

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:** None.

**Staff Present:** Town Manager John Wells, Deputy Town Attorney Barbara Notar, Deputy Town Manager Kaj Dentler, Director of Planning and Zoning Susan Berry Hill, Director of Plan Review William Ackman, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Mike Watkins, Assistant Town Manager Scott Parker, Director of Economic Development Marantha Edwards and Clerk of Council Lee Ann Green

## AGENDA

## ITEMS

### **1. Work Session Items for Discussion**

#### a. Legislative Update

Barbara Notar distributed the “Hot List” of House and Senate bills that the town is watching closely.

#### Key Points:

- Precious metal dealers: General Laws subcommittee has reported out.
- City status item is dead – was stricken from the docket at Delegate Minchew’s request.
- Bill requiring counties to enforce the maintenance code within towns has been tabled
- HB209 – subdivision plats of 50 lots or less would not require a preliminary subdivision plat - should be opposed.
- Will be updated tomorrow

#### Council Comments/Questions:

- Why does the county not want to enforce the maintenance code within the town?  
Staff answer: Probably revenue related. Is not just an issue within Leesburg, but also a problem in other towns within Loudoun County.
- What is line of duty funding?  
Staff answer: Disability for firefighters and police men – originally funded by the state. Now the town has to take over the funding. These bills require the state to take over the funding, but the state would want to take over portions of the communications and use tax.
- What would be the effect of not assessing stormwater fees for churches?  
Staff answer: Currently, we do not assess stormwater fees to anyone. These are the new stormwater fees. It will depend on the project, the size of the church. Staff will have to gather more information.
- What is the limitation of local authority on zoning?

Staff answer: that provides that the zoning ordinance or zoning interpretations cannot restrict federal or state constitutional rights.

b. Panhandling (drive ups)

John Wells stated that Council Member Dunn had raised a concern over drive up panhandling in some areas of the county. Police Department has no reports of it occurring within the town.

Council Member Comments:

- Not the same as soliciting in public right of ways

c. Metro Momentum Plan

Council Member Hammler stated this item could be stricken from the agenda. She stated her appreciation for Ms. Hynes presentation.

d. Downtown Improvements Verbal Update

Scott Parker gave the update on the progress on the downtown improvements.

Key Points:

- Work on Loudoun Street can continue once the weather warms up
- Water line work will continue
- Work will continue from the East End triangle to Church Street

Council Comments/Questions:

- Does this mean the sidewalks from the Liberty gas station to the triangle?  
Staff answer: Yes. Brick sidewalks will be installed.
- Will it be flat – it is important for Avis that there be no curbs.  
Staff answer: Yes, it will be an epoxy street print at Avis' request. Curb and gutter will start further down the street.
- On Loudoun Street, near Market Station, what will be done with the 'bridge'?  
Staff answer: A new 'bridge' will be built with the same type of stone face that is used on the east end triangle knee wall. This will be a dramatic improvement.

e. Lowe's

Council Comments/Questions:

- There is no tree save area? Is there a reason why?  
Staff answer: Correct. The quality of the tree stand that exists is low and is not significant. The applicant is meeting the canopy requirements.
- The deer that inhabit this area will have nowhere to go other than Route 7.

Staff answer: Will make a note to address habitats for wildlife in a small area plan.

- Will any further approvals be required for the Phase II section of the property?

Staff answer: A concept plan will be required.

- Pleased that there is no residential component
- Can vehicle sales be put on this site?

Staff answer: No.

- Are we positive enough land has been reserved for the interchange?

Staff answer: The previous legislative applications have guaranteed 100% that enough land has been reserved for the tight diamond design per VDOT.

- Vacant office space along Route 7 is because rents are too high
- How would staff recommend Phase I be sited to take best advantage of the topography?

Staff answer: Recommend that the back of the Lowe's building be towards Battlefield because the final diamond interchange will put Battlefield above the level of the Lowe's and while the intersection is at-grade, landscaping will provide adequate screening

Molly Novotny, of Cooley Goodard provided the fiscal impact study and reviewed the expected numbers with respect to the proposed development.

- Average Lowe's employee makes \$14/hr.
- Average Lowe's employee does receive benefits

Council Comments/Questions:

- Please comment on the additional traffic impacts created by this intensive retail use.

Staff answer: The proffered free-flow right turn lane will mitigate some of the impacts, but will not address all of the concerns. The long term fix is a grade-separated interchange.

- Would like to have a conversation about Town Plan amendments and rezonings
- Would like to break up areas where there are blank walls – possibly use cement board to give the impression of clapboard siding.

Applicant answer: Could do a number of things to give texture to the walls. BAR will have input as well.

- Why was a cistern recommended for watering the plants?

Staff answer: The applicant requested it.

- The Town encourages water saving measures
- The cistern will help with stormwater management costs
- The majority of council expressed a preference for the cistern

This will be on the agenda for vote on Tuesday evening

**2. Additions to Future Council Meetings**

Council Members Burk and Hammler requested information on how rezonings come forward. Council Member Burk stated that at the County level it is easier to see the proffers and referrals. Council Member Hammler stated she would like a discussion of the Town Plan and how it relates to regional office. She questioned whether mixed use is a better place for office.

Council Member Hammler asked for an advance briefing of the important land development applications that are before the Planning Commission. She stated Supervisor Reid asked for a letter from the Town Council requesting county CIP funding for the Battlefield/Rt. 7 interchange. She asked for a proclamation for Loudoun County Lady Raider's Volley Ball team.

Council Member Wright stated one of the holes in the process remains differentiating rezonings from site plans.

Vice Mayor Butler stated he got some comments regarding snow removal or lack thereof. Mr. Wells asked that any snow removal complaints be directed to him immediately. Vice Mayor Butler also asked for an information memorandum on policies and procedures regarding removal of signs from right of ways.

Council Member Dunn stated he would like to see what county CIP money the town could get. He asked for Council's position on Tuscarora Crossing as the county planning commission will be looking at this proposal.

Mayor Umstatted stated that Eric Stevens will come to Council to request the use of the Council Chambers for his son, Matthew's, Eagle Court of Honor. She recommended this be added to the agenda for tomorrow night's meeting. She also recommended adding a town manager's contract be added to tomorrow night's meeting. It was agreed to add these two items to Tuesday night's agenda.

Council Member Dunn requested a loop be added to the patches so that the Scouts can put them around a pin.

It was noted that appointments for the Diversity Task Force will occur at the second February meeting.

**3. Closed Session**

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

*Pursuant to Section 2.2-3711 (A)(3) 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. Real Estate Matter*

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 7-0*

The Council convened in Closed Session at 8:50 p.m.

The Council reconvened in Open Session at 9 p.m.

*On a motion by Mayor Umstatt, seconded by Council Member Burk, the following was proposed:*

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

*The motion was approved by the following roll call vote:*

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

*Nay: None*

*Vote: 7-0*

#### **4. Adjournment**

*On a motion by Council Member Martinez, seconded by Council Member Butler, the meeting was adjourned at 9:00 p.m.*

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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:** None.

**Staff Present:** Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Economic Development Marantha Edwards, Director of Planning and Zoning Susan Berry Hill, Director of Public Works Tom Mason, Director of Utilities Amy Wyks, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Mike Watkins and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. **CALL TO ORDER**

2. **INVOCATION:** Council Member Katie Hammler

3. **SALUTE TO THE FLAG:** Council Member Marty Martinez

4. **ROLL CALL:** Showing all members present.

5. **MINUTES**

a. Special Session Minutes of January 13, 2014

*On a motion by Vice Mayor Butler, seconded by Council Member Wright, the minutes of the special session meeting of January 13, 2014 were approved by a vote of 7-0.*

6. **ADOPTING THE MEETING AGENDA**

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

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

*Nay: Dunn*

*Vote: 6-1*

7. **PRESENTATIONS**

a. None.

8.A. **CLOSED SESSION**

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

*Pursuant to Section 2.2-3711(a)(19) 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: Security*

*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 7:35 p.m.

The Council reconvened in open session at 8:03 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*

## **8.B. PETITIONERS**

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

Danny and Jackie Garcia, stated he will be undertaking another walk, this time to Morocco. He described the purpose and details of his trip. He asked for everyone's prayers.

Eric Stevens, 310 Pathway Place, stated his son has earned his Eagle Scout rank. He stated his project was a digital color photography project that captured images of almost all the buildings in historic Leesburg and was presented to the Board of Architectural Review. He stated this consisted of 1500 photographs, all catalogued and labeled with addresses. He noted that the last time this service was professionally done for the town was 2002. He requested that they be allowed to use the Council Chambers for the Eagle Court of Honor.

Mayor Umstatt asked that the Rules be waived so that Council could vote on this item at this time.

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

**MOTION 2014-003**

*I move to allow Mr. Stevens use of the Council Chambers for an Eagle Scout Court of Honor*

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 7-0*

Gem Bingol, 1508 Shields Terrace, stated she would like to address the Council's direction to the Planning Commission to develop a new zoning district for Morven Park in preparation for bringing the property into the town. She stated it is the Piedmont Environmental Council's observation that the process is flawed by putting the zoning district process in front of a Town Plan amendment and consideration of the Boundary Line Adjustment. She stated a Town Plan amendment needs to be directed first.

The Petitioner's Section was closed at 8:20 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. *Authorizing a Contract for Chemical Purchases for the Utility Plants*

**RESOLUTION 2014-006**

*Awarding Chemical Contracts for Water and Wastewater Treatment Chemicals to Univar USA, Kemira Water Solutions, George S. Coyne Chemical Co., Shannon Chemical Corp., F2 Industries, and Southern Ionics, Inc.*

- b. *Supplemental Appropriation of 2013 Jingle Jam Proceeds*

**RESOLUTION 2014-007**

*Approving a Supplemental Budget Appropriation of the Net Proceeds from the 2013 Jingle Jam Benefit Concerts*

- c. *Supplemental Appropriation for Highway Emergency Operations Materials*

**RESOLUTION 2014-008**

*Amending the FY 2014 Budget and Making a Supplemental Appropriation in the Amount of \$67,200 from Undesignated Fund Balance to the General Fund for Highway Emergency Operations Materials*

*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. Loudoun Water Land Sale

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

Jeanette Irby gave a brief presentation on this public hearing.

Key points:

- Process started in May 2013 to address a need that Loudoun Water had to access the Potomac River
- Preservation of steep slopes was important
- Council did not want to participate in land swap
- Emergency interconnection was important feature
- Public hearing is required because this is “waterfront” property

Council Comments/Questions:

- Assurances that the residents have secondary source of water
- Funds go back into the Utility Fund
- What is the capacity of the reservoir and assuming that we had no other water source, how long would that last?  
Loudoun Water answer: 1 billion gallons – approximately 2 months, but this would not be during phase I. We are still in the planning stages.
- Based on that output, how many homes could you provide to?  
Loudoun Water answer: Unknown.

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

The public hearing was closed at 8:30 p.m.

Council Member Comments:

- Good opportunity for Leesburg residents to have a back-up water supply in case of emergency
- Oppose a short-term sale over an on-going revenue stream
- Annual lease payments would have been minimal and collection efforts would have been an ongoing effort, while the one-time payment can be collected and funds can be invested

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

***ORDINANCE 2014-O-003***

*Approving and Authorizing the Sale of Approximately 1.8 acres of Real Property Owned by the Town of Leesburg, Located Adjacent to the Kenneth B. Rollins Water Treatment Plant, to Loudoun County Sanitation Authority and Granting*

*Certain Permanent and Temporary Easements to Loudoun County Sanitation Authority and the Board of Supervisors of Loudoun County*

*The motion was approved by the following vote:*

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

*Nay: Dunn*

*Vote: 6-1*

**11. RESOLUTIONS AND MOTIONS**

- a. Approving the Memorandum of Agreement between the Town of Leesburg and Loudoun Water regarding Reclaimed Water Supply  
*On a motion by Council Member Wright, seconded by Vice Mayor Butler, the following was proposed:*

***RESOLUTION 2014-015***

*Authorizing the Town Manager to Enter into an Agreement with Loudoun Water Regarding the Provision of Reclaimed/ Reused/ Effluent Water to the Green Energy Power Plant*

Council Member Comments/Questions:

- Administrative activities as a follow-up on the Green Energy agreement
- Does this have anything to do with Lowes?  
Staff Answer: No. Because the Green Energy Plant is outside our service area, we need an agreement with Loudoun Water to enter sell reclaimed water to the Green Energy Power Plant.
- Creative source of revenue for the Utility Fund

*The motion was 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. 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

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

***RESOLUTION 2014-009***

*Adopting Town Plan Amendment TLTA 2010-0002, Adding Criterion #21 to Regional Office Optional Uses and Design*

## Council Comments/Questions:

- Will there be sidewalk along Battlefield Parkway/Russell Branch Parkway?  
Staff Answer: As proposed, there will be a trail system south of what will be southbound along Battlefield Parkway. On Russell Branch, we will complete the street section with the trail. At the intersection of Battlefield and Russell Branch north, the pedestrian connection was not anticipated – the reason being is that Route 7 is designated as a limited access highway so we did not want to encourage pedestrian traffic because we did not feel we had the adequate infrastructure to support pedestrian crossing across Rt. 7. It will extend to Villages at Leesburg on a 10ft wide asphalt trail.
- Will not be supporting the rezoning or any of the associated special exceptions despite the hard work of the Planning Commission and staff.
  - No plan for the residual of the parcel
  - Big Box use in an area targeted for employment
  - This is a vote for sprawl
  - Support \$500,000 in tax benefits
  - Support no residential units
  - Quality office buildings want to locate near quality mixed use, not near big box retail
  - Must stay true to the goal
- Criteria does not strip out the regional office use, but provides an additional option for transitional use
- Economic realities have changed the traditional campus office configuration
- Area has significant detractors for high quality office – high tension power lines and the sewage treatment plant
- Lowe's is a good business and will be a benefit to the citizens of the Town.
- Lowe's has gone above and beyond what they have been asked to do with respect to design of their store.
- Their average pay and benefits will be a welcome rate to many Leesburg residents.
- Additional retail sales will help fund transportation improvements
- Transportation proffers will help traffic movements in this area.
- Price to bring Wegman's with its additional residential units was much higher than the price to bring Lowe's
- Decision to approve the Crescent Place property was because the Crescent District Plan was a guide and economic conditions had changed. The Town Plan is a guide. The former Auto Park property has been vacant for a long time and economic conditions have changed.

*The motion was approved by the following vote:*

*Aye: Burk, Butler, Dunn, Martinez, Wright and Mayor Umstatta*

*Nay: Hammler*

*Vote: 6-1*

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

**RESOLUTION 2014-010**

*Approving Town Plan Amendment TLTA 2010-0003, Removing a Portion of Keystone Drive from the Roadway Network Policy Map*

Council Comments/Questions:

- This should have been when Keystone Drive was previously removed from the Town Plan.

*The motion was approved by the following vote:*

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

*Nay: None.*

*Vote: 7-0*

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

**ORDINANCE 2014-O-004**

*Approving Concept Plan and Proffer Amendment TLZM 2010-0002 Lowe's Home Improvement Center, Amending ZM-129 Leesburg Autopark, and Rezoning 6.93 acres of Land from I-1 to B-3, the Properties being Located Near the Intersection of East Market Street (VA Route 7) and Battlefield Parkway*

Council Comments/Questions:

- Proposal has been improved from the originally approved auto park.
- Best way to bring high paying jobs to Leesburg is to improve the quality of life in Leesburg because those people will live here and work somewhere else
- Big box belongs outside the bypass; boutique shops belong in the Crescent District and downtown
- Positive impact to the town of removal of a cistern from the plan would be 441,000 gallons of water or approximately \$1,220 in water purchased from the town for the garden center annually.

*Council Member Dunn offered an amendment to delete the cistern. The motion was seconded by Council Member Hammler for discussion purposes.*

*Vice Mayor Butler questioned as a point of inquiry whether the town was requiring a cistern.*

Mr. Watkins stated it is shown on the Concept Plan, but it is not required by the Town. He stated it is Proffered by the Applicant because it is shown on the Concept Plan.

- The more water that can be sold, the greater the relief to the Utility Fund.
- Can Council strike something from voluntary proffers?  
Staff answer: If the applicant agrees, the proffers and Concept Plan can be revised.
- Using run-off sets a good example.

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

*Aye: Dunn and Mayor Umstatt*

*Nay: Burk, Butler, Hammler, Martinez, and Wright*

*Vote: 2-5*

- Current by-right zoning only allowed car dealerships
- Still getting a mix of office and retail on the balance of the parcel
- Appreciate the applicant's efforts to make this Lowe's look better
- Very pleased with the off-site transportation improvements

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

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

*Nay: Hammler*

*Vote: 6-1*

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

***RESOLUTION 2014-011***

*Approving TLSE 2010-0008, Lowe's Lumber and/or Building Material Sales with Outdoor Storage, Located on Property Near the Intersection of East Market Street (VA Route 7) and Battlefield Parkway*

**Council Comments/Questions:**

- Appreciate Lowe's meeting with Council to address concerns
- Appreciate Council Member Hammler's concerns
- Very glad that there is no residential
- Very pleased that the connection is being built between this application and the Villages at Leesburg and other transportation improvements are being proffered
- Design elements are attractive
- Misgivings include lower paid employees will be unable to afford to live in the town
- Council needs to make a commitment to help our children to be able to come back to Leesburg to live AND work
- Have no idea what will go into the secondary site
- Could we have just approved the Lowe's site and not the residual area?  
Staff answer: It would have had to be split out earlier in the process.\

*The motion was approved by the following vote:*

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

*Nay: Hammler*

*Vote: 6-1*

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

**RESOLUTION 2014-012**

*Approving TLSE 2012-0006, Lowe's Vehicle Rental, Located on Property Near the Intersection of East Market Street (VA Route 7) and Battlefield Parkway*

*The motion was approved by the following vote:*

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

*Nay: Hammler*

*Vote: 6-1*

**14. NEW BUSINESS**

c. Legislative Agenda

*On a motion by Council Member Burk, seconded by Vice Mayor Butler, the following bills were proposed for Council opposition:*

**MOTION 2014-004**

*Senate Bill 431 (Remediation Fees)*

*Senate Bill 578 (Awards of damages and attorney fees in land use cases)*

*House Bill 94 (Application documentation required by localities)*

*House Bill 209 (Preliminary Subdivision Plats)*

*House Bill 685 (distribution of communication sales and use taxes)*

*House Bill 1084 (awards damages and attorney's fees in land use cases)*

*House Bill 1219 (limitations on local zoning authority)*

*House Bill 1230 (funding of Line of Duty Act)*

Council Comments/Questions:

- What does SB 431 do?  
Staff answer: Removes the cap on remediation fees
- What does HB94 do?  
Staff answer: Requires localities to provide documentation to applicants for every step needed regardless of whether they needed it even if some of the steps are outside our process such as DEQ

*The motion was approved 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 Burk, seconded by Vice Mayor Butler, the following bills were proposed for opposition:*

**MOTION 2014-005**

*Senate Bill 53 (stormwater fee waivers for churches)*

*Senate Bill 194 (inverse condemnation in eminent domain actions)*

*House Bill 371 (levying BPOL on taxable income rather than gross receipts)*

*House Bill 434 (limitations on BPOL tax rates)*

*House Bill 435 (limitations on BPOL tax rates)*

*House Bill 788 (out of state FOIA requests)*

**Council Comments/Questions:**

- These should be opposed because they are issues that are important to the town.
- Would like to see relief to churches on stormwater fees.
- Always hesitant on land rights
- Thought that the Town would want to fund the Line of Duty Act  
Staff Answer: The Line of Duty Act has always been funded by the State, but responsibility has been pushed off on localities. State would resume paying for it, but would use locality state and use taxes to pay for it
- Businesses pay gross taxes on income that is left.  
Staff answer: Town would oppose it as a policy issue.
- Not opposed to anyone requesting a Freedom of Information Request regardless of where they come from.  
Staff answer: Wording in the code change required traveling to Richmond to answer the request, which is probably a typo that will be corrected.
- What are the stormwater management fees for churches that would be waived?  
Staff answer: It is actually for a stormwater utility. We do not have a stormwater utility. It would depend on the size of the church. Our concern is that this is a policy issue affecting a size class of properties.
- Lowering taxes on businesses puts more pressure on residents

*The motion was approved by the following vote:*

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

*Nay: Dunn*

*Vote: 6-1*

*On a motion by Council Member Burk, seconded by Vice Mayor Butler, House Bill B65 (Motor vehicle sales tax) was proposed to be opposed.*

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 6-0-1 (Dunn abstaining)*

- b. Condemnation Settlement Agreement  
*On a motion by Council Member Martinez seconded by Vice Mayor Butler, the following was proposed:*

**RESOLUTION 2014-013**

*Authorizing the Settlement of the Condemnation Action of the Town Council of Town of Leesburg v. Lillie Mae Lee et. al.*

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 6-0-1 (Burk absent)*

- c. Town Manager Contract  
*On a motion by Council Member Hammler, seconded by Vice Mayor Butler, the following was proposed:*

**RESOLUTION 2014-014**

*Authorizing the Employment Contract between the Leesburg Town Council and Kaj Dentler*

Council Comments

- Fortunate to have a qualified applicant to fill Mr. Wells' shoes
- 17 years of direct work experience in the Town of Leesburg
- Served as director or acting director in four different town departments
- Appreciate the succession plan and crosstraining opportunity
- Comfortable with the process
- Vote on this is not a reflection on Kaj, but a reflection on the process
- Process sold the other applicants and the citizens of Leesburg short
- Will allow for a smooth transition
- Unhappy with the level of public input
- National search would have strengthened the choice of Kaj Dentler
- Political decision
- Do not agree with a two-year contract
- Will not support this as it would be an endorsement of a bad process

*The motion was approved by the following vote:*

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

*Nay: Dunn*

*Vote: 6-1*

**15. COUNCIL COMMENTS**

Council Member Burk commended the NAACP for their organization of the Martin Luther King Day march through Leesburg. She stated it was a wonderful event. She congratulated Kettles and Grains. She congratulated the Friends of the Balch

Library on their latest speaker and stated they have some wonderful speakers that offer a great opportunity to hear some very interesting free speakers.

Council Member Martinez stated he was disappointed to miss the Martin Luther King Day parade because of his work commitments. He congratulated Kaj Dentler and noted he felt that the process was fair. He stated he did not feel that it was necessary to spend the money on a national search when the talent was present here in Leesburg.

Council Member Hammler disclosed a meeting with representatives of Lowe's. She also disclosed a meeting with the Civic's Now group. She stated she discontinued meeting with them as she would like to remain completely impartial as relates to the Boundary Line Adjustment issue. She stated she inadvertently met with Peter Burnett at Ida Lee regarding property north of town. She stated she attended the Dulles Area Transportation Association meeting and they heard from an organization called Ride Scout focusing on a project to get people to mass transportation. She stated she attended the Kettles and Grain ribbon cutting, which is a really creative business model. She thanked Senator Kaine for his visit to the Crescent District, which was a wonderful opportunity to showcase the connectivity and energy downtown and in the crescent district. She stated they are trying to schedule a number of Frederick County commissioners to come down and experience the traffic gridlock on a Friday afternoon. She stated she is looking forward to VML Day. She reminded everyone that there is a vendor presentation for the online bill pay re-engineering on February 4 at 12:30 p.m. She stated she enjoyed the Annual Report and would like to see a State of Leesburg speaking tour. She congratulated Kaj and expressed her appreciation for the other applicants.

Council Member Wright congratulated Kaj Dentler. He disclosed a phone conversation with Ms. Novotny regarding Lowe's and Frank Milligan regarding Morven Park. He reminded Council that he will be out of the country for the next set of meetings and will not be asking for remote participation for those meetings because of the time differences. He stated with regards to Supervisor Reid's questions about bus service, he stated the Council's position is that the county should pay for bus service in town equal to what they pay for outside of town and that the town would be glad to pay for the additional Safe-T-Ride service.

#### **16. MAYOR'S COMMENTS**

Mayor Umstatt stated that Hobie Mitchell is working on a Demolition Event to which Council would be invited, possibly in March. She noted that Council Members Hammler and Martinez have noted that the Girl's Volleyball team at Loudoun County High School have had a fantastic year and will be invited to a meeting in the coming months to receive recognition.

#### **17. MANAGER'S COMMENTS**

John Wells stated the recognition of the volleyball team will be scheduled as soon as they can identify a date that is convenient. He stated he appreciated the opportunity to provide clarification on the Council's direction on the bus system. He stated Council's direction is clear – one system that would be directed by the county, funded by

the county, with some exceptions based upon certain conditions such as the Safe-T-Ride. He stated the town has provided input into the specific routes within the town. He stated clarification is that the 30% funding gives Council the flexibility in the event that there is not a final agreement that works to the satisfaction of Council. He congratulated Kaj Dentler.

**18. ADJOURNMENT**

*On a motion by Council Member Martinez, seconded by Council Member Wright, the meeting was adjourned at 10:26 p.m.*

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2014\_tcm10128

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:** None.

**Staff Present:** Town Manager John Wells, Town Attorney Jeanette Irby, Deputy Town Manager Kaj Dentler, Director of Public Works Tom Mason, Director of Finance Norm Butts, Director of Planning and Zoning Susan Berry Hill, Director of Economic Development Marantha Edwards, Research and Communications Manager Betsy Fields and Executive Associate I Tara Belote

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**AGENDA****ITEMS****1. Work Session Items for Discussion****a. Garage Mural**

Tom O'Neil, Chair of the Commission on Public Art, presented the Commission's proposal for a mural for the south entrance to the town parking garage.

**Key Points:**

- Made up of small tiles painted by citizens
- Community involvement
- Tiles fit into frame that can be removed
- Recommend the left side of the parking garage closest to the log cabin
- Possible theme could include old landmarks that once existed in Town of Leesburg

**Council Comments/Questions:**

- Like the community involvement
- People can paint anything they want?  
Speaker answer: Within a color scheme
- Can previous donors still have a plaque commemorating their donation?  
Speaker answer: Yes.
- Question about the contracts?  
Staff answer: Depends on the level of volunteer involvement. This is a community involvement project. Council chose not to pick any of the respondents to the RFP.  
Speaker answer: The Design and Management fee should be paid for if a \$10-15 charge/donation is assessed per tile and corporate sponsors are found for the larger line items such as paint and tiles.
- Like the concept of community engagement

- Make sure this ties into the Parks and Recreation plan for the entire space
- How is it coated to make it last? Would like to find out the life span. Speaker answer: It is coated with sealant.
- Look for an opportunity for local artists to get involved
- Concern that plywood tiles will not hold up very long

b. Preparation for County Transit Summit

John Wells reminded Council that Thursday evening at 6 p.m. the Board of Supervisors is having their transportation summit. He stated there are a number of items on the agenda.

Key items:

- Leesburg bus service, which will be presented with only local dollars used for Safe-T-Ride and the Saturday trolley service
- Mayor will attend in case there are questions
- Weather may postpone the meeting

Council Comments:

- Population that needs transit will likely require a safety net
- DATA is trying to pull grant applications together
- What is the Safe-T-Ride route?

Staff Answer: Plan for the future is to limit the route, but Council can make the decision on the route.

- Recommend communication with Supervisor Reid

c. PPEA for Liberty Street Parking Lot

Council Member Hammler stated that while the Liberty Street lot may not be where the next parking garage needs to be located, Council should be focused on locating another garage somewhere downtown.

Mr. Wells stated staff can update the PPEA review process so that it will be ready in case an unsolicited proposal is received.

d. Legislative Update

Betsy Fields distributed an updated Hot List of legislation that the town is monitoring. She recommended going down earlier in the session as VML Day is so late in the session.

Council Comments/Questions:

- Would be helpful to know what legislation our representatives have sponsored.
- Many things are being opposed because they affect government's power, not the citizens
- Losing the ability to protect the citizens, affects the citizens.

e. Bond Reimbursement Resolution

Norm Butts stated this is a housekeeping measure that has been done a number of times in the past.

## Key Points:

- Ten million dollar bank qualified bond issue to be done next fiscal year.
- Required by the Internal Revenue Service
- If we run short of money this fiscal year, we will keep paying the bills and reimburse the working capital out of the proceeds of the bond issue that is performed in July.
- Without the reimbursement in place, legally the proceeds cannot be used to reimburse.

## Council Comments/Questions:

- Important to start thinking about how to start reducing dependency on long term debt
- If Council decided not to issue bonds in July, what would happen?  
Staff answer: Council would have to revisit the Six-Year CIP to decide which projects would not be funded

f. Amendments to the Town Noise Ordinance

Scott Parker stated that the Town's noise ordinance was amended in 2009 to bring it in line with a Virginia Supreme Court decision; however, with the emergence of night life in the downtown area, the noise ordinance needs updated.

## Key Points:

- Zoning Ordinance has additional standards to regulate noise using decibels during the day, which is a civil penalty
- Police Department enforces the Town Code in the evenings
- Decibel standards and time frame for standards are a policy direction
- Staff will return with draft ordinance

## Council Comments/Questions:

- Downtown vibrancy will bring increased activity and noise
- Take into account noises from delivery trucks and other low-level noises associated with commercial activities

**2. Additions to Future Council Meetings**

Mayor Umstatted stated that the amendments to the Rules of Procedure are in effect.

Council Member Burk reminded Council of Keep Leesburg Beautiful. She stated it is usually the week prior to Flower and Garden.

Council Member Martinez stated that he and the Parks and Recreation Commission would like to have the Loudoun Street park named after the late Vice Mayor Mervin Jackson.

It was noted that if it was delayed for two weeks, the family could be invited.

Council Member Hammler stated she would like to have a vote on support for the IT Strategic Plan in two weeks. She requested a clarification on the NVTAF funding process in the budget process. She noted she will be nominating Ann Robinson for the Diversity Task Force.

Vice Mayor Butler stated he would like to initiate a Zoning Amendment or Town Plan Amendment at tomorrow night's meeting to reduce the number of houses in certain zoning districts to get press so that Richmond will see that their proposed legislation is designed to take money from town's taxpayers and put it in the pockets of home builders.

Mayor Umstadt suggested sending a letter to NVBIA that if this legislation passes it could have a serious, detrimental impact on the ability of home builders to get the rezonings or town plan amendments that they need to go forward with additional housing that they need in Leesburg.

There was majority support for adding this item to the agenda for tomorrow night for action.

Council Member Dunn asked what the delta would be for eliminating availability fees. Mr. Wells stated that staff is still working on that question. Council Member Dunn questioned whether there are any other options for Community Grant applications that the town would be able to apply for. Mr. Wells stated he would provide those dates. Would like to find out about getting more County CIP dollars for town CIP projects. There was support for this.

Tom asked to have an informational memo on having town water towers painted with pictures.

### **3. Adjournment**

*On a motion by Council Member Martinez, seconded by Vice Mayor Butler, the meeting was adjourned at 8:59 p.m.*

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Clerk of Council

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