

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

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

Council Members Absent: Council Member Dunn arrived at 7:55 p.m.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Utilities Amy Wyks, Director of Public Works Tom Mason, Director of Planning and Zoning Susan Berry Hill, Director of Plan Review Bill Ackman, Director of Parks and Recreation Rich Williams, Director of Finance Norm Butts, Assistant Town Manager Scott Parker, Human Resources Manager Karen Dilley, Information Technology Manager Annie Carlson, Management Analyst Lisa Haley, Management Analyst Michael Bruckner, Director of Capital Projects Renee LaFollette, Airport Manager Scott Coffman, Deputy Director of Planning and Zoning Brian Boucher, Economic Development Director Marantha Edwards, Senior Planner Irish Grandfield, Chief of Police Joseph Price, Research and Communications Manager Betsy Fields 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 Hammler

4. ROLL CALL: Showing Council Member Dunn arriving at 7:55 p.m.

5. MINUTES

a. Work Session Minutes of February 11, 2013

On a motion by Vice Mayor Butler, seconded by Council Member Burk, the minutes of the Work Session meeting of February 11, 2013 were approved by a vote of 6-0-1 (Dunn absent).

b. Regular Session Minutes of February 12, 2013

On a motion by Vice Mayor Butler, seconded by Council Member Wright, the minutes of the Regular Session meeting of February 12, 2013 were approved by a vote of 6-0-1 (Dunn absent).

6. ADOPTING THE MEETING AGENDA

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

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

Nay: None

Vote: 6-0-1 (Dunn absent)

7. PRESENTATIONS**a. Proclamation – African-American History Month**

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

PROCLAMATION***AFRICAN AMERICAN HISTORY MONTH
FEBRUARY 2013***

WHEREAS, in February of 1926, sixty-one years after the ratification of the 13th Amendment to the United States Constitution, Dr. Carter Woodson, a noted historian, desired to recognize the achievements and contributions of African Americans in this country; and

WHEREAS, the month of February was appropriately chosen to recognize the achievements of African Americans as it contained the birth anniversaries of Abraham Lincoln and Frederick Douglass; and

WHEREAS, the traditional one-week observance was expanded in 1976 to include the entire month of February; and

WHEREAS, African American History Month allows us to honor the achievements of and celebrate the heritage of African Americans while recalling the courage of their struggle to achieve equality; and

WHEREAS, historically African Americans, such as Dr. Martin Luther King, Jr., Harriet Tubman, Rosa Parks, Medgar Evers, Jessie Jackson, Dred Scott, W.E.B. DuBois, and Mary McLeod Bethune have worked to lay the very foundation for the free and diverse society that we as Americans enjoy today; and

WHEREAS, this year's theme is "At the Crossroads of Freedom and Equality: The Emancipation Proclamation and the March on Washington" and marks two important anniversaries in the history of African-Americans and the United States.

THEREFORE, the Mayor and Council of the Town of Leesburg in Virginia hereby proclaim the month of February of the Year 2013 as African American History Month in the Town of Leesburg and urge the citizens of Leesburg to join in recognizing the contributions made by the Loudoun Chapter of the NAACP and other community organizations to preserve and remember the accomplishments of African Americans throughout the history of our nation.

PROCLAIMED this 26th day of February 2013.

b. FY 2014-2015 Budget

John Wells presented the proposed FY 2014-2015 Budget.

Key Points:

- Current revenues cover current expenses
 - General fund expenditures up only 0.5%
 - General fund revenues expected to increase 3%
- Debt restructured to provide debt service cost relief through FY 2016
- Debt service reserve fund created and funded with operational cost savings
- Projected tax increases reduced from 5 cents over three years to 2.5 cents over two years
- Continued operational efficiencies
- Maintain existing service levels
- Stable capital improvements program
- Long range budget planning
- Six capital projects at or nearing completion
- Budget public hearing to be held March 12
- Tax Rate Public Hearing April 8
- Budget adoption April 9

8. PETITIONERS

a. The Petitioner's Section was opened at 8:26 p.m.

Avis Renshaw, 220 Loudoun Street, SE, stated she is here on behalf of the Loudoun County Farm Bureau Board of Directors. She stated they would like to have a farm expo on October 5 similar to the one they held in Winchester last year.

Jennifer Coombs, stated she owns the Jackson House which is proposed for sale to the Civil War Preservation Trust. She asked Council to consider granting the easement so that the property can be sold.

Earl Hower, 111 Plaza Street, NE, stated he has been a resident of Leesburg since 1983 and a member of the Tree Commission since 1995. He stated the Tree Commission opted not to weigh in on the current proposal to combine the EAC and the Tree Commission, but has personal comments. He summarized a history of the Tree Commission. He suggested if the two commissions are combined, that the name be the Environmental and Urban Forestry Commission.

The Petitioner's Section was closed at 8:39 p.m.

9. APPROVAL OF THE CONSENT AGENDA

On a motion by Council Member Burk, seconded by Vice Mayor Butler, the following item was moved for approval as the Consent Agenda:

- a. Lowenbach, Phase IV and V Easement Acquisition Authorization

RESOLUTION 2013-034

Declaring that a Public Necessity and Use Exists and Authorizing an Offer to Acquire Right of Way Dedications and Easements for Lowenbach Street Improvements Phase IV and V (Washington and Queen Streets) Project

The Consent Agenda was approved by the following vote:

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

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

- a. TLSE 2013-0001 Meena's Home Day Care
The public hearing was opened at 8:40 p.m.

Irish Grandfield gave a presentation for the special exception request for 953 Rhonda Place in Kincaid Forest.

Key Points:

- State licensed day care center
- No new buildings are proposed
- Business is operated as a home occupation
- Scope of review is limited to two standards as per the Zoning Ordinance
 - Five specific use criteria for a child care facility
 - Four general approval criteria for any special exception

The public hearing was closed at 8:50 p.m.

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

RESOLUTION 2013-035

Approving TLSE 2013-0001, Meena's Home Daycare, a Child Care Center Located on Property Identified as PIN Number 191-40-8885 and Located at 953 Rhonda Terrace, S.E.

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

- b. Oaklawn Gas Station Special Exception
The public hearing was opened at 8:55 p.m.

Irish Grandfield gave a presentation on this request for a special exception:

Key Points:

- Is not a single lot – part of three different lots that will require a re-subdivision
- Includes 8 fueling stations under a canopy
- 3500 square foot convenience store
- 840 square foot car wash
- Requesting a modification of zoning ordinance standard for canopy height
- Proffers from the rezoning for landscaping and H-2 design guideline review are in effect for this special exception use
- Application is similar to the withdrawn 2008 proposal
- Planning Commission recommended denial
- Recommend relocating car wash to eliminate safety issues for pedestrians
- Landbay C is approved for 250,000 square feet of development

Christine Gleckner, land use planner with Walsh Colucci , presented the application on behalf of the applicant. She introduced Andy Shuckra of Keane Development, Eric Schmidz (the station operator) and Jack Williams of Pacuilli Simmons.

Key Points:

- Developers of Oaklawn have substantially completed their road network construction ahead of time
- Will not be visible from major roadways of the Greenway and Sycolin Road.
- Pumps and car wash need to be visible from the cashier's station inside the convenience store

Council Comments/Questions:

- Gas station is needed in this section of town
- Proposed car wash location is a safety issue

Patti Nelson, 455 Heartleaf Terrace, SE, stated she is a resident of Oaklawn. She stated she is concerned that the site does not meet town standards. She also expressed concern over pedestrian safety and noted that this is the first of what will be the Oaklawn commercial area and it sets the tone for what comes later. She stated there is a lot of children in the neighborhood who will want to walk to the convenience store.

Shawn Kennedy, 427 Virginia Wildflower Terrace, stated he does not want a gas station in his backyard. He expressed concern that this will be a truck stop that is open 24/7. He expressed concern over the lighting. Further, he expressed concern over safety of pedestrians crossing Miller Drive and Battlefield Parkway.

Adam Schragger, 313 Whipp Drive, SE, stated he and his neighbors paid extra to live on the lake in the planned community. He expressed concern with light and noise from the gas station.

Scott Nadeau, 315 Whipp Drive, SE, stated a lot of his concerns have been addressed. He stated they can see the bank and this will be closer than the bank. He stated the bank only operates during the day so they do not see a lot of light pollution, but the canopy with lighting will be very bright. He stated he is concerned about pedestrian safety, particularly with the number of young people who live in the neighborhood. He noted the proximity to the swimming pool.

Jim Sisley, presented numbers demonstrating that the Town of Leesburg is underserved by gas station/convenience stores. Further, he noted the revenue benefits of gas stations with regards to gas tax and BPOL taxes. He noted that convenience stores keep residents from having to drive as far to pick up necessities.

Donnie Nelson stated he is an Oaklawn resident. He questioned what the quality of life will be for he and his neighbors once the lights from the gas station are entering their homes. Further, he expressed concern about risk of explosion with the location of gasoline pumps near residences. He questioned whether the police department is ready for the increased number of calls for service from the gas station/convenience store. He stated this type of business creates a lot of calls for law enforcement.

The public hearing was closed at 9:57 p.m.

Council Comments/Questions:

- What are the lighting requirements for the property?
Staff answer: one-half foot candle standard at the property line and all lighting must be directed downward/shielded.
- What other uses are planned in the undeveloped portions of Oaklawn?
Applicant answer: There is roughly a million square feet of commercial development planned, most of which will be office. About 130,000 square feet will be retail, mainly in pad sites. There will be a 150 room hotel, which has been approved.
- Can the car wash be located over the drainage inlet?
Staff answer: The car wash cannot sit on top of the inlet, but some alternate drainage design done around the building.
- Summarize how pedestrian safety can be increased via change in site layout?
Staff answer: In the current proposal, pedestrians will most likely walk through the car wash stacking area because it is the shortest distance to the entrance of the convenience store.
- Does the number of pumps relate to a community amenity versus a regional amenity?

Staff answer: There is no standard that defines a community versus a regional station. The concept plan amendment approved the concept of a 16 pump gas station on this location.

Applicant answer: There are 16 fueling stations – two rows of four pumps with fueling stations on each side.

- Would allowing more time for review produce more options for lighting?
Staff answer: Staff can look to see if additional conditions could address lighting concerns. Lighting standards in the zoning ordinance have been updated within the past five years.

- Is there any way to capture the cost in TMDL usage?

Staff answer: Throughout the process, the applicant has agreed to go a little bit above and beyond the requirements with respect to TMDL levels.

- Would like to see some of the lighting and safety concerns mitigated.
- Suggest a traffic circle at Miller Drive and Battlefield Parkway to slow down traffic
- Would like to find a way to mitigate light from the gas station
- What does the buffer along Miller Drive consist of?

Staff answer: Proffers from previous rezoning include a 35 foot setback, and a Type 2 landscape buffer

Applicant answer: We consider it a 35 foot buffer. Street trees were planted several years ago and will continue to grow. The 35 foot buffer will be planted with landscaping materials

- Build out of the commercial areas will soften the effect of the lighting and canopy
- Is there a traffic signal planned for the intersection of Oak Park Way and Miller Drive?

Staff answer: Yes

- Other establishments such as fast food restaurants have pedestrians crossing the drive through lane to reach the entrance
- Is it possible to change the slope rather than increase the canopy height?
Applicant answer: At the highest elevation, canopy height is allowable, but where the elevation slopes downward, the canopy appears to be higher.

- View Battlefield as a key gateway into town - not Miller.
- Can the car wash be sited where staff suggested?

Applicant answer: There are stacking concerns and underground storage tank location concerns

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

RESOLUTION 2013-036

Approving TLSE 2012-0005, Oaklawn Gas Station, A Service Station, Convenience Store and Car Wash Located on the Oaklawn Land Bay C on the Property Shown on the Special Exception Plat and Identified as Portions of the

Following Three Lots: Loudoun County Parcel Information Numbers (PIN) 233-20-0550, 233-29-6350, 233-29-9822

Council Comments:

- Confident that BAR design review will adequately address design issues
- Town Plan does not specifically address an automobile-centric use
- Ask that the applicant consider better than BAR standards moving forward on design

The motion was approved by the following vote:

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

Nay: Burk

Vote: 6-1

- c. Amending Chapter 2 of the Town Code adding the words “Fees and Charges”

The public hearing was opened at 11:07 p.m.

Jeanette Irby stated that the town can charge a \$35 administrative fee for time and effort on collections and General District court Judge Welsh has requested that that be added to the Town Code to make it more clear.

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

The public hearing was closed at 11:08 p.m.

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

ORDINANCE 2013-O-007

To Amend and Reordain Chapter 2 (Administration), Article IV (Finance), Section 2-164 (Collection Fee for Taxes, Fees and Charges)

The motion was approved by the following vote:

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

Nay: Dunn

Vote: 6-1

11. RESOLUTIONS AND MOTIONS

- a. SRTC – Actions on Recommendations

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

MOTION 2013-009

I move to initiate a public hearing on restricting truck traffic on Catoctin Circle between Edwards Ferry Road and Battlefield Parkway, and authorizing

Department of Public Works staff to conduct a traffic study per the Residential Traffic Management Plan criteria

MOTION 2013-010

I move to adopt a policy for evaluating one-way traffic requests as part of the Residential Traffic Management Plan. The policy will require 75 percent support from affected residents, as well as a traffic study supporting the request

MOTION 2013-011

I move to adopt a modified procedure and ranking system for handling traffic calming requests as part of the Residential Traffic Management Plan, as outlined in the flow chart and descriptions presented by the Standing Residential Traffic Committee

MOTION 2013-012

I move to adopt a modified policy for handling requests for a \$200 additional fine for speeding on residential streets as part of the Residential Traffic Management Plan as permitted by Virginia State Code Section 46.2-878.2. The policy will enable Town Council to approve the additional fine following a public hearing if the average speeds remain above 31 miles per hour after eight (8) weeks of Leesburg Police selective enforcement

The motions were approved by the following vote:

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

Nay: None

Vote: 7-0

12. ORDINANCES

- a. None.

13. UNFINISHED BUSINESS

- a. Boards and Commissions Action(s)

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

RESOLUTION 2013-037

Initiating Amendments to the Town Code, Part Two (Town Code), Chapter Two (Administration), Article 5 (Boards and Commissions), Division 1 (Generally), and 2 (Boards and Commissions) Relating to Attendance, Membership, Duties and Compensation of Boards, Committees and Commissions

Council Comments:

- Appreciation for Vice Mayor Butler's work on this
- Appreciation for all the volunteers on Boards and Commissions

*Vice Mayor Butler made a motion for an amendment to remove the first therefore resolved section that combines the Environmental Advisory and Tree Commissions. The motion was seconded by Mayor Umstatt and approved by the following vote:
Aye: Burk, Butler, Hammler, Martinez, Wright, and Mayor Umstatt
Nay: Dunn
Vote: 6-1*

*Vice Mayor Butler made a motion for an amendment to replace the removed section with institution of a Community Outreach Commission. The motion was seconded by Council Member Hammler and failed by the following vote:
Aye: Butler and Hammler
Nay: Dunn, Burk, Martinez, Wright and Mayor Umstatt
Vote: 2-5*

*The amended motion was approved by the following vote:
Aye: Burk, Butler, Dunn, Hammler, Martinez, Wright and Mayor Umstatt
Nay: None
Vote: 7-0*

- b. Authorizing a letter to the Loudoun County Board of Supervisors regarding Enforcement of the Maintenance Code
On a motion by Council Member Martinez, seconded by Council Member Dunn, the following was proposed:

MOTION 2013-013

I move to authorize the Mayor to sign the letter dated February 26, 2013 to the Loudoun County Board of Supervisors requesting enforcement of the Maintenance Code portion of the Uniform State Building Code within the Town of Leesburg

*The motion was approved by the following vote:
Aye: Burk, Butler, Dunn, Hammler, Martinez, Wright and Mayor Umstatt
Nay: None
Vote: 7-0*

14. NEW BUSINESS

- a. Making an Appointment to the Utility Rate Advisory Committee
*Vice Mayor Butler made a motion to suspend the rules, seconded by Mayor Umstatt. The motion to suspend the rules passed by the following vote:
Aye: Burk, Butler, Dunn, Hammler, Martinez, Wright and Mayor Umstatt
Nay: None
Vote: 7-0*

*On a motion by Council Member Dunn, seconded by Vice Mayor Butler, a nomination of Kimberly Mill to the Utility Rate Advisory Committee for a term to end December 31, 2016 was made. The motion was approved by the following vote:
Aye: Burk, Butler, Dunn, Hammler, Martinez, Wright and Mayor Umstatt
Nay: None*

Vote: 7-0

15. COUNCIL COMMENTS

Council Member Dunn: stated he has been on an all juice diet for 11 days and has lost 35 pounds.

Vice Mayor Butler: stated he attended the ribbon cutting Elite Martial Arts and broke a board. He noted that the General Assembly has passed a compromise transportation bill which will cause the town some concern. He stated it may solve some transportation problems.

Council Member Burk: reported she met with the Oaklawn applicant. She stated she is looking for businesses for the Youth Job Fair and high school and college students who are looking for employment.

Council Member Martinez: Stated he attended the Ally ribbon cutting at Paxton. He noted they honored Jo Ellen Keating for her service to Paxton.

Council Member Hammler: Noted that the schedule for First Friday looks great.

Council Member Wright: Disclosed a meeting with the Oaklawn applicant earlier in the week. He stated the deadline for the Call for Art for the mural was last week and there are five proposals being reviewed. He stated the Commission on Public Art is working on parameters for fundraising

16. MAYOR'S COMMENTS

Mayor Umstatted thanked Jennifer Lassiter with Paxton for a wonderful evening at the grand opening of Ally. She stated the Leesburg Volunteer Fire Company will be celebrating their 210th anniversary on November 15, 2013 and will be looking to work with the town on their celebration activities. She disclosed a meeting with representatives of Oaklawn. She thanked Principal Bill Oblas of Loudoun County High School and Principal Chad Runfola of Simpson Middle School as well as the students of both schools for their support regarding the young man from Loudoun County High School who recently lost his life. She thanked the youth pastors at Cornerstone Chapel for being at the funeral to help anyone who needed to talk. She thanked the Navy ROTC cadets for their participation in the funeral service.

17. MANAGER'S COMMENTS

Mr. Wells had no comments.

18. CLOSED SESSION

None.

19. ADJOURNMENT

On a motion by Vice Mayor Butler, seconded by Council Member Martinez, the meeting was adjourned at 11:36 p.m.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2013_tcm0226

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

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

Council Members Absent: Council Member Dunn arrived at 7:34 p.m.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Public Works Tom Mason, Director of Planning and Zoning Susan Berry Hill, Director of Plan Review Bill Ackman, Director of Finance Norm Butts, Assistant Town Manager Scott Parker, Deputy Director of Public Works Charles Mumaw, Director of Utilities Amy Wyks and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. **Work Session Items for Discussion**

a. COPA Local Government Challenge Grant

Vice Mayor Butler abstained from the discussion and left the room.

Jeanette Irby introduced the new Chair of the Commission on Public Art, Thomas O'Neil. Council Member Wright noted that the Commission received a fair number of grant applications.

Council Comment/Questions:

- Why was the mural not considered?

Commission answer: The Commission felt that since it was separate from the town, it did not make sense to ask the town to fund it.

b. Stormwater Ordinance and MS-4 Permit – Chesapeake Bay

John Wells stated this presentation ties into an action on tomorrow night's agenda to initiate changes to the town's stormwater ordinance and request an extension for implementation of regulations highlighted in Mr. Bulova's previous presentation.

David Bulova gave a brief update on the stormwater regulations.

Summary of Key Points:

- First phase begins April 1.
- Must show good faith effort to show how changes will be made
- Good faith effort gives you a year extension
- Phase 2 starts in June but extension gives a July 2014 deadline
- Town gets to administer ground disturbance program
- Developers can buy nutrient credits off-site for some projects
- There are a few exceptions and exemptions

Council Comments/Questions:

- How does getting off-site credits create clean water for the town?
Consultant answer: The Chesapeake Bay does not differentiate where the phosphorus comes from. Trades can be made for nutrients, but cannot be made for volume or outfall.
- Are different sections of the State Code competing?
Consultant answer: The regulations take away a lot of the town's discretion for coming up with new BMPs. Now there is a list of approved Virginia BMPs.
- Is the State's share of the fee 28% of the increase or 28% of the total fee?
Consultant answer: 28% of the base fee
- For small developments, is there an option for a pro-rata or impact fee?
Consultant answer: This is currently in a gray area. Would actually have to install the BMP and have developers buy into it.
- What are the budget implications re FTEs?
Staff answer: The FY14 budget is not affected because of the extension. Soft costs in terms of consultant fees are approximately \$28,000. Work on estimating staffing and fees would begin at the end of the calendar year for inclusion in the FY15 budget. Costs for the capital program are included in the FY14 budget.
- What is the role of the Environmental Advisory Commission?
Staff answer: They will be engaged in review of the ordinance revisions.
- What percentage of the total can be offset credits?
Consultant answer: For smaller projects (under 5 acres) where you have to reduce less than 10 pounds of phosphorus, it can be 100% credit. The state allows jurisdictions to decide the percentage for larger projects.
- How does this affect VDOT projects?
Consultant answer: VDOT will go directly to the state.

c. Morven Park Update

Council Member Wright disclosed that his mother serves on the Board of Directors for Morven Park in an unpaid capacity.

Scott Parker stated that Morven Park is requesting a Boundary Line Adjustment into the town.

Carl Riedel, Board Member of Morven Park, spoke on behalf of Morven Park.

Summary of Key Points:

- Looking to expand uses for the community
- Have had problems with traffic
- In conversations with Loudoun County Public Schools about using Tuscarora High School for access

- County limits the number of special events per year to 10 per year.
- Looking at doing fewer events in coming years, but doing them better.

Council Comments/Questions:

- Is this area under a conservation easement?
Speaker answer: Yes, 600 acres is under a conservation easement.
Equestrian center is not in the easement.
- Will Morven Park ask for utilities?
Speaker answer: No plans to do so at this time.
- How much will this add to the Town? Will this affect the town's urban/rural mix?
Staff answer: Almost two square miles. Will probably not change the urban designation as this is due to census information
- Will not be contiguous to the rest of the town limits

d. Availability Fee Discussion

Council Member Dunn stated he requested this be added to the agenda. He requested this be discussed for possible elimination to encourage business growth.

Norm Butts and Amy Wyks gave a brief presentation on what availability fees are, how much is generated and whether they can be eliminated.

Key points:

- Utility system operates on a cash needs model
- Eliminating availability fees would leave the account requiring \$5.2 million over the next five years
- Amount could be realized through cost cutting and/or raising user rates

Council Comments/Questions:

- Greatest impact is to smaller businesses/restaurants

e. Cross Connection Audit Results – Delay of Sprinkler/Backflow Fines

Vice Mayor Butler stated he requested this item, but did not feel it needed to be discussed this evening any discussion could be held Tuesday.

Ms. Irby stated the town has to comply with the terms of the permit and delaying or discontinuing fines would be a violation of the terms of the permit could result in a criminal charge/fine.

f. Crosstrail Referral

Susan Berry Hill stated staff has received a referral request from the county for the Crosstrail property.

Summary of Key Points:

- Application only covers approximately 57 acres of the 480+ acres
- Rezone 57 acres to planned development commercial center/small regional center –would allow for more commercial than the current zoning (PD-IP)
- Up to 650,000 square feet of office and retail uses
- Three special exceptions – hotel, convenience store with gas pumps and outdoor sales
- Applicant has not provided details in the statement of justification or plan sets
- Utilities, public works, capital projects, plan review, airport and planning have responded
- Generally consistent with the town plan for regional office; however, it is intended to be predominantly office with supporting retail uses (20% total square footage in support of office uses)
- Three large projects – Kettler Property, Crosstrail and Tuscarora Crossing in the JLMA – with active applications
- Application unclear on phasing, transportation or utilities

Council Comments/Questions:

- Does the county have areas designated for big box retail?
Staff answer: In the Revised General Plan, there is a retail plan that designates certain areas for destination retail (regional retail) – this site is not designated as destination retail
- Clarification on the difference between a gas station with convenience store and a convenience store with pumps – gas stations have service bays
- Make sure Planning Commission and Airport Commission stay in the loop on this application
- How does this affect long range planning with respect to availability fees?
Staff answer: It will be a pro-rata for Lower Sycolin.
- Concern for hotel height because of proximity to the airport
- Is there any provision in the proposed zoning category that allows residential?
Staff answer: No.
- Does it make sense to put big-box retail in an area where there are no homes?
Staff answer: There is a substantial amount of retail already zoned in the south east section of town.

g. Town Orientation Seminar for New Residents

Council Member Wright stated there are a lot of new residents in town and stated there is a need for an annual new resident orientation.

Council Comments/Questions:

- Could be combined with the Police Department's annual internet safety day to maximize attendance
- Will only benefit those who are new at the time of the meeting because new residents have answered all their own questions within a month of moving in
- Could educate new residents on the depth of services that area available

2. Additions to Future Council Meetings

Council Member Burk: Challenge Council to compete with staff on picking up trash for Keep Leesburg Beautiful. Would like the town to participate in Earth Hour. Would like to investigate closing King Street between Market and Loudoun for First Fridays to keep pedestrians safe – in April and May as a trial. Four Council members agreed to discuss it at Tuesday's meeting.

Council Member Hammler asked for recognition for Jim Wynn's service to the town.

3. Closed Session

None.

4. Adjournment

On a motion by Council Member Martinez, seconded by Vice Mayor Butler, the meeting was adjourned at 9:36 p.m.

Clerk of Council

2013_tcwsmin0311

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

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

Council Members Absent: Council Member Dunn arrived at 7:35 p.m.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Utilities Amy Wyks, Director of Public Works Tom Mason, Economic Development Director Marantha Edwards, Senior Planner Irish Grandfield, Chief of Police Joseph Price, Research and Communications Manager Betsy Fields, Management Analyst Lisa Haley, Management Analyst Mike Bruckner, Business Development Manager Doug Parsons and Clerk of Council Lee Ann Green

AGENDA ITEMS

1. **CALL TO ORDER**

2. **INVOCATION:** Mayor Umstattd

3. **SALUTE TO THE FLAG:** Vice Mayor Butler

4. **ROLL CALL:** Showing Council Member Dunn arriving at 7:35 p.m.

5. **MINUTES**

a. Work Session Minutes of February 25, 2013

On a motion by Vice Mayor Butler, seconded by Council Member Martinez, the minutes of the Work Session meeting of February 25, 2013 were approved by a vote of 6-0-1 (Dunn absent).

6. **ADOPTING THE MEETING AGENDA**

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

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

Nay: None

Vote: 6-0-1 (Dunn absent)

7. **PRESENTATIONS**

a. Presentation – EDC Annual Report

Jim Sisley, Vice Chair of the Economic Development Commission, presented a report on the activities of the EDC for 2012. He stated the EDC's goal is to foster the economic climate for the town.

b. Presentation – Keep Leesburg Beautiful Event

Betsy Fields gave a brief presentation on this year's Keep Leesburg Beautiful clean-up campaign. She noted this is the event's ninth year.

She introduced Robert Wyks and his son, Brian, who are past participants. Mr. Wyks stated they have participated for six years and enjoy the flexibility of doing the clean up whenever it is convenient. He stated it gives them an opportunity to teach the scouts a variety of environmental and service lessons.

Brian Wyks stated that Keep Leesburg Beautiful is a great way to keep the community clean and beautiful.

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

PROCLAMATION

KEEP LEESBURG BEAUTIFUL MONTH

APRIL 2013

WHEREAS, the Town of Leesburg in Virginia is committed to the effective stewardship of the environment and to maintaining the attractive appearance of Town road corridors and public spaces; and

WHEREAS, the “Keep Leesburg Beautiful” town beautification and clean up campaign was founded in April 2005 as a community-wide effort; and

WHEREAS, hundreds of volunteers participate each spring in litter collection and other beautification activities in the Town; and

WHEREAS, the 2013 “Keep Leesburg Beautiful” campaign will run from April 1st to April 30th; and

WHEREAS, the Town Council wishes to express support for the 2013 “Keep Leesburg Beautiful” campaign and recognize the efforts of this year’s volunteers.

THEREFORE, the Mayor and Council of the Town of Leesburg in Virginia hereby proclaim the month of April of the Year 2013 as Keep Leesburg Beautiful Month in the Town of Leesburg and urge the residents and businesses of Leesburg to participate in Keep Leesburg Beautiful clean up and beautification activities.

PROCLAIMED this 12th day of March 2013.

Council Member Burk challenged the staff to see who could clean up the most trash – council or staff.

8. PETITIONERS

- a. The Petitioner’s Section was opened at 7:48 p.m.

Amy O'Connor, 108 Church Street, NE, asked for Leesburg's participation in Earth Hour, which is a global movement to bring awareness to environmental issues, particularly global warming. She stated it is asking organizations to turn off non-essential lights for an hour on March 23.

Butch Porter, stated he is a business owner and resident. He questioned how a proposal to close King Street for First Friday would happen without input from the downtown businesses. He stated if the town would like to run First Friday, then they can run it.

Sola Palotta, stated she is the coordinator for First Friday. She stated First Friday is a nationwide promotional program. She stated the purposefully spreads out events to bring in the businesses further out. She stated blocking off King Street would put those businesses out of the "playpen" and discourage visitors from walking outside the blocked off area.

The Petitioner's Section was closed at 8:06 p.m.

9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Virts Corner Improvements Construction Contract Award*

RESOLUTION 2013-038

Amending the FY 2012-2017 Capital Improvements Program (CIP) for the Virts Corner Improvements and Awarding the Construction Contract for the Virts Corner Improvements Project to General Excavation, Inc. in the Amount of \$2,151,636.80

- b. *Amending the Capital Improvements Program – Battlefield Parkway @ Plaza Street Signal*

RESOLUTION 2013-040

Amending the Fiscal Year 2012-2017 Capital Improvements Program and Making a Supplemental Appropriation in the Amount of \$50,000 for the Traffic Signal at Battlefield Parkway and Plaza Street Project

- c. *Lower Sycolin Sewage Conveyance System Easement Settlement Agreement*

MOTION 2013-013

The Town Council of Leesburg, Virginia, ("Town Council") hereby moves to approve payment to Kenneth McKeehan, Trustee, a/k/a Ken McKeehan, Trustee, in settlement of the condemnation action filed by the Town Council in the Loudoun County Circuit Court on December 21, 2012. A petition in

condemnation was filed to secure land rights necessary for the Lower Sycolin Creek Sewage Conveyance System-Sycolin Branch Sewer Capital Improvement Project. Payment shall be made to Kenneth McKeehan, Trustee, a/k/a Ken McKeehan, Trustee, in exchange for the conveyance of sanitary sewer easements and a temporary construction easement by a Deed of Easement prepared by the Town.

d. Supplemental Appropriation of a JAG Grant to the Police Department

RESOLUTION 2013-042

Approving Amendments to the FY 2013 General Fund Budget, and Making Appropriations for \$58,345 Awarded through a Grant Received by the Police Department from the U.S. Department of Justice

e. PMW Farms, Section 1 – Time Extension Request

RESOLUTION 2013-043

Authorizing a Time Extension for Completion of the Public Improvements for PMW Farms – Section 1 (TLCD 2009-0002)

f. Making an Appointment to the Thomas Balch Library Commission (Martinez)

RESOLUTION 2013-044

Making an Appointment to the Thomas Balch Library Commission (Eileen Axeman)

g. Initiating an Amendment to the Town Code Regarding the Stormwater Ordinance

RESOLUTION 2013-045

Initiating Amendments to the Town Code, Chapter 14 (Environment), Article 11 (Stormwater Management), Sections 14-19 through 14-26, to Conform to Virginia State Code and Attending Regulations Regarding Stormwater Management

The Consent Agenda was approved by the following vote:

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

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

a. FY 2014-2015 Budget

The public hearing was opened at 8:22 p.m.

John Wells reviewed the advertised expenditures that have been advertised as part of the budget process. He stated the General Fund recommended appropriations are \$47.8 million, the Utility Fund including Capital Projects and debt service is \$20.3 million and the Capital Projects Fund

including the operational staff and capital projects themselves total \$18.8 million. He stated the total amount proposed for all funds is \$87,280,449. He stated this is \$1,826,000 less than the amount appropriated by Council in FY 2013.

He reviewed the pro-forma page from the budget for the General Fund. He stated current revenues meet current expenditures for FY 2014 and are expected to do so for FY 15, 16, 17, and 18.

He noted the advertised tax rate is \$0.195 and the equalized tax rate is \$0.189. He stated that if he was asked to rework the budget using an \$0.189 tax rate, he would look at debt structure, funding of capital projects, and a reexamination of current revenue trends.

Patrick Kaler, President and CEO of Visit Loudoun, stated the last fiscal year has been very lucrative for the town and the county with respect to tourism activities. He stated that hotel occupancy met expected levels for 2012 and Visit Loudoun generated 28 bookings for the Town of Leesburg, generating \$1.6 million in visitor spending. He stated they launched a geo-tracking app and a German language video which is part of their international marketing plan in the United Kingdom and Germany. He stated they did several destination photo shoots in the county and the town and they have access to all the photos. He discussed plans for new projects.

Council Comments/Questions:

- Does the long-term debt payment plan rely on the equalized tax rate for those years not requiring a tax increase?
Staff answer: Yes.
- Funding will need to be identified to fill the gap for VRT service.
- Is the additional funding requested for the Journey in addition to the Visit Loudoun funding?
Mayor's answer: Yes.

The public hearing was closed at 8:34 p.m.

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

MOTION 2013-014

Direct the Town Manager to develop a proposal to show a budget utilizing the equalized tax rate of \$0.189 and how that would impact long term debt service

The motion was approved by the following vote:

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

Nay: Butler and Martinez

Vote: 5-2

- b. Mixed Residential Permit Parking Zone for Royal Street
The public hearing was opened at 8:38 p.m.

Calvin Grow stated this public input session is to receive comments regarding regulation of mixed use parking zones, particularly on Royal Street. He noted that residents of Royal Street between King and Church Street, SE requested permit parking. He stated this area, because of its mixed uses, does not qualify for permit parking under the current town code. He stated after the input has been received, staff will develop some options for Council's consideration.

Ronald Mitchell, 5 Royal Street, SE, stated an amendment of the parking is not necessary. He stated he does not feel that changing anything will make a difference.

Suzanne Larkins, Royal Street, questioned how the flooding issues are coming along. Regarding the parking issue, she stated that business people who have businesses on other streets park on Royal Street to free space at their business. She stated that meters would negatively affect the businesses on Royal Street and she stated permit parking to help the residences would also negatively affect the businesses. She suggested creating a smaller space for motorcycles or bicycles so that they do not use a full sized spot. She also suggested permit parking only for Royal Street, but admitted she did not know how that would affect businesses. She stated it would be helpful to keep business owners from other streets from parking on Royal.

The public hearing was closed at 8:42 p.m.

John Wells stated he would be bringing forth a recommendation.

11. RESOLUTIONS AND MOTIONS

- a. COPA Local Government Challenge Grant
On a motion by Council Member Martinez, seconded by Council Member Wright, the following was proposed:

RESOLUTION 2013-039

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

Council Comments/Questions:

- Good change from previous method of giving entire grant funding to one organization
- Was there a requirement that the organizations use the funds for events/projects specifically in Leesburg? Was there a scoring process?
Liaison answer: Each group submitted a letter detailing what they intended to do with the grant.

- Were any of the members of the commission active members of any recipient groups?
Liaison answer: Not present at the meeting. One member of a recipient organization resigned from the commission prior to discussion and/or selection of recipients.

The motions were approved by the following vote:

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

Nay: None

Vote: 6-0-1 (Butler abstaining)

- b. Initiating an Amendment to the Zoning Ordinance regarding Home Daycares
On a motion by Council Member Martinez, seconded by Vice Mayor Butler, the following was proposed:

RESOLUTION 2013-041

Initiating Amendments to Article 9 and Article 18 of the Leesburg Zoning Ordinance to Revise Definitions Pertaining thereto Home-Based Child Care Services and Day Care Centers

Council Comments/Questions:

- Will we have to lower the number of children allowed from the maximum number of 12?
Staff answer: It is the opposite – the Town has allowed five children, by right, and 12 by special exception. The Virginia Department of Social Services issues licenses for 12 and not checking to see if any of the providers have met the town's zoning requirements. The town is trying to make its zoning requirements consistent with the Virginia Department of Social Services.
- How many child care providers will this affect?
Staff answer: They have been coming in for special exceptions. This initiation may eliminate the issue for some of the providers.

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

- c. Suspend Enforcement of Sprinkler/Backflow Fines

Amy Wyks stated enforcement of the Virginia Waterworks Regulations is a requirement enforced by the Virginia Department of Health. She stated the town's program has to be approved prior to issuance of operation permits. She stated failure to comply with the approved program is a class one misdemeanor and a fine of up to \$2,500 and time in prison. Further, the town's insurance provider stated they would have no obligation to indemnify the town for any expenses incurred if the town chooses to suspend enforcement of the regulations.

She stated the cross connection control auditor recommended that unused systems either be inspected as if they are being used or be cut and capped. He further recommended that if the system is cut and capped, that the homeowner sign a memorandum of agreement stating that if the system is reconnected, they will comply with all requirements for testing.

Council Comments/Questions:

- Should Council vote to change the policy by requiring a memorandum of agreement from the homeowner rather than cutting and capping the system or inspection, would that comply with state law?
Staff answer: The town would be in violation of the approved operation permit. In addition, the insurance carrier will not indemnify the town against damages. The Utilities Director has personal liability if she chooses to not enforce the policy pursuant to the approved permit.
- How could we change the permit?
Staff answer: Ask the Virginia General Assembly to change the Virginia Code to give flexibility with respect to the requirements of the permit

Vice Mayor Butler withdrew his request for this item.

12. ORDINANCES

- a. None.

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- a. First Friday Closure of King Street (Market to Loudoun) – May and June
On a motion by Council Member Burk, seconded by Vice Mayor Butler, the following was proposed:

RESOLUTION

Analyze and Seek Input to Close King Street from Vehicular Traffic from Market Street to Loudoun Street for First Friday Celebrations in May and June 2013

Council Comments/Questions:

- There was no intention to usurp the LDBA; only a concern for the safety of event attendees
- Get information and come back and decide if Council wants to close the street
- Concern that this will place added stress on the police department
- Would like a discussion about public safety, but do not want to legislate by reaction
- Some King Street businesses need access for delivery vehicles

Vice Mayor Butler offered a friendly amendment to add the words “Customers and merchants” as well as the three associations in order to get a better idea of what the customers and merchants desire. The amendment was accepted as friendly.

Council Member Burk expressed her willingness to withdraw the motion.

Vice Mayor Butler made a motion to ensure a vote on the resolution. The motion to ensure a vote was seconded by Council Member Martinez.

Council Member Martinez offered a friendly amendment to direct staff to investigate the public safety aspect. The amendment was accepted as friendly.

The motion to approve the resolution was defeated by the following vote:

Aye: Burk, Butler, and Martinez

Nay: Dunn, Hammler, Wright and Mayor Umstatted

Vote: 3-4

15. COUNCIL COMMENTS

Council Member Dunn had no comments.

Vice Mayor Butler stated he thought the budget work session went well. He stated he attended the Loudoun County Public Schools breakfast and was impressed by the number of businesses helping out students. He wished everyone a good, safe spring break.

Council Member Burk reiterated that April is Keep Leesburg Beautiful Month. She challenged everyone to get a team together or participate on their own to help clean up litter. She reminded everyone of the youth job fair on March 16 with over 50 businesses planning to attend.

Council Member Martinez asked for a recognition for Bobby McCurdy upon obtaining the rank of Eagle Scout.

Council Member Hammler disclosed a meeting with Hobie Mitchell and Rick Lanham about the Barber and Ross site. She stated she had a discussion with a board member of Morven Park. She requested a date for Council to participate in the Keep Leesburg Beautiful challenge.

Council Member Wright requested a reminder on how to participate in Keep Leesburg Beautiful.

16. MAYOR’S COMMENTS

Mayor Umstatted thanked Capitol Productions for their partnership with the school system. She noted they work with Virginia Tech at Morven Park’s equine center and with Monroe Vo-tech to broadcast public meetings. She congratulated Curry’s Auto Service on the grand opening of their new Catocin Circle location.

17. MANAGER’S COMMENTS

Mr. Wells reminded everyone of the youth job fair from noon to three p.m. on Saturday at ProJet Aviation. He stated people can call 703-771-2700 to participate in Keep Leesburg Beautiful. He wished everyone a good spring break.

18. CLOSED SESSION

None.

19. ADJOURNMENT

On a motion by Vice Mayor Butler, seconded by Council Member Martinez, the meeting was adjourned at 9:23 p.m.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2013_tcm0312

DRAFT