown Leesburg is a benefit to everyone. He stated the vibrancy of the town is a direct, synergistic response to the music. He listed examples of how music can help people and asked the Council to keep music alive in its Arts and Cultural District.

Payson Van Orden, 216 Rosemeade Place, stated he supports a change to a decibel level because it gives a measurable limit. He stated atmosphere is what builds a downtown and the atmosphere of the downtown is arts and entertainment.

Daniel Davies, (Del. LaRock's aide) stated large numbers are being thrown out. He stated the money that is being quoted as coming back to the state is future generation's money that will be borrowed and have to be repaid by them later. He stated the Medicaid system has problems and needs to be fixed before it is expanded. He stated that lack of a budget puts Virginia's AAA bond rating at risk.

Mike Miller, 15399 Limestone School Road, spoke in support of a measurable decibel standard for noise. He asked Council to make a decision with the best interests of the business community in mind.

Kathy Shupe, stated she is a certified application counselor. She stated it is difficult to tell people they fall within the coverage "gap". She urged Council to submit the letter to the governor asking for expanded Medicaid coverage.

Linda Ifert, 205 Royal Street, SE, stated she lives next to MacDowell's and the Doner. She stated she agrees with the statements about arts and music as she has worked in the entertainment industry for years as a lighting designer and sound engineer. She stated she would also like to come home and relax, which is difficult to do with the volume of the music from next door. She stated it is not the neighbors intent to get rid of music, but to enjoy their homes.

Nanette Grimes, 408 South King (letter read into the record by Mayor Umstatt): "I am writing to protest the proposed increase in the lawful noise level. In fact, I would like to clearly express that I would like the lawful noise and music level as it currently exists in town to decrease. Given that the current policy standard is plainly audible, this may be a matter of strict enforcement of the current standard; however, it is of common knowledge where this noise and music is coming from and that nothing is being done by the Town Council to protect the rights of those who reside in town. I live on South King Street. Not only can I clearly hear and understand the words in this noise and music inside the house when there are no doors or windows open, but I can hear and understand what is being said when someone speaks into the microphone while inside my closed home. This causes an inability to relax inside my own residence, much less my yard, given the distraction and irritation this noise and music produce. While, I realize that residents of the town accept that there may be some noise and music when they reside in the town, but the level being experienced is well beyond excessive. The businesses in the surrounding area are losing business because I, as well as many I know can no longer enjoy a meal without having to shout to our dinner companions. Additionally, loud noise of 85 decibels or greater can cause ear damage resulting in loss of hearing. OSHA requires that individuals exposed to this level of noise must wear ear protection. Hearing loss is cumulative. The excessively loud noise and music in increasingly expanding warmer seasons could eventually result in hearing loss lawsuits against the town. Individuals who earn their living in nearby restaurants are even closer to the source of the noise than those on King Street and are a prime potential group to experience hearing loss. Also, town streets are full of individuals driving the streets and/or attempting to cross the streets. Accidents occur when drivers and pedestrians cannot hear horns and other driving noises around them. The Council needs to carefully consider before legally supporting such a noise level. Nobody wants to pay for the Leesburg Town Council's legal defense of such claims through our tax dollars after already having to endure the noise and music that is being allowed by the Council".

The Petitioner's Section was closed at 9:14 p.m.

9. APPROVAL OF THE CONSENT AGENDA

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

- a. *License Agreement between NVRPA, the Town and Green Energy Partners (GEP) for Reclaimed Water Line*

RESOLUTION 2014-037

Authorizing the Town Manager to Execute a License Agreement Between the Town of Leesburg, Green Energy Partners and the Northern Virginia Regional Park Authority to Allow the Reclaimed Water Line to Cross the W&OD Trail

b. County Referral – Goose Creek Club

MOTION 2014-012

I move to approve the referral letter regarding ZMAP 2013-0005 Goose Creek Club and related Special Exception applications

c. Making an Appointment to the Technology and Communication Commission (Butler)

RESOLUTION 2014-038

Making an Appointment to the Technology and Communication Commission (David E. Howard)

d. Making an Appointment to the Utility Rate Advisory Committee (Butler)

RESOLUTION 2014-039

Making an Appointment to the Utility Rate Advisory Committee (Richard L. Moore)

The Consent Agenda was approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Martinez absent)

10. ORDINANCES

a. Adopting a Tax Rate

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

ORDINANCE 2014-O-009

Ordaining Chapter 20 (Licenses, Taxation and Miscellaneous Regulations) Article II (Taxation Generally), Section 20-22 (Annual Levy and Rate of Taxes), and Appendix B (Fee Schedule) Setting Tax Rates on Real Estate, Vehicles Used as Mobile Homes or Offices, Tangible Personal Property, Real Estate and Tangible Personal Property of Public Service Corporations, and Setting Utility Water and Sewer Rates for Tax Year 2014

Council Comments:

- Motion is for a tax rate of \$0.183 – the equalized rate.
- Proposed budget and pro-forma assume an equalized tax rate

- Developments in the pipeline should give the town additional breathing room
- Equalized rate is a reduction in the current tax rate of \$0.192.
- FY 2015 budget reflects a continuation of and adherence to the Council's long range plan for budget sustainability and the biennial budget adopted last year by Council.
- Rate will minimize the tax bill impact on the average homeowner.
- Concerned that continually falling back to the equalized rate may require a large tax increase down the road
- Depending on future revenues to avoid tax increases in later years is a risky plan
- Average resident is paying 26% less than they did in 2008 – adjusted for inflation, taxes have been lowered by 37%
- A tax rate of \$0.189 gives the town a buffer and some flexibility

Council Member Butler offered an amendment to change the proposed tax rate to \$0.189. The motion was seconded by Council Member Burk.

The motion to amend failed by the following vote:

Aye: Butler

Nay: Burk, Dunn, Hammler, Martinez, Wright and Mayor Umstatted

Vote: 1-6

Council Comments/Questions:

- Would like to see more cuts in the budget – some staff positions are overpaid for the work they are doing or may be unnecessary
- Can create savings through better management practices.
- Could get by with a lower tax rate and still provide the same level of services to the residents

Council Member Dunn offered a motion to change the proposed tax rate to \$0.159. The motion failed for lack of a second.

Council Comments/Questions:

- Loudoun may be the wealthiest county in the nation, but Leesburg is not the wealthiest town – the HUBZone is an example of that
- Equalized tax rate allows for new growth

The motion for an equalized tax rate was approved by the following roll call vote:

Aye: Wright, Hammler, Martinez, Burk, Mayor Umstatted

Nay: Butler and Dunn

Vote: 5-2

11. PUBLIC HEARINGS

- Adoption of the FY 2015 Budget and CIP

The public hearing was opened at 9:32 p.m.

Norm Butts gave a brief presentation on the proposed FY 2015 Budget.

Key Points:

- General Fund Budget \$49,711,977.00
- Utilities Fund Budget \$20,145,019.00
- Capital Projects Fund Budget \$13,941,148.00
- Capital Asset Replacement Fund \$1,492,739.00
- Northern Virginia Transportation Authority Fund \$1,750,000.00
- FY 2014-2019 Six-Year Capital Improvements Program \$63,630,234.00

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

The public hearing was closed at 9:37 p.m.

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

ORDINANCE 2014-010

Adopting the Budget for Fiscal Year 2015; Making Appropriations for FY 2015 for the General Fund, Utilities Fund, Capital Projects Fund, CARR Fund, and NVTAFund; Amendments to the Budget and Supplemental Appropriations by Council Resolution; and Authorizing and Directing the Town Manager to Take All Steps Necessary and Prudent to Effectuate the Implementation of the Ordinance

Council Comments/Questions:

- Equalized real property tax rate creates a net gain of operations of \$1.6 million
- This will go to the Capital Asset Replacement Fund
- General Fund budget includes a 3% performance-based increase for employees
- Includes an amount equal to a 12% increase in health insurance costs for staff
- Includes funding for Movie Nights at Ida Lee Park in the amount of \$10,000
- Does not include any new positions, but does include two police officers approved in FY 2014
- Budget reflects the culmination of many years of work
- Still have a long list of items to be worked on including partnerships with the county, public works standards and other ways to identify long-range savings
- Budget includes 3% increase for the Affordable Care Act

- Budget includes additional costs required under the state stormwater mandates
- Partnership between Council and staff has been successful in finding ways to look for long range savings and keeping dramatic swings in tax bills and services to a minimum
- Concern that down the line there will be costs associated with stretching resources too thinly
- Need to provide services that the residents expect

Vice Mayor Butler offered a motion to amend the budget to add a one-year membership in ICLEIUSA. The motion was seconded by Council Member Burk.

Council Comments/Questions:

- USA Chapter of the International Council for Local Environmental Initiatives
- Focuses on helping local governments around the world achieve sustainability
- One-year membership is \$600
- Would like to fully leverage other resources that are already available - believe that NVRC is a similar source for this type of information
- Concerned about the amount of organizations that staff belongs to. Some discretionary memberships could be done without.
- Would revisit the subject if NVRC could not fulfill this need.

The motion to amend failed by the following vote:

Aye: Burk, Butler, and Martinez

Nay: Dunn, Hammler, Wright and Mayor Umstattd

Vote: 3-4

Council Comments/Questions:

- Believe that there are areas where costs could be cut.
- Believe that the Council could have added \$600 for a membership that could help the Town
- Agree that by cutting the budget so close, we set ourselves up for failure if anything goes wrong over the next few years

The motion to pass the budget was approved by the following roll call vote:

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

Nay: Dunn

Vote: 6-1

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

RESOLUTION 2014-040

Adopting the Fiscal Year 2014-2019 Capital Improvements Program in the Amount of \$63,640,234

Council Comment/Questions:

- Happy to be able to move up the Brown's Meadow/Woodberry Drainage Improvements from FY 2019 to FY 2015
- Near or substantially completing Potomac Crossing Park, Right Turn Lanes at Edwards Ferry Road and Route 15 Bypass, Lowenbach Phase 4 and 5, Sycolin Road Widening Phase 3 (Hope Parkway to Battlefield Parkway) and the West Side Airport Perimeter Fence projects during FY 2015
- Nearing debt capacity with this current slate of projects
- Wish we were getting more funds from the County's Six-Year CIP budget of \$192 million

The motion to pass the budget was approved by the following roll call vote:

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

Nay: None

Vote: 7-0

12. RESOLUTIONS AND MOTIONS

- a. Cease Work on Morven Park Boundary Line Adjustment and Zoning Ordinance Change

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

RESOLUTION

Cease Work on the Boundary Line Adjustment Process and Zoning Amendment for Morven Park

Council Member Hammler made a motion to postpone decision on this until May 13, 2014. The motion was seconded by Council Member Wright.

Council Comments/Questions on the Motion to Postpone:

- Morven Park will be having a board meeting and additional information may be available after that
- Board of Morven Park has asked Council to defer action until after their board meeting
- How does this affect the Planning Commission's time requirements? Planning Commission liaison answer: The Planning Commission has until April 17 to stay within the 100 day requirement. If no decision is made by that time, the default recommendation is approval. Currently, the Planning Commission is split, but there may be four members of the Planning Commission that would like to continue to work on this item

- Can the Town, as the applicant, request or allow a time extension?
Staff answer: The zoning ordinance does not provide for a time extension. The Zoning Administrator has made a determination that the Town Council cannot extend the time.
- Can the Planning Commission make a recommendation to Town Council to defer?
Staff answer: On April 17, the Planning Commission will need to work on the Zoning District; however, they will have to send whatever is available at that time to Council for their use.
- Council can choose to follow the Planning Commission's recommendation or not
- Would like to give Morven Park the opportunity to make their decision
- Postponement prolongs the inevitable
- The town has established planning goals for this year and working on this project has taken up a lot of staff time

The motion to postpone was approved by the following vote:

Aye: Hammler, Martinez, Wright and Mayor Umstatt

Nay: Burk, Butler and Dunn

Vote: 4-3

b. Letter to the Governor – Re: Budget

Council Member Dunn made a motion to send a letter to authorize the Mayor to sign a letter to the Governor asking for Passage of the FY 2015 Budget without Medicaid expansion. The motion died for lack of a second.

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

MOTION 2014-013

I move to Authorize the Mayor to sign the letter to the Governor asking for passage of a FY 2015 Budget that includes Medicaid expansion

Council Comments/Questions:

- No one should have to worry about medical care
- Historically, the General Assembly has ignored this issue
- Try to keep this in the bounds of what the Town of Leesburg actually deals with – no health department or social services
- This is an effort by Senator Wexton to get local bodies to do the work for her
- Effort by Town Council to participate in partisan politics to make statements about issues they have no control over
- As the county is reimbursed for these services, the county will be able to pass along the reimbursed money to the Town of Leesburg

- While the aspect of health care is important at the state and federal level, at the local level passage of a budget is most important regardless of whether Medicaid expansion is included
- Need a functioning state government by July 1, in order for the town's approved budget to function
- Opining on the expansion of Medicaid would require more information

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

Replace the current motion on the floor with a motion to send the resolution Urging the Virginia Governor and the Virginia General Assembly to Timely Pass a Clean Budget with the final "therefore resolved" removed.

Council Member Hammler offered the following friendly amendment, which was not accepted:

Whereas, it benefits the state to receive reimbursement for the federal Medicaid mandate and therefore positively impacts transfers to local governments, including Leesburg.

Council Member Hammler offered this as an amendment, which was seconded by Council Member Burk.

- Council does not have the information to claim this amendment as fact

The amendment failed by the following vote:

Aye: Burk, Hammler, and Mayor Umstatted

Nay: Butler, Dunn, Martinez and Wright

Vote: 3-4

Council Member Wright stated he would accept Council Member Burk's friendly amendment to delete the Whereas regarding Leesburg not having its own health or social services departments. Council Member Dunn agreed to the friendly amendment.

The motion to replace the previously moved letter with the resolution failed by the following vote:

Aye: Dunn, Hammler, and Wright

Nay: Burk, Butler, Martinez and Mayor Umstatted

Vote: 3-4

Vice Mayor Butler offered a friendly amendment to add the Resolution provided by State Senator Jennifer Wexton to the motion. Council Member Martinez did not accept this amendment as friendly.

- According to WTOP, the Governor has reached an agreement with the Federal Government which would allow Virginia to opt back out of the Medicaid expansion after two years if it negatively affects Virginia taxpayers
- This issue affects Leesburg citizens because high medical costs can be devastating

The motion to approve the letter was approved by the following vote:

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

Nay: Dunn and Wright

Vote: 5-2

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

RESOLUTION 2014-041

Urging the General Assembly to Increase Access for Uninsured and Return Virginia Taxpayer Dollars to Virginia

Council Member Burk noted that this resolution would accompany the previously approved letter.

Council Member Hammler offered an amendment to add “WHEREAS, the state can do a trial period of two years and opt out if it is determined that the Affordable Care Act costs the state too much money and Leesburg will provide its data back to the state to track our local costs. In FY 2015, it has been measured that the Affordable Care Act will cost \$110,000 or 3% of the healthcare increases to our staff employees for their health benefits”. The motion to amend was seconded by Mayor Umstatted.

- Expanding Medicaid, providing coverage and then two years later possibly taking the coverage away is a terrifying concept
- The Federal program may be able to cover those citizens more efficiently

The amendment failed by the following vote:

Aye: Hammler

Nay: Burk, Butler, Dunn, Martinez, Wright and Mayor Umstatted

Vote: 1-6

The motion to approve the proposed resolution was approved by the following vote:

*Aye: Burk, Butler, Hammler, Martinez, and Mayor Umstadd
Nay: Dunn and Wright
Vote: 5-2*

d. Appointment Procedures for Boards and Commissions

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

MOTION

Initiating a Town Code Amendments or a procedural amendment to include an application as approved by Council to incorporate the following question and statement:

Have you ever been convicted of a felony and/or sex related crime? I affirm that to the best of my knowledge the information provided herein is truthful, accurate and complete. I understand that any misrepresentation of information may result in my appointment being rescinded.

Council Comments/Questions:

- Not all sex related crimes are felonies
- Appointing someone to a Board or Commission gives them a “cloak” of respectability
- The public relies on the Council’s trust in an individual

Council Member Hammler offered a friendly amendment to add an explanation box where the felony/sex related crime can be explained and to require that Town Council members complete the same questionnaire.

The amendment was accepted as friendly.

Council Comments/Questions:

- Is this a Town Code amendment or adopting a procedure?
Staff answer: This could be a Town Code amendment and could be added to other amendments concerning the Boards and Commissions. However, the friendly amendment for this type of question is included in the State Board of Elections requirements

The second half of the friendly amendment was removed.

Council Comments/Questions:

- Procedural questions such as what happens to the document to keep the document private.
- Ethics guidelines for the documents need to be instituted
- What will we do with the answers?
- Would prefer a Code of Ethics for the Boards and Commissions

- This is more of an HR issue, rather than something that Council needs to regulate
- Council Members should more closely question their nominees prior to nomination

The motion failed by the following vote:

Aye: Burk, Hammler and Mayor Umstatt

Nay: Butler, Dunn, Martinez, and Wright

Vote: 3-4

Council Member Burk suggested a work session discussion regarding creating an ethics code for Boards and Commission members.

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- c. None.

15. COUNCIL COMMENTS

Council Member Wright noted that Relay for Life is upcoming and the Dogs for Dollars Fundraiser will be held May 2. He stated that they are considering another fundraiser for First Friday.

Council Member Hammler noted a meeting on March 24, which was disclosed by Council Member Wright at the last meeting. She stated she had a call and a voice mail exchange with BJ Webb, a trustee of the Westmoreland Davis Foundation on March 22. She also disclosed a meeting with the PEC and Milt Herd on March 20 regarding the Morven Park BLA. She noted she has already disclosed her business relationship with Tom Dunlap.

She stated the Job Fair was awesome and congratulated Council Member Burk and staff on a job well done. She congratulated Officers Christopher Parker and Brandon Hazelgrove, who won Valor Awards. She stated it was an honor to attend the Leesburg Girls Softball opening ceremonies.

Council Member Martinez stated the Valor Awards ceremony was very good and congratulated the town's officers who were recognized. He stated the Job Fair was a great event. He stated the Keep Leesburg Beautiful clean up was a fun event and was proud of his nephew who assisted in the clean up. He also stated the Opening Day ceremonies for Leesburg Girls Softball was great.

Council Member Burk thanked Council for supporting the Job Fair. She stated there was lots of positive feedback and it enhances the town's relationship with the business community. She stated on March 31, the Diversity Task Force met for the first

time. She noted that it is an impressive group and that they had a great discussion. She congratulated the town's Valor Award recipients. With respect to the Keep Leesburg Beautiful clean up challenge, she stated it is great to have fun and clean up the town.

Vice Mayor Butler disclosed a meeting with representatives for the Leegate property. He stated the sound demonstration by Scott Parker was good. He said he cannot wait for next year's job fair because he will have two more applicants who will be old enough to work. He wished everyone a good "late-winter" break.

16. MAYOR'S COMMENTS

Mayor Umstatted stated once again Council has adopted a tax rate and a budget to keep the town moving forward. She congratulated Council and staff for keeping everything on the right track.

17. MANAGER'S COMMENTS

Mr. Dentler stated that Council should enjoy the Clean Up event trophy as things will be different next year.

18. ADJOURNMENT

On a motion by Council Member Wright, seconded by Vice Mayor Butler, the meeting was adjourned at 11:19 p.m.

Kristen C. Umstatted, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2014_tcm0408

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, Kevin Wright and Mayor Umstattd.

Council Members Absent: Kelly Burk. Mayor Umstattd arrived at 7:35 p.m.

Staff Present: Deputy Town Manager Kaj Dentler, Town Attorney Jeanette Irby, Assistant Town Manager Scott Parker, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Planning and Zoning Brian Boucher, Chief of Police Joseph Price, Director of Economic Development Marantha Edwards, and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. Work Session Items for Discussion

a. Downtown Improvements Update

Scott Parker gave a brief presentation on the status of the Downtown Improvements Project.

Key Points:

- Met with Consultants and received/discussed concepts for the marketing campaign
- Established meetings with King Street businesses/leaders to discuss marketing/communication concepts for feedback
- Awarded Loudoun Street Waterline construction contract – will start work (night work) after Flower and Garden Festival
- Schedule is being developed for the King Street (between Royal and Loudoun) section of the improvements
- Next steps include:
 - Finalizing plans for Loudoun Street between Harrison and the East End Triangle
 - Pre-construction meetings with business and property owners for work that will start after Flower and Garden
 - Finalize marketing concepts and marketing timeline

Council Comments/Questions:

- Will the PVC pipes be cut back?
Staff answer: That is part of the automatic watering system and will be cut back going forward.

b. Noise Ordinance

Council Comments/Questions:

- The Commonwealth's Attorney's office has reviewed the draft ordinance and found it to be constitutional.

- Is the current ordinance constitutional?
Staff answer: As far as staff is aware, it is constitutional.
- Number of noise complaints in the Historic District rose sharply during calendar year 2012. Previous to that, there were around 11-13 per year, but rose to 30 in 2012 and 38 in 2013.
- If the draft ordinance is changed to require a permit for amplification, then amplification and the reasons for such needs to be more clearly defined
- Permits could help with instances of persistent infringement
- Decibel standard has limits as background noise can register as 45-50 decibels
- Business to business needs to be dealt with as well
- Would it be helpful to increase the class of the misdemeanor with regards to enforcement?
Staff answer: The higher number of the misdemeanor, the smaller the offense. As a Class II misdemeanor, someone has the potential to go to jail. Whoever is charged and ultimately convicted, will have a criminal record and potentially face jail time.
- Would like to give the businesses and residents time to come up with something they can both live with by working together
- Current ordinance is unfriendly to businesses.
- Current and proposed ordinance will effectively ban outdoor music
- Current ordinance is not enforced
Staff answer: The goal is to solve the problem without court action.
- May need to address a mixed use area
- Is there a possibility of a combination of criminal and civil offense?
- Proposed ordinance needs further work – there are some inconsistencies
- A truck may be 75 decibels, but it passes by quickly. How irritating a noise is depends on the quality of the noise and how long it goes on
- Leaving the current ordinance in place gives all the authority to the residents for the success or failure of these businesses
- Does the Frederick, Maryland ordinance allow amplified music outdoors?
Staff answer: Not in establishments serving alcohol.
- Concern that with the proposed ordinance we may be driving residents into their homes
- Currently an amplification permit is required, but has not been enforced – need to know what the Town Manager’s office would recommend from a permitting standpoint
Staff answer: These permits are usually used for events that require loudspeakers such as political campaign events
- How does this affect First Friday as it goes to 9 p.m.?

It was Council consensus to bring this back for further discussion at the June 9 work session to allow time for staff to answer the Council's questions and to get feedback from the community. Further, the current ordinance should be enforced until changes are made.

c. Parking Payment in Lieu

Brian Boucher stated that the last time Council discussed Payment in Lieu, it was referred to the Economic Development Commission (EDC) for their feedback.

Key Points:

- Brought before the EDC at their March meeting
 - They did not want to make a recommendation on payment in lieu until they had more information on the Comprehensive Parking Plan
 - At the April meeting, they discussed payment in lieu again and recommended to Council that the Comprehensive Parking Program be set before they determine what the payment in lieu fee should be
- Increase in cost of living since 1987 was 107%. What could be bought for \$3,000 in 1987 will cost \$6,200 today
- Construction cost index has gone up by 119% (the cost of building)
- Could create a pro-rata for a parking facility

Council Comments/Questions:

- Payment in lieu does not ensure a reserved parking space
- In order to figure out a possible fee, the cost of a space needs to be calculated as well as how often that space would turn over
- There is some cost recovery that should be applied as some revenue is achieved from parking garage fees and parking meters
- If a parking garage is built, the taxpayers would have to foot most of the bill since not enough has been collected to pay for it
- Should look at the capacity based on the type of development that Council is seeking
- Reject the idea that development should pay for all the parking – existing street parking is free
- Agree with the idea of catching up with inflation
- In looking at the Comprehensive Parking Plan, will need to determine what future needs are
- Should make parking garages by-right throughout Town

d. County Referral – Tuscarora Crossing

Susan Berry Hill presented staff's referral comments for the proposed county Tuscarora Crossing development.

Key Points:

- Fourth submission
- Residential units is down by one unit from the last submission to 576
- Initial submission included 720 residential units in the first submission
- Unit type has changed from 312 single family detached down to 159 and 265 single family attached has increased to 417 units.
- Increase in neighborhood retail component from 23,000 to 85,000 square feet
- Project still shows an elementary school site that would be dedicated to the county
- Increased acreage dedicated to PD-IP (planned light industrial) uses and shows 15 acres of PD-GI (planned heavier industrial) uses.
- Scheduled for the County Planning Commission on May 5

Council Comments/Questions:

- Is the increase in industrial acreage a direct result of the reduction in residential?
Staff answer: PD-IP and PD-GI can include office uses and other employment uses. They have included the neighborhood retail as another way to include more employment uses
- Kincaid residents will see the increase in PD-IP and PD-GI acreage as a loss
Staff answer: This property has been designated for employment uses since at least 2005.
- Have no problem with staff sending this letter at the staff level
- Should disclose that the residents prefer more residential than industrial uses
- Could someone get clarification that the position expressed has been that of the Kincaid HOA
- Is it appropriate to comment on impacts to Rt. 7?
Staff answer: The traffic impact analysis has been reviewed and comments are incorporated into comment letter
- Where would the children go to middle and high school?
Staff answer: Will have to get back to you.
- Good balance of residential/non-residential
- Who will be building this leg of Kincaid Boulevard/Cross Trail Boulevard?
Staff answer: County may be building Kincaid as part of their complex.
- Who will want to cross major roads to get to the neighborhood retail?
- Would like a plan with less residential as that area was not planned for that
- The town and the county has been burned by proffers tied to units built

It was agreed that staff should revise the letter to reflect tonight's discussion and bring it back for a vote tomorrow night.

2. Additions to Future Council Meetings

Council Member Hammler would like to have a text amendment to credit for non-historic demolished space as opposed to what is planned. This was agreed to be put on the “to be scheduled” section of the calendar.

Vice Mayor Butler asked for a memo update on the Oaklawn project with respect to the proffers.

Council Member Dunn asked for a letter asking the county to fund all bus lines in town. There were not four votes to have this as a work session discussion. It was agreed that this could be part of the larger discussion about all the things that the County should be funding. He expressed concern that his proposed work session item regarding online registration at Ida Lee became an information memo that contained suggestions and that an individual was making policy whereas the policy makers should be making policy.

3. Adjournment

On a motion by Council Member Wright, seconded by Vice Mayor Butler, the meeting was adjourned at 10:38 p.m.

Clerk of Council

2014_tcwsmin0421

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

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

Council Members Absent: Marty Martinez.

Staff Present: Deputy Town Manager Kaj Dentler, Town Attorney Jeanette Irby, Chief of Police Joseph Price, Deputy Director of Planning and Zoning Brian Boucher, Deputy Director of Parks and Recreation Kate Trask, Recreation Programs Manager Jeremy Payne, Library Director Alexandra Gressitt, and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. **CALL TO ORDER**

2. **INVOCATION:** Adam Bell

3. **SALUTE TO THE FLAG:** Council Member Kevin Wright

4. **ROLL CALL:** Showing Council Member Martinez absent.

5. **MINUTES**

a. Special Session Minutes of April 7, 2014

On a motion by Council Member Hammler, seconded by Vice Mayor Butler, the minutes of the special meeting of April 7, 2014 were approved by a vote of 6-0-1 (Martinez absent)

b. Work Session Minutes of April 7, 2014

On a motion by Council Member Burk, seconded by Council Member Hammler, the minutes of the work session meeting of April 7, 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 Council Member Martinez, the meeting agenda was approved moving item 12e to the Consent Agenda by the following vote:

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

Nay: None

Vote: 7-0

7. **PRESENTATIONS**

a. Certificates of Recognition – Special Olympics Team

On a motion by Vice Mayor Butler, seconded by Council Member Burk, the following athletes and coaches were presented with Certificates of Recognition for their participation in the 19th Annual Special Olympics Basketball Tournament:

David Knight
Adam Bell
Steven Bagot
Diane Peratt (Coach)

Ryan Savage
Frankie Preece
Dan Dillon (Coach)

b. Proclamation – Disability Awareness Month

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

PROCLAMATION

Disability Awareness Month

April 2014

WHEREAS, disability is a natural part of the human experience and in no way diminishes the right of individuals with disabilities to live independently, enjoy self-determination, make choices, contribute to society and experience full in the economic, political, social, cultural and educational mainstream of American society; and

WHEREAS, family members, friends and members of the community can play a central role in enhancing the lives of people with disabilities especially when the family and community are provided with necessary support services; and public and private employers are aware of the capabilities of people with disabilities to be engaged in competitive work in inclusive settings; and

WHEREAS, the goals of Leesburg include providing individuals with disabilities the opportunities and support to make informed choices and decisions; live in homes and communities where such individuals can exercise their full rights and responsibilities as citizens; pursue meaningful and productive lives; contribute to their family, community, State and Nation; have interdependent friendships and relationships with others; and achieve full inclusion in society.

NOW, THEREFORE, the Mayor and Council of the Town of Leesburg in Virginia proclaim April 2014 as Disability Awareness Month and urge all citizens to recognize that breaking down barriers and negative attitudes will allow all community members to lead the fullest, most productive lives possible.

c. Proclamation – Arbor Day

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

PROCLAMATION

ARBOR DAY April 25, 2014

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day should be set aside for the planting of trees; and

WHEREAS, this special day, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, trees provide many benefits to our community, such as reducing the erosion of topsoil, moderating temperatures, reducing heating and cooling costs, cleaning the air and water, and they also produce oxygen and provide a habitat for wildlife; and

WHEREAS, planting trees and maintaining mature trees in our Town increases property values, enhances the economic vitality of local businesses, and beautifies our community, and

WHEREAS, the Town of Leesburg is recognized by the National Arbor Day Foundation as a Tree City USA community for twenty-five consecutive years and desires to continue its tree-planting ways.

THEREFORE, the Mayor and Council of the Town of Leesburg in Virginia hereby proclaim April 25, 2014 as the official Arbor Day of the Town of Leesburg for 2014.

PASSED this 22th day of April, 2014.

d. Proclamation – Library Week

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

PROCLAMATION

National Library Week 2014

Lives change @ your library

WHEREAS, libraries help lives change in their communities, campuses and schools; and

WHEREAS; librarians work to meet the changing needs of their communities, including providing resources for everyone and bringing services outside of library walls; and

WHEREAS, libraries and librarians bring together community members to enrich and shape their communities and address local issues; and

WHEREAS, librarians are trained professionals providing technology training and access to electronic resources; and

WHEREAS, libraries offer programs to meet community needs, providing residents with lectures and tours of historical interest and classes and seminars on local and genealogical research; and

WHEREAS, libraries continuously grow and evolve in how they provide for the needs of every member of their communities; and

WHEREAS, libraries, librarians, library workers, library volunteers, and supporters across America are celebrating National Library Week.

NOW, THEREFORE, be it resolved that Council of the Town of Leesburg in Virginia proclaim National Library Week, April 13-19, 2014. We encourage all residents to visit the library this week to take advantage of the wonderful library resources available at your library. Lives change @ your library.

e. Proclamation – National Day of Prayer

On a motion by Council Member Dunn, seconded by Council Member Wright, the following was Proclaimed:

PROCLAMATION

National Day of Prayer

May 1, 2014

WHEREAS, in 1852 the United States Congress established an annual Day of Prayer; and

WHEREAS, that law was amended in 1988 to designate the first Thursday in May as the National Day of Prayer; and

WHEREAS, people in Towns and Cities across America observe the annual National Day of Prayer; and

WHEREAS, this is a time for citizens of all faiths to join together to pray for our national, state, and community leaders; and

WHEREAS, this year's theme "One Voice, United in Prayer" will be highlighted; and

THEREFORE, the Mayor and Council of the Town of Leesburg in Virginia hereby proclaim May 1, 2014 as National Day of Prayer in the Town of Leesburg .

PROCLAIMED this 22nd _ day of April, 2014.

f. Presentation – Leesburg Unscripted

Bob Cohencious of Capital Productions Television presented the video that was produced through the public/private partnership with Monroe Vocational School. He stated the Leesburg Unscripted series gives high school and some college students an opportunity to gain experience working in a real film studio on a professional production piece. He introduced Liz Lorenzen, who works directly with the students, and several of the students who have worked on the series.

8. PETITIONERS

The Petitioner's Section was opened at 8:01p.m.

David Grainger, Northern Virginia Rods and Classics, stated that their car show benefitting Monroe Vo-Tech Autobody and graphic arts classes have been very successful. He stated they have requested an extra block to expand the car show; however, there are costs for the additional block. He requested a waiver of the fees associated with the increased space.

Gwen Armstrong, 304 Patterson Court, NW, stated they have held a National Day of Prayer celebration in Leesburg for many years. She stated all faiths are welcome to come and pray for the nation and its leaders. She stated that they seek to use the Council Chambers if it rains.

Andrew Borquist, 1108 Huntmaster Terrace, #301, stated he worked for the town for 14 ½ years as a lifeguard at the Ida Lee Recreation Center. He stated through an unfortunate set of circumstances, he was informed that part time, flexible employees can be fired for any reason. He expressed dissatisfaction and disappointment with the process that is used with respect to part time flexible employees.

Dennis Kubin, 43541 Mahala Street, stated he enjoys listening to music with his family in and around town. He stated the current decibel levels are unreasonable for the enjoyment of music outdoors. He asked that a reasonable and realistic noise level be established that does not hurt the local businesses, musicians and the enjoyment of citizens.

Tyrone Burnett, 19253 Harlow Square, stated that consistent and uniform application of the laws matters. He stated he supports the owner of MacDowell's Brew Kitchen in this issue and expressed his hope that there can be a resolution to support this business.

Paul Norris, 43025 Mill Race Terrace, stated he supports the Tuscarora Crossing development application. He urged Council to consider the type of development that they want in their backyard. He questioned whether Council would like heavy industrial or homes in that area. He stated that Council needs to listen to what the community is saying.

Andy Johnston, 405 Belmont Drive, SW, stated that First Friday is an example of the power of music to promote economic development and quality of life in downtown Leesburg. He thanked the venues downtown that feature live music downtown on a regular basis. He urged everyone to work together to get a decibel based sound ordinance that everyone can live with.

Jeff Munzell, 39543 Golden Spring Ct., Hamilton, stated he is a local amateur musician and is appreciative of the opportunity to play at McDowells and other places throughout the area. He asked that Council give careful consideration to a reasonable, decibel based ordinance that everyone will make everyone happy.

Neil Vaught, 333 Caldwell Terrace, SE, stated he opposes the plan to have heavy industrial next to the Kincaid Forest community. He stated many in the community also oppose that type of facility next door. He stated that industrial sites should be located in isolated areas as homeowners can typically suffer decreases in home value between 4-15% from having an industrial site nearby.

Teresa Pennington, 13505 Chipper Court, Gainesville, stated she is the regional coordinator for the National Day of Prayer in Northern Virginia. She stated asked that Council allow the National Day of Prayer Committee to use the Council Chambers in case it rains.

Bob Lawson, 807 Casla Court, SE, spoke in support of the Tuscarora Crossing development as presented in the current application. He stated the Kincaid residents will benefit from construction of Crosstrail Boulevard. He stated an industrial park would negatively affect the community's home values, but a higher mix of residential will fit better. He expressed concern with noise and safety from increased traffic associated with an industrial park.

Payson Van Orden, stated he is impressed with how much this town and community supports the arts. He stated he is a musician who plays locally and works in a downtown establishment that features live music. He stated this is not only an economic issue – it is a quality of life issue. He stated there needs to be a middle ground between supporting the culture of the arts and letting it continue to grow and thrive and the quality of life for the residents. He stated the change from the plainly audible wording of the current ordinance to a set decibel level is the answer.

John Carroll, Northampton, MA, stated he is a former resident of Foxridge Drive, stated he is a professional musician and he would hate to see the stigma of being exclusionary and too careful attached to Leesburg. He stated that he resents the inference that music can be considered noise.

(Unidentified gentleman), stated that three years ago, he was incarcerated in jail, but now he owns three dot coms, all from playing music around Virginia. He stated he is an electrical engineer and inventor. He stated businesses like Shoes will not flourish in a community that does not accept music. He stated his opinion that a decent sound level would be 90 decibels.

Mr. Guerra, stated the current ordinance works. He stated when his deaf daughter is upset by the music, it is too loud. He stated there are other attributes to sound – not just decibels. He stated he loves live music, but not when it is so loud at the restaurant next door, that he cannot enjoy his meal.

Mark Pittelcaw, 35215 Great Fire Drive, Round Hill, stated his son could not attend tonight, but has performed at Shoes. He expressed his support for MacDowell's and Shoe's and other places that support musicians by providing live entertainment. He stated the proposed ordinance contains a dBa rating. He stated 70 dBa is fairly quiet and asked Council to consider a little higher decibel rating. He stated that 90 dBa is pretty loud. He suggested that the surrounding residences be offered commercial zoning to make their property values higher and the consideration of noise mitigation techniques.

Teri Simonds, 404 South King Street, stated she is not against music in Leesburg. She stated she has seen the town struggle, but now there is a vibrant music scene. She stated she would love to work on a committee to find a way to come to an agreement. She stated what is presently existing works and the town needs to be careful not to hurt the businesses or the residents.

Cindy Haske, stated she is a lifetime resident of Leesburg and had her birthday party at MacDowell's. She stated she was lucky to have friends to DJ her party and the neighbors complained about the music; however, those at the party could barely hear it.

Linda Ifert, 205 Royal Street, SE, stated she understands what everyone is saying regarding the sound ordinance and respects their point of view. She stated the issue is that everyone is trying to work together to find a reasonable sound and crowd level that allows businesses to thrive, patrons to enjoy themselves and residents to be able to enjoy

their homes and backyards. She stated she loves music and dance; however, the sound from both MacDowell's and the Doner compete and create noise. She states she supports the plainly audible standard. She stated a decibel monitor used on music coming from the Doner was 65 decibels, which made it impossible for her to make a phone call while standing on her porch.

Julia Howard, stated she had her birthday party at MacDowell's and her friends that came to town for the event understood why she moved to Leesburg. She stated it is important for everyone to get together and look at decibel ratings. She stated 70 decibels is not that loud.

William Bolden, 703 Clark Court, stated it is important to support the artistic efforts of the community that create dollars for the community. He stated the legislation has to change somehow.

The Petitioner's Section was closed at 9:02 p.m.

9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Making an Appointment to the Technology and Communication Commission*

RESOLUTION 2014-043

Making an Appointment to the Technology and Communication Commission – Eric Byrd

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

RESOLUTION 2014-044

Making an Appointment to the Standing Residential Traffic Committee – Liz Mills

- c. *Making a Reduction of the Performance Guarantee for Paxton Memorial Learning and Resource Campus*

RESOLUTION 2014-045

Making a Reduction of the Performance Guarantee for Public Improvements at Paxton Memorial Learning and Resource Campus (TLPF 2009-0001)

- d. *Execution of an Encroachment Agreement for Town and Green Energy Partners to Encroach Upon Dominion Virginia Power Easement for Reclaimed Water Line*

RESOLUTION 2014-046

Execution of an Encroachment Agreement for Town and Green Energy Partners to Encroach Upon Dominion Virginia Power Easement for Reclaimed Water Line

- e. *Making a Supplemental Appropriation for Reimbursement of Police Services and Amending the FY 2014 Police Department Operating Budget*

RESOLUTION 2014-047

Approving Amendments to the FY 2014 General Fund Budget, and Making Appropriations to the FY 2014 Police Budget for \$97,506.59 Awarded Through a Series of Reimbursements for Additional Police Services Covered through Overtime Assignments

- f. *Virginia Department of Transportation Six-Year Plan*

RESOLUTION 2014-048

Requesting the Virginia Department of Transportation (VDOT) Funding for Highway Projects within the Town of Leesburg in the Virginia Department of Transportation Six-Year Improvement Plan for Fiscal Years 2015-2020

- g. *Luck Stone Settlement Agreement*

RESOLUTION 2014-049

Authorizing the Settlement of the Condemnation Action of Town Council of Town of Leesburg, Virginia v. Luck Stone Corporation

- h. *Lower Sycolin Sewage Conveyance System Ph. II Reimbursement for Construction Services*

RESOLUTION 2014-050

Lower Sycolin Creek Sewage Conveyance System Phase II Reimbursement to Shirley Contracting Company, LLC for Construction Services

- i. *Approving a Change Order for the Downtown Improvements Project*

RESOLUTION 2014-051

Approval of Change Order No. 6 for Design Services for the Downtown Improvement Project in the Total Amount of \$181,890 and Authorizing the Town Manager to Execute the Change Order

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. *Town Manager's Public Hearing – Permit Parking on Belmont Drive*
The public hearing was opened at 9:08 p.m.

Calvin Grow stated that Public Works conducted a survey of the 400 block of Belmont Drive.

Key Points:

- Six to seven residents on Belmont Drive have requested a permit parking zone through a signed petition
- Concerns over available parking on the street
- Survey showed 75% of the parking was taken up most of the time.
- 75% of the vehicles were not residents of the street
- Town staff will review the comments and send a recommendation to the Town Manager for his decision.

Council Comments/Questions:

- This only refers to the 400 block of Belmont Drive

Lauren Shierer, 407 Belmont Drive, SW, stated this is a cul-de-sac across Dry Mill Road from Loudoun County High School. She stated there is generally one resident car parked on the street and the rest of the street parking is taken up by high school students on school days. She stated this leaves no street parking for the residents or their visitors during the day. She stated there are also issues with trash left behind by the students and inconsiderately or illegally parked cars. She stated she appreciates the police and school efforts to control the situation, but they feel that the issues will continue to be a problem. She asked that the permit parking be in effect only during school hours.

Andy Johnston, 405 Belmont Drive, SW, agreed with Ms. Shierer's comments. He thanked Council Member Burk, Chief Price, Deputy Town Manager Kaj Dentler for arranging a meeting with the school; however, he noted this will be an ongoing problem. He stated the cul-de-sac is not a solution for the parking problem at the high school.

Richard Stone, 403 Belmont Drive, SW, stated that they had an agreement with the school that worked for several years; however, now the cars are creeping back in. He expressed concern that the trash trucks and emergency vehicles have difficulty accessing their homes because of the student's cars.

Agnes Hough, 401 Belmont Drive, SW, stated she and her husband are against permit parking and this has caused friction between them and their neighbors. She stated the school kids do not cause a problem and have not caused them a problem in the 40 years they have lived at 401 Belmont Drive. She stated the students do not block their driveway and they do not litter. She stated they try to get along with everyone, but they were not included in the recent meeting at the high school. She stated that there will be no parking there for special events such as graduation. She requested that Council not add to the student's problems.

The public hearing was closed at 9:23 p.m.

Council requested that they be informed regarding resolution of this issue.

b. Amending the Town Code – Through Truck Restrictions on Catoctin Circle, N.E.

The public hearing was opened at 9:23 p.m.

Calvin Grow stated that the section of Catoctin Circle between Battlefield Parkway and Edwards Ferry Road is not designed for large trucks.

Key Points:

- Damage to the traffic circles was most likely caused by a large truck, as evidenced by the tire tracks
- Capital Projects Management plans to install a tree in the traffic circle at North Street and Catoctin Circle to give more visibility to the traffic circle

Council Comments/Questions

- Will this push truck traffic to Plaza Street?
Staff answer: Plaza Street was advertised as an alternative route, if this route is restricted to through trucks. It is much wider.
- Before Catoctin Circle was opened, Plaza Street was the street used for through truck traffic
- What is the size/type of truck that will be prohibited?
Staff answer: Box trucks usually run about 10,000. Anything over 7,500 pounds would be prohibited. Delivery trucks would be allowed, if they had a delivery to make in the area.

Caroline Snyder stated she adopted the traffic circle on North Street in 2007. She stated over the past few years, there have been several traffic accidents. The damage appears to have been caused by large trucks and has been quite extensive. In some instances, the residents on the street have witnessed the trucks causing the damage.

Council Comments/Questions:

- Appreciation for Ms. Snyder's efforts to beautify the traffic circle
- This section of Catoctin Circle is not appropriate for truck traffic
- Edwards Ferry has a similar truck restriction
- Concern for the residents of Plaza Street
- Will need to keep an eye on the truck traffic on Plaza Street
- Make every possible effort to divert truck traffic to the main thoroughfares
- Plaza Street was the alternative route before this section of Catoctin was opened
- Would have liked to put a through truck restriction on Battlefield
Staff answer: Battlefield was designed to handle truck traffic.
- Too many road signs in Town – would like to limit those if possible

The public hearing was closed at 9:38 p.m.

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

ORDINANCE 2014-O-011

Amending Section 32-119 of the Town Code Pertaining to Certain Through Truck Traffic Prohibited

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)

c. Amending Chapter 2 of the Town Code Regarding Boards and Commissions

The public hearing was opened at 9:50 p.m.

Jeanette Irby noted that these are uncompleted town code amendments that had been initiated previously.

Key Points:

- Provides increased compensation
- Encourages adoption of bylaws
- Encourages elections to be held between January and March
- Memorializes the Standing Residential Traffic Committee
- Clarifies the mission of the Technology and Communication Commission
- Sets out some Council Liaison requirements

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

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

ORDINANCE 2014-O-012

An Ordinance: Amending Chapter 2 (Administration), Article V (Boards and Commissions), Division 1 (Generally), Section 2-193 (Membership), Section 2-195 (Duties), Section 2-197 (Compensation), Section 2-198 (Councilmanic Liaison); and Division 2 (Specific Boards and Commissions), Section 2-229 (Leesburg Technology and Communication Commission); and Adding 2-232 (Leesburg Standing Residential Traffic Committee)

Council Comments/Questions:

- Pay change for the BAR and Planning Commission was in the last amendment.

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)

11. RESOLUTIONS AND MOTIONS

a. Making an Appointment to the Planning Commission

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

RESOLUTION 2014-042

Making an Appointment to the Planning Commission – Lyndsay Welsh Chamblin

Council Comments:

- Ms. Chamblin has been on the Environmental Advisory Commission for a number of years and has been a fantastic part of that commission.
- Will do a great job for the town in this new role.

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. Approving an Expansion of the Classic Car Show Footprint and Waiver of Additional Costs to the Town for the Expansion

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

RESOLUTION 2014-052

Approving Expansion of the Classic Car Show Footprint and Waiver of Additional Costs to the Town for the Expansion

Council Comments/Questions:

- Why are the fees waived for this event and not for other events?
Staff answer: Fees were originally waived for this event in 1996 along with several other events.
- This is Leesburg subsidizing the county as the proceeds benefit a school
- This was grandfathered in when Council adopted a new policy in 1996.
- Have the residents in the area been informed about the expanded footprint?
Event sponsor: Yes, there were no objections

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)

c. Approving Use of the Council Chambers

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

MOTION 2014-015

I move to approve use of the Council Chambers as an alternative location for the National Day of Prayer Opening Ceremonies, in case of inclement weather

Council Comments/Questions:

- No issues with this use – they have used the County board room in the past
- Would prefer an alternate venue such as the lower level of Town Hall or Ida Lee
- Council has allowed the use of the Chambers in the past for church groups, community groups, the courts, and individuals.
- Concern because the pamphlet handed out by the group does not identify it as the National Day of Prayer, but rather the Loudoun Awakening Seventh Annual Bible Reading Marathon
- This could offend those from other religions – because it is a ‘bible’ reading, it makes some feel excluded
- Council should set policy that any group can use it and administratively someone from the Town Manager’s office would schedule users

The motion was approved by the following vote:

Aye: Burk, Dunn, Wright and Mayor Umstatt

Nay: Butler

Vote: 4-1-1-1 (Hammler abstaining, Martinez absent)

d. County Referral – Tuscarora Crossing

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

MOTION 2014-016

I move to approve the referral letter regarding ZMAP 2012-0011 Tuscarora Crossing 4th Submission and authorize staff to forward the letter to County staff

Council Comments/Questions:

- Does revised draft reflect Council’s concerns as expressed during the work session?

- Staff answer: Yes, the emphasized concern is in the highlighted sections
- Alignment with the Town Plan reflects many years of input from the community
 - Why does Council need to have input on staff to staff correspondence?
There is a more appropriate time for Council's input.
Staff answer: This process developed some time ago.

Vice Mayor Butler offered a motion to remove #1 – “Residential Uses are not contemplated in the Town Plan for this property”. Council Member Wright offered an alternative motion to leave the sentence in, but add “staff notes we continue to receive feedback from neighboring communities that they may desire residential”

The motion to amend failed by the following vote:

Aye: Butler and Wright

Nay: Burk, Dunn, Hammler and Mayor Umstatted

Vote: 2-4-1 (Martinez absent)

The main motion was approved by the following vote:

Aye: Burk, Dunn, Hammler, and Mayor Umstatted

Nay: Butler

Vote: 4-1-1-1 (Wright abstaining, Martinez absent)

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- c. None.

15. COUNCIL COMMENTS

Vice Mayor Butler disclosed a meeting with the Land Lawyers and Hobie Mitchell regarding Crescent Park. He stated that on May 6, at the Washington Nationals game, they are giving away eco-friendly shopping bags and the Environmental Advisory Commission will be attending the game with him. He offered tickets to the press, if they want to attend.

Council Member Hammler thanked all the petitioners speaking on both sides of the music/noise issue. She stated she appreciates the key theme of moving towards finding a balance. She stated she is looking forward to great weather this coming weekend for the Flower and Garden Show. She congratulated the newest grandmother on Council.

Council Member Wright disclosed a meeting with Hobie Mitchell and representatives from Lansdowne Development regarding a proposed project that they will be submitting. He also disclosed a meeting with Jan Zachariasse with Waterford Development regarding their property.

16. MAYOR'S COMMENTS

Mayor Umstattd did not have any comments.

17. MANAGER'S COMMENTS

Kaj Dentler did not have any comments.

18. ADJOURNMENT

On a motion by Council Member Wright, seconded by Vice Mayor Butler, the meeting was adjourned at 10:16 p.m.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2014_tcm0422