

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 8:20 p.m.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Assistant Town Manager Scott Parker, Director of Public Works Tom Mason, Director of Director of Plan Review Bill Ackman, Deputy Director of Public Works Charles Mumaw, Director of Economic Development Marantha Edwards and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. Work Session Items for Discussion

- a. Briefing on Draft Stormwater Regulations
William Ackman introduced Megan LeBoon from AMEC.

Key Points:

- Final resolution was approved by State Control Board on December 17, 2013
- Final draft must be submitted for review by Wednesday, January 15, 2014
- Will make formal submittal to DEQ on Wednesday, after resolution is signed
- Initial comments will be returned from DEQ in February
- Tight schedule with presentations to the Planning Commission, Environmental Advisory Commission and public input

Council Comments/Questions:

- Will Council see these regulations again?
Staff answer: Yes.
- Section 5-600 Stormwater Runoff/Quality Control – where did these pages go?
Staff answer: Some is completely eliminated because it contained the old BMP requirements that are no longer in place. Other parts have been moved.
- Is there grandfathering for applications submitted before July 1?
Staff answer: Site plan, preliminary plat, or rezoning approval would need to be approved no later than July 1, 2012
- Take steps to notify the development community of the regulations
- State has placed the burden of developing, operating and enforcing this program on the town, only somewhat offset by fees
- Schedule is very tight. Would like that to be noted in the resolution.

- Staff will continue to search for ways to save taxpayer money as the town and the county collaborate on ways to fulfill state requirements
- When will the town have estimates on cost?
Staff answer: Need to get at least six months into the regulations to be able to estimate

b. Loudoun Street Pocket Park

Council Member Martinez stated he would prefer to use the property on Loudoun Street as a pocket park.

Council Member Comments:

- Would like to formally call it a park under the Parks and Recreation Department inventory
- Would like it to be formally named after former Vice Mayor, Mervin Jackson, but would take community input on the name
- Need clarity as to whether this will be a park or a building
- Would like proof that a building on this site is not viable
- Would like input from the Commission on Public Art as well as the Parks and Recreation Commission
- Believe this is too big of a project for the COPA and P&R Commissions, but should be spearheaded by the P&R Department
- Do not want to give up town property unless there is nothing that it can be used for. Once it is sold, it is gone.
- It was decided to put the three choices on the agenda for Tuesday evening

c. Town Hall Restroom Hours

Key Points:

- Added security costs for additional hours for the bathrooms to be open during non-Monday through Friday work hours
- Cost would be negligible, usage has historically been low
- Signage can be installed in the parking garage directing people to the restrooms
- Cannot be justified on volume, but as a tourism-friendly convenience
- Gwen Pangle, LDBA, stated she would bring this issue up with the membership
- Business owners should be more friendly to potential customers
- Council decided to wait to hear back from LDBA

d. Downtown “Open for Business” Program

Key Points:

- Phase III – King Street – will start after Flower and Garden.
- Many other communities have been researched

- Plan is to utilize the consultant and local expertise
- Working with EDC and LDBA on special events
- LDBA would like to get moving – are happy with doing the work in increments
- Updates will occur regularly
- One on one work will be done with each and every merchant to ensure that the construction plan works around the merchant's business needs

Council Comments/Questions:

- Appreciation for Ms. Pangle's assistance
- Would like a flyer to be handed out on First Friday's to customers informing them about the project

e. Diversity Task Force

Key Points:

- Need direction from Council to put the advertisement together

Council Comments/Questions:

- Need an approximation of the ethnic makeup of Leesburg
- Will need to ensure the right mix of participants
- What will this task force tell us that we do not already know?
- Minorities are not applying for positions with the town – how do we reach out to minority populations?
- Goal of this committee is to increase the diversity of the pool of applicants
- Can we look at how other jurisdictions are handling this issue?
- Community demographics have changed dramatically in a short period of time
- How will we ensure we have diversity on the task force?
- Scope of the task force is only to assess how to widen the base of applicants
- Possibility exists that minorities are not applying because some sort of benefit is not being offered that they require

This will be on the agenda for vote on Tuesday evening

f. Clarification on Board and Commission Code Changes

Key Points:

- Housekeeping changes.
- Liaison requirement is a guideline

g. Work Session Agenda Rules

Council Comments/Questions:

- Add the expectation that a work session will be necessary for complicated land use rezonings
- Would like a majority of Council to agree whether an issue will be added for discussion or as an information item
- Change “chair” to “council”

2. Additions to Future Council Meetings

Council Member Hammler asked for a discussion of First Night possibilities.

Council Member Dunn asked for flags on the remainder of poles in the town, both town owned and Dominion Power poles.

3. Adjournment

On a motion by Vice Mayor Butler, seconded by Council Member Martinez at 10:21 p.m.

Clerk of Council

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

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

Council Members Absent: Council Member Dunn arrived at 7:40 p.m.

Staff Present: Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Assistant to the Town Manager Scott Parker, Director of Planning and Zoning Susan Berry Hill, Director of Plan Review Bill Ackman, Director of Economic Development Marantha Edwards, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Michael Watkins, Human Resources Manager Karen Dilley, Senior Planner Kevin Lawlor 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 Wright

4. ROLL CALL: Showing Council Member Dunn arriving at 7:40 p.m.

5. MINUTES

a. Work Session Minutes of December 9, 2013

On a motion by Vice Mayor Butler, seconded by Council Member Martinez, the minutes of the work session meeting of December 9, 2013 were approved by a vote of 6-0-1 (Dunn absent).

b. Regular Session Minutes of December 10, 2013

On a motion by Vice Mayor Butler, seconded by Council Member Martinez, the minutes of the regular session of December 10, 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:

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

Nay: None

Vote: 6-0-1 (Dunn absent)

7. PRESENTATIONS

a. Certificate of Recognition – Lion’s Club 75th Anniversary

On a motion by Council Member Martinez, seconded by Vice Mayor Butler, a Certificate of Recognition in honor of the 75th Anniversary of the Leesburg Lion’s Club was passed.

8. PETITIONERS

The Petitioner's Section was opened at 8:04 p.m.

Chris Cooley, thanked the community for their continued support. He stated he is proud to be a part of the Leesburg community. He stated he has purchased the building next to Lightfoot with the intention to expand his business and is encouraged by the business friendly atmosphere.

The Petitioner's Section was closed at 8:09 p.m.

9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Supplemental Appropriation of Donation to Community Outreach Program*

RESOLUTION 2014-001

Approving a Supplemental Appropriation of \$500 Resulting from a Donation to the Community Outreach Program from Dimension Data through Loudoun Cares

- b. *Requesting VDOT to Accept Additional Streets for Maintenance*

RESOLUTION 2014-002

Requesting the Virginia Department of Transportation (VDOT) to Accept Certain Streets

- c. *Draft Stormwater Regulations for Department of Environmental Quality Review*

RESOLUTION 2014-003

Authorizing Staff to Send the Town's Latest Draft Stormwater Regulations to the Virginia Department of Environmental Quality for Compliance Review with the New Virginia Stormwater Management Program Regulations

The Consent Agenda was approved by the following vote:

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

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

- a. *Amending Chapter 34 of the Town Code regarding Portability of Availability Fees*

The public hearing was opened at 7:46 p.m.

Amy Wyks outlined the key points for this public hearing:

- Availability fees promote cost sharing between existing customers and future customers to recover costs of utility facilities
- Proposal will allow transfer of previously paid fees within a single parcel owned by a single owner
- Minimum commercial fee would stay within a commercial space
- Written procedures for transfer have been developed
- Estimated \$30k for development of an online database of availability fees

Council Comments/Questions:

- If availability fees were eliminated, how can the town make up for the lost income?
Staff answer: Staff did not do an evaluation of this, but can look at the numbers.
- Significant economic benefit for the community
- Would not recommend spending \$30k for an online tool for the small number of parcels that are affected by this

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

The public hearing was closed at 8:02 p.m.

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

ORDINANCE 2014-O-001

Amending Chapter 34 (Utilities), Article II (Water Systems), Division 1 (Generally), Section 34-19 (Definition) and Chapter 34 (Utilities), Article III (Sewers and Sewage Disposal), Division 1 (Generally), Section 34-117 (Definition); and Adding Chapter 34 (Utilities), Article II (Water System), Division 1 (Generally), Section 34-40 (Portability of Water Availability Fees) and Chapter 34 (Utilities), Article III (Sewers and Sewage Disposal), Division 1 (Generally), Section 34-137 (Portability of Sewer Availability Fees)

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

b. Amending the Zoning Ordinance regarding Microbreweries and Floodplain Ordinance

The public hearing was opened at 8:10 p.m.

Kevin Lawlor summarized the key points of the proposed zoning ordinance amendments:

- Brew Pubs are permitted by right in the B-1, B-2, B-3, and B-4 zoning districts and can produce up to a maximum of 5,000 barrels per year
- Microbrewery is proposed to be allowed in the same districts
- Microbrewery defined as permitting 15,000 barrels per year by right in the I-1 district and by special exception in the B-2, B-3 and B-4 districts
- Microbreweries with minimum use standards could be permitted by right certain zoning districts
- Limited to 5,000 barrels per year, accessory tasting room shall not exceed 25% of the floor area of the use, and meet five special exception use standards applied to microbreweries in the I-1, B-2, B-3 and B-4 districts
- Current Zoning Ordinance requires special exceptions for utilities in the floodplain to mitigate potential adverse impact
- Additional legislative review only adds time and expense to public projects
- FEMA guidelines mitigate potential adverse impacts
- Planning Commission recommended approval of these proposed amendments

Council Comments/Questions:

- Theme of more economic activity in the downtown
- Why are we limiting the tasting room area?
Staff answer: Industry standards. If they were larger, they would be a restaurant and eligible to be a brewpub

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

The public hearing was closed at 8:19 p.m.

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

ORDINANCE 2014-O-002

Amending Articles 6 and 9 of the Leesburg Zoning Ordinance to Permit Microbrewery as a Permitted Use in the B-1, B-2, B-3 and B-4 Zoning Districts, and Amending Article 13 to Eliminate the Requirement for Special Exception Approval for Utilities, Public Facilities and Improvements in the Floodplain

The motion was approved by the following vote:

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

Nay: Dunn

Vote: 6-1

- c. TLZM 2010-0002 Lowe's Concept Plan and Proffer Amendment, TLTA 2010-0002 Town Plan Amendment, TLTA 2010-0003, TLSE 2010-0008 and TLSE 2012-0006

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

Brian Boucher presented the section of the public hearing having to do with the requested Town Plan amendments:

- Allows property designated as regional office to develop as retail with a minimum office component subject to design criteria
- Roadway network policy map amendment to remove a portion of Keystone Drive between future Russell Branch Parkway and Route 7
- Criteria in the Town Plan for regional office including site design and building design criteria
- Encourage the incorporation of retail and services into office buildings
- Encourage mixed use development with a residential component
- Should have a “Main Street” character with a human scale
- Development on this site fulfills economic policies of the town; however, proposal falls short of higher paying employment uses
- Site is near wastewater treatment plant
- Site has retail auto sales as a by-right use
- Town Plan amendment in 2011 removed the flyover for Keystone Drive, but remove the remaining stub

Michael Watkins presented the section of the public hearing having to do with the rezoning and the special exceptions:

- Rezoning from auto sales use to retail and special exceptions for outdoor building materials sales and storage and vehicle rentals
- Current access to Rt. 7 for the Public Works facility is removed under the proposed plan
- Half of the property will be occupied by the Lowe’s store; footprints of other half has not been planned
- Vehicle rentals will be for four flatbed vehicles for customers to transport purchases
- Building elevations are provided in the packet for review
- Buildings along Rt. 7 are not typical Lowe’s buildings
- Lowe’s is Phase 1 of the Development
- Design guidelines are sparse
- Staff recommends approval of the rezoning and conditional approval of the special exception applications
- What policy from the Council was used to drive the urban design outside the bypass?

Staff answer: In the absence of a detailed layout, urban design was thought to be able to mitigate the proposed rezoning and changes to the town plan

- Town Plan is a guidance document, not an ordinance and cannot have the foresight to see changes in the economy
- Would like some reference material as to where Loudoun County allows “big box” retail within the county
- Why are the grid streets only on the phase 1 portion of the property?

Staff answer: Request of the applicant.

- Market dynamics have changed making regional office less desirable

Molly Novotny of Cooley, Goddard gave the applicant's presentation. She stated that the by-right zoning allowing auto dealerships is not the best use for this property. She stated they proposed rezoning the entire property to B-3. She described the materials and design for the buildings.

Council Comments/Questions:

- Concern that the average Lowe's employee is not higher paid executive level employees
- Glad that this project does not contain a residential component.
- Waiting for two weeks will give the public more time to address this project

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

The public hearing was closed at 10:04 p.m.

Council Member Burk made a motion to send this item to work session for further discussion. The motion was seconded by Council Member Hammler.

The motion was approved by the following vote:

Aye: Burk, Dunn, Hammler, and Wright

Nay: Butler, Martinez and Mayor Umstatted

Vote: 4-3

11. RESOLUTIONS AND MOTIONS

a.

12. ORDINANCES

a. None.

13. UNFINISHED BUSINESS

a. None.

14. NEW BUSINESS

c. Diversity Task Force

Council Comments/Questions:

- What efforts are currently being made to include diversity in hiring?
Staff answer: Outreach efforts include advertising in Leesburg Today, website, La Voz of Loudoun, Virginia Employment Commission, Virginia Municipal League, local cable stations, and if applicable, and any professional organization websites.
- What other accommodations have been made?

Staff answer: Preference is given for bilingual applicants. Use of websites such as diversity.com and diversityjobs.com.

- The majority of applicants are white and task force is about finding ways to engage the minority community
- Should the group include a broader base?

Council answer: A more structured group is needed to start the discussion

- Would like each Council member to appoint someone and someone from INOVA as one of the community's largest employers, someone from La Voz and someone from the NAACP
- The town police department participates in the Shop with a Cop program every holiday season with underprivileged youth of all ethnicities
- The town's ethnic population has changed rapidly, while the town's employee population has remained static

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

RESOLUTION 2014-004

Authorization to Advertise for Interested Town Residents to Serve on a Task force on Workforce Diversity within the Town of Leesburg Government

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

b. Loudoun Street Property

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

MOTION

I move that the Town Council direct staff to advertise for sale the property on Loudoun Street owned by the Town in front of the Town garage. The property would be sold with the following deed restrictions:

- The property is being sold for development and the building(s) proposed to be constructed must provide for retail use on the first floor and office use on the floor(s) above.*
- The building(s) must be completed within 5 years of closing or the property reverts back to the town.*

Council Comments/Questions:

- This picks up where the process stopped before.
- Will answer the question as to whether the property is viable as a buildable site
- Information will be critical from an economic development standpoint

- Concern with the stipulation of “B”.
Staff answer: Language can be crafted to protect the town.

A friendly amendment was accepted to strike “A” and “B” would include “any proposal must contemplate building completion within five years”.

The motion failed by the following vote:

Aye: Dunn, Hammler, and Wright

Nay: Burk, Butler, Martinez, and Mayor Umstattd

Vote: 3-4

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

MOTION 2014-001

I move that the Town Council officially designate the property owned by the Town on Loudoun Street in front of the Town Garage as a park, and that the Parks and Recreation Commission be tasked with defining its use as a park and make a recommendation to Council on an official name for the Park.

Council Member Burk offered a friendly amendment:

I further move that the Parks and Recreation Department is directed to gather input from the commissions, public and other interested parties, develop and present to Council (no later than June 2014) one or more designs for the area on Loudoun Street in front of the Town parking garage. Elements in the designs to consider include, but are not limited to: A mural, stand-alone art elements, one or more buildings, waterfalls, hanging plants, gardens, picnic areas, the connection to the Rose Garden, modifications to the entrance and exit to the garage, ice rinks, and other possible attractions

The motion was accepted as friendly.

Council Comments/Questions:

- Building would be limited to a park-related building

The motion was approved by the following vote:

Aye: Butler, Burk, Martinez, and Mayor Umstattd

Nay: Dunn, Hammler, and Wright

Vote: 4-3

c. **Amending the Council Rules of Procedure**

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

MOTION 2014-002

I move to amend the Council Rules of Procedure, as presented

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

d. Initiating Amendments to Chapter 2 of the Town Code Regarding Boards and Commissions

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

RESOLUTION 2014-005

Initiating Amendments to the Town Code, Part Two, (Town Code), Chapter 2 Administration; Article V Board and Commissions; Section 2-193 through Section 2-232 Adjusting Compensation for Commissions; Changing Council Liaison Requirements; Adjusting the Duties of the Technology and Communication Commission; Extending the “No More than Two Committees” Limitation from the SRTC to all Commissions

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

None.

16. MAYOR’S COMMENTS

None.

17. MANAGER’S COMMENTS

None.

18. CLOSED SESSION

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

Pursuant to Section 2.2-37119(a)(1) of the Code of Virginia, I move that the Leesburg Town Council convene in a closed meeting for the purpose of receiving information and discussion regarding:

a. Personnel Matter

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

The Council convened in Closed Session at 10:50 p.m.

The Council reconvened in open session at 10:55 p.m.

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

In accordance with Section 2.2-3712 of the Code of Virginia, I move that Council certify to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by Council.

The motion was approved by the following roll call vote:

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

Nay: None

Vote: 7-0

19. ADJOURNMENT

On a motion by Council Member Martinez, seconded by Vice Mayor Butler, the meeting was adjourned at 10:56 p.m.

Kristen C. Umstatt, Mayor
Town of Leesburg

ATTEST:

Clerk of Council

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