

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

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

Council Members Absent: None.

Staff Present: Town Manager Kaj Dentler, Deputy Town Manager Keith Markel, Town Attorney Barbara Notar, Director of Parks and Recreation Richard Williams, Director of Plan Review Bill Ackman, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Parks and Recreation Kate Trask, Police Captain Carl Maupin, Community and Events Manager Linda Fountain, Preservation Planner Tom Scofield, and Executive Associate Tara Belote.

AGENDA ITEMS

1. **CALL TO ORDER**

2. **INVOCATION:** Council Member Fox

3. **SALUTE TO THE FLAG:** Council Member Dunn

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

5. **MINUTES**

a. Work Session Minutes of June 22, 2015

On a motion by Council Member Butler, seconded by Council Member Dunn, the work session minutes of June 22, 2015 were approved by a vote of 7-0.

b. Regular Session Minutes of June 23, 2015

On a motion by Council Member Butler, seconded by Council Member Dunn, the regular session minutes of June 23, 2015 were approved by a vote of 7-0.

6. **ADOPTING THE MEETING AGENDA**

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

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

Nay: None

Vote: 7-0

7. **PRESENTATIONS**

a. Winner of the Patriot Cup

On a motion by Council Member Martinez, seconded by Council Member Butler, the Patriot Cup for best Independence Day float was awarded to Loudoun Fair and Associates, Loudoun 4H Clubs, and Loudoun Extension Service.

- b. Proclamation – 25th Anniversary of Ida Lee Park Recreation Center
On a motion by Council Member Hammler, seconded by Council Member Butler, the following was proclaimed and presented to Parks and Recreation Commission Chair Rob Fulcer and Director of Parks and Recreation Rich Williams:

PROCLAMATION

Ida Lee Park Recreation Center

25th Anniversary

WHEREAS, in 1986, the Rust Family donated 138 acres, formerly known as Greenwood Farm, to the Town of Leesburg for perpetual use as a public park to be named in memory of Mr. Rust's grandmother, Ida Lee, in order to preserve the historic link between the Lee family of Virginia and the Town of Leesburg; and

WHEREAS, construction of the Ida Lee Park Recreation Center began in the fall of 1989 and was completed on July 14, 1990 when the doors were officially opened to the public; and

WHEREAS, in 2002 the Ida Lee Park Recreation Center underwent an expansion, essentially doubling its size in order to meet the growing recreational demands of the Leesburg community; and

WHEREAS, since the time of the Rust families generous donation, the Town of Leesburg has gone to great lengths to improve the recreational opportunities available to its citizens through the use of Ida Lee Park; and

WHEREAS, on July 14th, 2015 the Ida Lee Park Recreation Center will celebrate 25 years of serving the community.

THEREFORE, the Mayor and Town Council of the Town of Leesburg, in Virginia, congratulates the Department of Parks and Recreation on 25 years of providing quality recreation facilities and programs at the Ida Lee Park Recreation Center to the residents of the Town of Leesburg.

PROCLAIMED this 14th day of July, 2015.

- c. Environmental Advisory Commission Watershed Plans
Environmental Advisory Commission Chair Joe Sanchez and Commission Member Neely Law gave a brief presentation on the Watershed Subcommittee's plans.

Key Points:

- Seeking Council support for the watershed plan.
- The town, as part of its mission does have goals and objectives to preserve and improve the environment as it grows.
- Within that framework, Total Maximum Daily Load (TMDL) requirements must be met.
- TMDL requirements were designed to protect the health of the streams, the Potomac River (our biggest drinking water source) and the Chesapeake Bay.
- A proactive, strategic plan is important to develop the necessary infrastructure.
- Three watersheds in town – Tuscarora Creek, Cattail Branch, and Big Spring.
- Headwater streams are the smallest drainage areas (less than 10 square miles).
- Chesapeake Bay drainage watershed is 64,000 square miles encompassing multiple states.
- Increasing impervious surfaces cause water to flow more swiftly into stream channels which in turn causes erosion.
- Best management practices try to capture the run off and slow it down.
- Rip-rap or stone can help eliminate erosion, but stormwater management ponds hold water and allow sediment to filter out before entering the stream channel.
- About 7% of the Public Works budget is dedicated to repairing stormwater problems.
- Chesapeake Bay TMDL regulations created additional requirements for jurisdictions in the watershed.
- By adopting the suggested resolution, the town is accepting and furthering the town plan objectives of adopting a watershed approach that will treat the source of the problems, rather than the symptoms.

8. PETITIONERS

The Petitioner's Section was opened at 7:50 p.m.

Tami Bredow, 42815 Delphinium Circle. "I have been a volunteer for the Loudoun County Volunteer Rescue Squad since 2008. I would like to actually give up my time to Tony Mino."

Tony Mino, 706 Evard Court, SW. "I am the operational chief of Loudoun County Volunteer Rescue Squad. What we wanted to come here and talk to you all about tonight is something that is basically our expansion and our desires, our plans with regards to the rescue squad building facility and how that relates to the skate park property and the sand lot next door to us. We have talked to a number of you in a number of instances and we felt it was probably time to talk to all of you at once so you can all hear the same message. We realize this doesn't come up for vote for another few weeks, but thought it was a good opportunity tonight to talk about this – give you all an opportunity to either ask questions this evening or generate questions and have us come back prior to that vote and hit home whatever issues or thoughts you might have for us. Okay, so our goal tonight, like I said, is to talk about the skate park and where we want to go with that. The bottom line, I put it

right in front, the first part of this chart is to obtain both the skate park lot and the sand lot. Both of those lots that are immediately adjacent to us at no cost to us. We will talk more about that as we go along. Now, reason being, there are two things key to this. We are landlocked right now. We need to expand out our facility in order to meet community needs and operational needs. Obviously obtaining land allows us to do that. It allows us to add parking that we are already currently space limited on. Operationally, back to my job, operationally we are a rescue squad that has kind of evolved into two groups. Talk to Chief from Frederick County – Chief Owens last week and one of his comments was everything around us is changing and we need to evolve with it. Looking back to – not here, but in rural Connecticut in 1984, what we were then is certainly not what we are now. Likewise some of the people who have been here early on when Loudoun Rescue started, what we were then is not what we are now. So, we want to be able to expand to meet these operational needs. We also looked at working the skate park people. Obviously, the first line is we want their property or we want their access. Well, yeah we do, but we don't want to displace them at the same time. We want to work with them and try to figure out what is the best solution for all of us. Again, we will talk more about that as we go through all this. The bottom line – we are trying, I think we have identified a win-win situation for all parties involved. Just a little bit of history. Loudoun Rescue was one of the first rescue squads to form in Loudoun County back in 1952. Twelve members, one vehicle and a few calls a year. That grew and grew. Very, very basic levels of equipment. Very, very basic levels of training and that is the way it all started. Since then, things have changed. Like I said a few moments ago. Training has advanced. Training requirements have been levied upon us. We certainly have more equipment now. There is more technology available to us that we need to be able to house and use and train on. From a crew standpoint itself, we need more people for the job. So, building and housing equates to people. We need to accommodate that. What hasn't changed over time is the commitment of these folks behind us here. Some of these folks have been doing it far longer than I. Some spend a lot less time than I, but the commitment of people behind the scenes to do the volunteer EMS and rescue job is kind of why we are standing here today. Our motto is right up there in the middle – when you need us, we are there. It really is. That is kind of why I am standing here today and why we do what we do. When we first started out – like I said, we were the first rescue squad. We were combined with what now is Hamilton Rescue. So, our name, Loudoun Rescue is because we were the first squad in Loudoun. We kind of just kept that name as we have gone. So, a bit about our history. We consider ourselves a town of Leesburg EMS or emergency services organization. We consider ourselves that now and want to continue doing that as we go forward. Just briefly, our relationship with the town – some of this is probably old news. We have been here for 52 years. The Council provided some funding 1979. That continues to go on today. We talked about that a few weeks back. The land parcel that we are currently on, the town sold us that for I believe it was \$10 back in the 73. Again, that no cost thing that we were talking about earlier – the town gave us the parcel. It reverts back to the town if we were to leave it. Leave that building or not to provide rescue services out of it. So, we have the lifetime lease agreement that reverts back to the town should we do that. In 1975, the building was occupied. Like I said, it was designed to handle the calls at the time, 500 to 1000 calls. We are not there any longer. We are climbing over 4500 calls a year. What started as serving our needs doesn't any longer. Early on, it housed three to five pieces of equipment. Now we have 12 plus others in station. We provide the rescue 911 services here. We also provide coverage for a lot of the

Leesburg events like 4th of July at Ida Lee and things like that. So, again, we have been and continue to want – will continue to be a town asset. Current issues – some of this is similar to what we have talked about already. In the 80s, we expanded our building. It met the needs at the time. Mid 2000, a year or two after I came to Leesburg, the station was undergoing expansion. It did expand it out. In the 2000s, we expanded back. We added one bay. We also extended forward as close to the street, I think, as we could go to add some living space, office space, and things like that. We really can't go left to right. We have north and south, whatever direction you want to call it because of the car wash and the current skate park. We currently are, obviously space limited. One of the things that just recently came to fruition is the heavy rescue truck that has been at Fire and Rescue almost forever. The county is going to relocate that, company 20 to Leesburg Fire. They are doing that at our request because we don't have the space available, not necessarily just to house the truck but to bring the crew in. We need to have additional crew. Whether it be paid or career crew or volunteers, we don't have space to house those crew members. We don't have bunk room space, we don't have locker space. We could squeeze them in, but that's not the right answer. So, as a result of the space limitations, operational impact of it is we are relocating – or the county is relocating that truck. The desire is to eventually bring it back to us. That's a few years down the pike when we can accommodate the needs of those additional crew members and things like that. So, increasing call levels, increasing technology, increasing things that we need to do as an organization is kind of where we are at. You know, 4400, 45-55 calls last year. We continue to see that growing around 10 percent a year. That kind of ebbs and flows. The facility that we are in currently does not support our needs. What we are going to talk about next is what is our rationale? Why do we want the skate park? What other analysis have we done to get into why that's the best facility for us and what we think are some good options for the skate park. I am going to turn over the remainder of my time to Lt. Skinner, who will kind of go through the rest of these”.

Doug Skinner 430 West Market Street. ”It is funny, just stating it and going through...the analysis of the cost process was my part to put into it. We started looking at the cost factors that would go to an expansion or an addition which is about 3-4 million as we took it upon ourselves as a non-profit organization to do that. We looked at it also if a new station needed to be built. A new station is going to need more acreage than where we currently have and the cost of about \$25 million plus dollars is because we also look at it at the county is mostly be [inaudible] we would have to go to them to bond it and then we are going to have to pay it back over time. The average station right now, the size of ours or bigger than where we need to go, about 25,000 square feet, you are talking about \$25 million, is what you are looking at to obtain land, build. The expansion, as we take the project in order for the lenders updating the loans and fit it within our operational budget to pay back the mortgages, the operational budget funding comes from, as we already know, we talked to you guys about our funding before, the county, the town, and fundraisers. Okay? We do that. We did it before for our current building now and for the expansions that we have had. The additional piece is paying for the new station, the new location and due to the high cost, I don't think we are going to be able to come close - \$25 million – we are not going to be able to finance that. We would turn around and ask county to take over that cost of the project. The location – [inaudible] cost factor. The location is another thing we looked at and you will see her in a second, the rationale for our current station location

in the middle of response area that is Loudoun County Volunteer Rescue's cover, which we call first due and therefore provides the most rapid response. Everybody, and guess what? The first due is the town. The town of Leesburg, very specifically. There is a little bit on the outreaches that we do. Loudoun County response standards based on the suburban zone, BOS is 10 minutes and ALS 10 minutes, 80 percent of the time. We at company 613, which is Loudoun Rescue Squad average 7 minutes response to scene from time of call. The national, which is the American Heart Association train of survival, outline actually how we do the response along with NFDA for [inaudible]. The American Heart bases it on cardiac arrest, CPR needs and people having cardiac events. The sooner we get there, the better chance people have to live. So, you are seeing a 7 minute response time from that location on the average throughout the whole district and really more than 80 percent of the time. That is our whole average over all our calls. This is the actual map showing our response area. We are station 613 or 136 and our primary response area. It is right in the middle. Catoctin Circle. We looked around to other spots. We looked at other pieces of property that we would be able to put a building on the size that we need. And this area, in the Catoctin area, especially the Crescent area and everything else in this part of the town, you are talking maybe we have to move out to the airport area. Something like that, which would take us out of that response area that makes us right in the middle. So, it is very hard to find it. It is also the cost factor. The cost factor of the piece of land. Right now, you are looking at a piece of land – the one we are on currently with our building – the building is estimated over about \$2 million and the land is estimated over \$1.2 million, the land and the property improvement so you are talking about other people's land you would have to purchase and the cost factor. Our plan was, is and has been set in place. We have looked at it extensively, we have analyzed everything and put it through is obtain the skate park at no cost because like we are talking to some of the staff and other people they are coming back with us about \$200,000 and move things and all that, but it is the funding, we have to go find that or mortgage it also. Under the lifelong agreement we currently have with the building that sits there now with the town. Expand the current building and services, provide parking for the rescue station. Work with the engineer and the architectural firm, fire and rescue services, of course, because they are going to have some say with what we are putting there and we agree with 99% of what they are talking to us about so with the expansion and structure. Obtain low interest loans to pay for the expansion and one of the options is to go back to the revolving loan process at the county also so we have talked to them. Build to expand services to meet community need. We have a nonprofit public partnership that we have had and continues. It is, you know, nonprofit. The public entities work very well together and usually save some good money overall. [inaudible] the current skate park and where does it go? We looked at this and went to the meeting. We went to the skate park meeting with the designer. We sat there, myself and Tami Bredow and [inaudible]. We just listened. It was great to listen. The thing is, we think it really needs to go to Ida Lee Park. The gentleman who sat here earlier tonight, from the park commission. It is your model. It is the thing that stands out in the community – Ida Lee Park. You have a good piece of land there and allows for a future park expansion. These people at the skate park, they want to expand it. They want to go out and make money, hand it to the town like they did when they first built the skate park to expand their skate park. It was like when Mr. Clem and that group was in here sitting here at this Board and said okay, let's vote for \$40,000. [inaudible] and they said to Mr. Clem and that board they said we are going to pay you back that money and they did in three months. [inaudible] these kids are saying it

again and it ain't just the kids. There are some kids that are grown up our age now that are doing that. That's what they said [inaudible] about. [inaudible] is sitting back there smiling because we watched generations change. Young kids and older. So, they really looked at it. It is a positive constituent service being out there and allows the better use of the park control center. You already have people out there. You have to hire more people to be down there on Catoctin Circle versus out at Ida Lee. That is a savings for you people right here. Our town. There is staff already at Ida Lee right there that can handle it additionally. It is on your property and you have staffing right there. You don't have to have separate staffing, okay? What's the impact if the town moves the skate park to Ida Lee and gives the property to us? It is very positive. It is a win-win. Okay? We move the skate park to Ida Lee – you've got everything above. It provides ability to the rescue squad to meet the community emergency services growth needs and then the opposite is going to be a costly affair because the opposite when you look at it or not as a town park or a county part, it is still going to affect our taxpayers either way. What is the impact? The town moves the skate park and provides us with adjacent property is very [inaudible] in our analysis we looked at it. Skate park has no future expansion capability if you leave it there, it is going to be kind of hard. The skate park does not have logistical support like Ida Lee Staff. We have to go and turn over and go through the county about obtaining land and asking them to build a new station because the cost is going to be outside our revenue capability. Land availability would likely change our first due area. We are going to end up somewhere else so that response time of 7 minutes is going to go down. The town is going to have to pay us out for that land. Under the agreement that we have, it says that we leave that piece of property, you are going to have to buy us out at market value to get that piece of property back. Market value is the agreement. Market value on that property is about \$2 million is going to cost the town again something out of it. So that's another cost factor that is negative. Obtaining that current skate park lot and the sand lot is our overall goal. Let me restate this. To continue to provide timely, quality emergency services – EMS and rescue for the town of Leesburg while also standing to meet the 50 year needs looking forward investment for everybody involved. We are talking \$3-4 million to do that to expand on that lot. If we are talking elsewhere, we are talking \$25 plus million, so we are working with the skate park community to help them because we listened to them. We are asking the question, we put a thing up on their facebook to ask if they want to come to Ida Lee. What did they say about that? Is it all positive, pretty much and that's what we are looking at. In regards to location of the park, it is going to be a positive for them. We look at this and they have done – for 52 years working for the town plus, we want to continue to do that and provide you with the services. Our people who work in our volunteer group believe it or not. They have other jobs. They are educated people. We look at this. A lot of us have time and [inaudible] put into this as volunteers. We don't get paid to do this. Including things like this in the analysis. They have got the technology to put it together and bring it to you to show the positives and negatives. It is just like when Mr. [inaudible] and his staff put something together. They do the same thing – positives and negatives. We do the same thing sitting there at our meetings. We are here to show that and give you our presentation of how the [inaudible] get that piece of land to move forward with our expansion. You had copies of this sent to you. There is back up material that is all connected to show things to you – our mission as it goes. If you have any questions, myself and various members of our department and our board members are here too.”

Monica Lopez “Good evening to all. I am Monica Lopez. I am here to support Andrew Borgquist’s position. For that reason, I yield my time to him”.

Andrew Borgquist “To start off on a different note, before I begin on what I came here to speak about, just goes to the skate park that is something I find interesting too. Sounds like a pretty good plan to me. As an avid skater still, I skated Lake Fairfax skate park now. I don’t really frequent the town of Leesburg park anymore, but I remember very vividly when I first became a town employee back in 1999 and I found out – because at that time you guys charged for the skate park. As a town employee, I could use the skate park for free. I was ecstatic. So, I do hope you guys will put another one in and I think that one at Ida Lee Park would be [inaudible]. But, anyways, I am here on a much issue that I have been speaking about on many, many occasions. So, with that in mind, I will continue to speak on that issue. Madam Mayor and Council members approximately five years ago, I visited this Council Chamber for the first time. I was here to receive a service award for ten years of service within the town of Leesburg. Shortly after that time, I became aware of something within the town of Leesburg that I thought we could do better on. I wrote up a letter to the Council describing the situation and what I thought would be a better way to do things in this particular situation. Prior to sending the letter to the council, I brought it to my direct supervisor, Jay Allred and asked for his opinion. He read the letter and advised me against sending it. He commented that a Council member might not appreciate my comments on the situation since I was a bit critical in one part of the letter. Not necessarily of the council, but just of the policy that was in place for this particular thing. He advised me that my job could be lost over the letter. I remember it so clearly because I responded that this does not seem right – that the Council could not possibly be so petty as to fire me over the letter, especially since I felt I had a very valid and reasonable point to make. Mr. Allred advised me that I needed to remember that Virginia is an employment at will state and that I could be fired for any reason including no reason at all. This bothered me at the time, but I decided it was best to stay quiet. I never sent the letter. This was about five years ago. So, fast forward to now. This was also the first time that I took note of the employment policy of the town of Leesburg. I had never really thought about it much before and honestly after some time did not think much about it again. Let me read for you again the excerpt from the Supreme Court decision regarding free speech for employees employed by public entities. I read this previously but I wanted to read it again real quick. So, again this was from a case that was decided – excerpts from Justice Thurgood Marshall of the Supreme Court *Rankin vs. McPherson* “vigilance is necessary to ensure that public employers do not use authority over employees to silence discourse not because it hampers the public functions but simply because superiors disagree with the content of employee speech. One of the other things that had been noted in various decisions involving this over the years has been that the court has also said “the threat of dismissal from public employment is a potent means of inhibiting speech”. So, with that in mind and again this isn’t necessarily the main central theme to what I am talking about because ultimately whether the issue that I have been bringing up whether, you know, something is legal versus not legal, it is more about the policies and procedures in place to ensure that what happens is supposed to happen be it legal or just good management practices. So, anyways, not too long ago at a Council meeting, I asked you about employees voicing concerns – this is [inaudible] Madam Mayor. I recall that you commented that you would not answer the question but then added, of course, that I always have the right to free speech. Well,

Madam Mayor, your words ring hollow and untrue. Your statement is an empty promise because as I was warned five years the Town of Leesburg may terminate an employee for voicing concerns simply because they disagree with the content. As I have learned from my most recent experience with management, the town of Leesburg has absolutely no accountability whatsoever with respect to adverse employment actions. Mr. Williams, director of parks and recreation, took adverse employment action against me for words and actions that occurred on my own time, outside of work and that clearly have little or no bearing on my employment within the town of Leesburg. Furthermore and worse yet, my disagreement with the Leesburg Police Officer was not over whether I was [inaudible]. I disagreed with the actions of the Leesburg police officer and chose to comment on the actions indicating I did not agree with. The officer in question would have a strong and obvious motive to suppress my comments since they may have been reflected negatively on him. When I voiced my disagreement, I noted that I was also a Town of Leesburg employee – a decision I have since learned gave the officer in question a clear line of action to retaliate against me for the comment on his actions. Mr. Williams asked to meet with me due to my choice to voice my concern. In a meeting with Mr. Williams and Mr. Allred present, I was told that I was being suspended indefinitely. I asked if Mr. Williams was aware of my disagreement with the Leesburg police officer and Mr. Williams refused to answer. It also appears to specifically named what it was that I had done wrong. Mr. Williams advised me that I did not need to say anything. Mr. Williams noted that per Virginia employment law, he could fire me for any reason including no reason at all. In his words, the meeting was just a courtesy. Does this sound like someone doing the right thing? To me it doesn't. Not knowing what it was specifically that I was being accused of having done, I described the events as I remembered them because I felt that I should not be suspended. Mr. Williams noted his disagreement with my choice to voice my concern with the Leesburg police officer's actions. Mr. Williams also noted that he did not agree with my comments. In Mr. Williams' opinion, voicing my disagreement with the actions of the Leesburg police officer made me, and I quote "a smartass". In fairness to Mr. Williams, he quickly corrected himself to say "smartaleck", but regardless. I defended my position and insisted it is going to be reasonably determined that it was necessary for me to voice my concern. I left the meeting with Mr. Williams' assurance that I was only being suspended and could try to have the suspension lifted at an unspecified future time with no direction as to any action I could take that would lift the suspension. Mr. Allred, with the approval of Mr. Williams terminated me the very next day without notice. Madam Mayor, I object to Mr. Williams opinions of my comments. Furthermore, I disagree with and reject the adverse action taken against me. I also disagree with and wish to complain about the manner in which the action was taken, which clearly indicates a significant deviation from the stated employment policy of the town of Leesburg. Madam Mayor and Council Members. I do believe there is a certain argument that could be made that at best the actions of Mr. Williams represent poor judgement and management and at worst the actions of Mr. Williams represent a hostile and retaliatory environment against employees that chose to voice concerns and create an environment where free speech may be suppressed and other federally protected rights may be violated through unaccountable adverse employment actions. So, I have been coming and petitioning Council to do something and hold management accountable and not let this be the way the Town of Leesburg operates. For the record, I have been trying to speak to Mr. Dentler about this and he has continued to refuse to meet with me to discuss this issue. And Mr. Dentler, as town manager, inaction

is just as significant as action. Though it is true, you do not make the decision you also did nothing and refused to speak to me when I tried to bring this concern to you. I believe this is unacceptable. How much time do I have left? Oh, okay. So, I guess what I would like to know is – obviously I have said some pretty strong things here and you know I would like to get some resolution in this and I know it is a somewhat complicated and thorny issue with actually getting something done, but what is it I need to do? I would very much welcome a meeting with Mr. Dentler to discuss this issue because I do believe and as I am saying strong things that would probably be better discussed in private, but I had no choice but to come to these meetings because I have no access I mean other than coming and speaking to the Council Members and speaking to you, but I would say that management has made it very clear that you know, and from the beginning I mean I was treated – I think we could, you know, sometimes you could say like contempt might not be too strong a word of how I was treated. I could read to you the letter that I have from Mr. Wells after my meeting with him and I just – I am a little bit flabbergasted the way the town of Leesburg has behaved over this and as someone who has worked for the town for what would have been going on 15 years – I worked for 14 ½ years ever since I was 16 years old, I am very sad and disappointed to see the Town of Leesburg do this. I really think that there could be a reasonable and productive conversation that could be had about how we could do better because I just don't see how this is good management. I don't see how this is the right way to do things. So, you have got my number and my email. I am open to meet with you at any time you should choose to do so.”

The Petitioner's Section was closed at 8:20 p.m.

9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Approving a Northern Virginia Transportation Authority (NVTA) Standard Agreement for the Route 15 Bypass/Edwards Ferry Road Interchange Project*

RESOLUTION 2015-079

Approving the Standard Agreement with the Northern Virginia Transportation Authority for Fiscal Year 2016 Funding of the Route 15 Bypass at Edwards Ferry Road Interchange Project

- b. *Approving a Virginia Department of Transportation (VDOT) Urban Project Construction Agreement for the Route 15 Bypass/Edwards Ferry Road Interchange Project*

RESOLUTION 2015-080

Urban Project Construction Agreement with the Virginia Department of Transportation to Authorize that Agency to Administer the Route 15 Bypass/Edwards Ferry Interchange Project

- c. *Approving an Agreement with the Virginia Department of Transportation (VDOT) for Primary Extension Paving*

RESOLUTION 2015-081

Authorizing the Town Manager to Execute an Administrative Agreement with the Virginia Department of Transportation for Fiscal Year 2016 Primary Extension Paving Program Funding

- d. *Awarding a Contract for Comprehensive Engineering, Architectural, Surveying and Related Services*

RESOLUTION 2015-082

Awarding Continuing Services Contracts for Comprehensive Engineering, Architectural, Surveying and Related Services

- e. *Remote Participation*

MOTION 2015-008

I move to allow Council Member Butler to remotely participate in the Council Work Session and Meeting of July 27 and 28, 2015

Aye: Burk, Butler, Fox, Dunn, Hammler, Martinez, and Mayor Umstadt

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

- a. *Appeal of the Board of Architectural Review Decision: Demolition of Homes on Edwards Ferry Road, N.E.*

The public hearing was opened at 8:23 p.m.

This is an appeal by the County of Loudoun on the Board of Architectural Review's final decisions on TLHP 2014-0115, TLHP 2014-0116, TLHP 2014-0117, and 2014-0118, which authorized partial demolition of structures owned by the County located at 106, 108, 110, and 112 Edwards Ferry Road, N.E.

Procedure for the BAR Appeal Public Hearing is as follows:

1. The preservation planner for the town will give an introduction and present his staff report.
2. The County will present its appeal.
3. The BAR will make its presentation.
4. There will be an opportunity for county rebuttal, if the county wishes to take it.
5. The Council may take additional testimony from the County or the BAR.
6. Public Comment.

Tom Scofield: Preservation planner for the Department of Planning and Zoning. I present to you, summary of the 11 meetings that transpired beginning August 4, 2014 with a courtesy presentation by Loudoun County and following up with the application submitted in November when the public hearing started by the

Board of Architectural Review in December of 2014 with a conclusion May 18, 2015. The certified records as presented to you by the Board of Architectural Review – 1375 pages. I promise my presentation will not be that long, but I do want to cover some bases in regards to the BAR's review. You probably recall this diagram – the options were presented to you in 2014 with input requested of you. On August 4, 2014, the design team presented its concepts for the new district courthouse to the Board of Architectural Review. This design alternative concept #3, was selected and that was the basis for conceptual elevations. Submitted at the August 4 presentation was a footprint of the proposed county building, indicated here with this red x and the four historic buildings on Edwards Ferry Road indicated by the red outlines along here. At that time, five different elevations were presented to the BAR. This is Concept 1, Concept 2, Concept 3, Concept 4 and Concept 5. Comments from the BAR at the August 4 meeting provided to the Courthouse design team. A somewhat [inaudible] challenge to convince this body that demolition of all four building was justified and an absolute necessity. Currently that argument is now being seen. The very least is a compromise position exploring the idea of keeping portions of one or more of the four houses. Alternative solutions to the stormwater management needed to be considered. This is a backdrop of one of the historic houses being served to mitigate the size and scale of the new courthouse along Edwards Ferry. The concept currently represents a stark change from the existing courts campus to the historic fabric of Edwards Ferry – it's a large object. There is a lot in alternative five that positively reflects the guidelines from [inaudible] gables and a three part configuration. Courthouse Square was specifically cited at the time for a review method in process. Significant modifications were made during the work session before Courthouse Square resulting in unanimous approval by the BAR. The BAR stated they were willing to hold those special meetings as needed, at the time. So, serial applications were submitted on November 17, 2014 for the four houses indicated here in this photograph on Edwards Ferry Road. Here is an image from the Certificate of Appropriateness application. As you can see, it shows the existing courthouse campus along Market Street with massing option #3, shown as previously viewed by the BAR and the Town Council. An additional image provided in the November 17 application was this footprint of the proposed courthouse building showing these red, kind of egg crate type structures here. This was, at the time, denotes the stormwater treatment facilities that would be needed for the courthouse project. Also a wide view of underground utilities are also being noted at this time. In concept 5D was presented. This was not from the earlier list of concepts. This is a modified concept that was submitted to the Board of Architectural Review and it was submitted on February 2 once the public hearing was opened and the application was under review. So, the procedure for review of demolition requests is on a case by case basis. The BAR is to evaluate whether or not the demolition of any primary building will have a detrimental effect on the immediate context of the Old and Historic District. And there is a three part test that is basically provided in the Old and Historic District design guidelines. The first criterion is regarding historic significance and architectural integrity. Is the building designated historic in the architectural survey? The resulting answer to that is yes, for all four buildings. Our historic inventory conducted in 1999 identified all four buildings as historic. So, in regards there is kind of a part B aspect of criterion

number one, historic significance and architectural integrity – if the answer to the first question is yes, then is it a resource that contributes to the historical significance and architectural integrity of the property, neighborhood, and historic district? A property is considered to be noncontributing if it does not have or retain the integrity of any of the following and here are seven criterion to be used and were reviewed by the BAR for all four of these buildings. The BAR does have the ability to determine whether a building is contributing or noncontributing when demolition is requested. So, here are the four buildings on Edwards Ferry Road. This blue line denotes the property boundary of the county owned parcel. As you can see, the county parking area behind the four buildings – one, two, three and four. This is 106, 108, 110, and 112. Just a brief summary on the background of these four buildings – 106 Edwards Ferry Road was definitely built by 1875 as far as we know. There may be evidence that it may predate the Civil War and constructed 1954. It is a framed, vernacular style building with Italianate architectural style influences. By 1874, the house on this lot is purchased by the Slack family. At 108 Edwards Ferry Road, we definitely know it was constructed in its current form by 1935, but it appears there may be a portion of this house that may have been constructed as early as 1889, not exactly certain. This house would be characterized as a framed vernacular house and by 1880, a house on this lot is occupied by the Slack family. At 110 Edwards Ferry Road, constructed circa 1860 – this portion of the house right here and earlier one room over one room type structure – very vernacular. Similar to other homes in town. Additions – substantial additions were added in 1890 and 1910. It is a framed, vernacular style building with Queen Anne influences. By 1876, this house was owned by the Slack family. So for 112 Edwards Ferry Road, N.E. – this building right here – this is constructed – a brick portion of this, the brick first floor was constructed circa 1813 – sometime between 1813 and 1820. A major frame addition including the second floor you see in this photograph and the rear alley was added circa 1875. This building is of the Federal architectural style. This was purchased by Elizabeth Snyder in 1857, who was a sister of Catherine Slack and this building was occupied by the Slack family. So, you get kind of a pattern going on here – the Slack’s owned for over 100 years most of these buildings. In regards to 112 Edwards Ferry Road – the brick first floor – it’s construction date only 10 percent of the 513 contributing buildings in Leesburg’s historic district are older than this building. Buildings of the federal style typically built between 1780 and 1830 comprise about 10 percent of the contributing resources in the historic district. The federal style is one of the primary character defining attributes in the Leesburg historic district. The Leesburg National Register nomination identifies this building at 112 Edwards Ferry Road as a representative example of federal style urban form dwellings in the historic district. In addition, the original masonry porch on the building is contemporary with the Bank of the Valley building shown on the right here. It is on the County courthouse property. The Harrison House at 19 East Market constructed circa 1820 and the Harrison law office right on the corner of Church Street – you probably all recognize this building here. They are all contemporary with 112 Edwards Ferry Road. The Slack family, an Irish immigrant family – kind of a classic American story – comes to Leesburg in 1857. Four generations of the Slack family lived or owned these buildings over time. A Slack Lane, as you know in town here is named after the Slack family. Edward Slack was

a prominent furniture dealer and undertaker in the town. So, it is associated with kind of an up and coming, emerging family that some – it's not George Washington or Lafayette or anything like that, but it is a family that definitely made their way in Leesburg in all these four houses for over 100 years. The 1854 Yardley-Taylor Map shows two properties in the vicinity of this area – right here. The 1878 map of Leesburg – by 1878, there are four buildings now on these different properties, [inaudible] Slack is identified as the building over here – there is a small building at 108, here is 110 and here is 112 – 112 was at one time part of a much larger parcel of land, as you can see associated with this property here. As of the 1899 Sanborn Fire Insurance Map provided by the Balch Library shows these four buildings. Sanborn maps are wonderful historic tools. They show a very detailed configuration of precise dimension and the number of floors. In 1899, here are all four buildings with associated outbuildings that are long gone. As you can see, each building sits on an individual lot at the time. By 1930, the Slack family, which owned all of these buildings consolidated all of these three and 112 stays separately under a separate parcel ownership. I don't know exactly the reason, but that was the condition in 1930 as shown in the Fire Insurance Maps prepared by the Sanborn Company. So, taking into account historical significant, the BAR reviewed the various factors with a look at the integrity of the property. The four buildings are obviously in association, owned by the Slack family on this land parcel. Edwards Ferry Road, these buildings play an important role on Edwards Ferry Road. Edwards Ferry Road represents a really interesting cross section in town. These four buildings represent the earliest residential construction – 112 Edwards Ferry Road being one of the brick front portion is part of the first annexation beyond the Nickels-Minor subdivision as part of a tract of land added in 1812 – the house was built soon thereafter and it becomes one of the first houses along Edwards Ferry Road and then as Edwards Ferry Road progresses, we have the wonderful timeline of construction. These houses tend to be 19th century. These are earlier 20th century and these are around the mid-20th century. So, it is a wonderful little timeline that we see along Edwards Ferry Road that extends well beyond the historic district in terms of just architecture in town. Also, important to note is Dodona Manor – right here. I thought that the Loudoun County Heritage Commission brought up an interesting point here that as our early national historic landmark in the boundaries of the Town of Leesburg, that George C. Marshall and his wife, these buildings kind of represent a context that George C. Marshall would have known at the time that he lived at Dodona Manor. So, here are the buildings along Edwards Ferry Road. Here is 106, 108, 10, 12 and you can just make out 114 – 114 is not a part of this application process. It is privately held, but is definitely part of that streetscape. These five buildings, four of them as you can definitely see are very close to the street type streetscape along Edwards Ferry Road. In regards to the historic district, here is a map that shows the brown shading is the old and historic district that is locally designated. This dotted line denotes the national register historic district. As you can see, the national register is not exactly coterminous with the old and historic district – there is a larger area covered in the brown by the old and historic district. When you look in detail at this corner of the historic district – in blue is the land parcel where the courthouse is to be constructed. As you can see, the four houses right here on Edwards Ferry Road – we applied for a grant to try to evaluate the

period significance – the period significance in the historic district ends in 1950. Now that we have 50 years of the old and historic district, we can potentially extend it into 1960. We applied for a grant to explore expanding that boundary. That would also take another look at the National Historic District. If these four houses are demolished it is very likely in that boundary adjustment – this is a noncontributing structure – that the historic boundary would likely change because the historic national register historic district boundary – not the historic local district – would be adjusted probably if these buildings go away because we no longer have contributing properties here. So, that is a potential impact that is represented in these demolition applications that I think is worthy of note and consideration and was considered by the BAR in the review.

So, back up – procedure for review of demolition requests. Quite currently, historic significance and architectural integrity. Is it a resource that contributes to the historical significance and architectural integrity of the property – of the neighborhood, of the historic district. The applicant has stated that they will not contest this finding. In the presentation provided in February, this is a slide taken in that presentation. As you can see, the county is not contesting the historical status of these buildings. This is also a copy of a letter included in their application package that their historic preservation consultant basically said that these buildings should remain as contributing properties and their status should not be disputed. So, criterion 2, if the answer to criterion 1 is yes, which it is, then is the building in a structurally sound, weather-tight condition. To document the building's physical condition, the BAR may ask the applicant for a site visit, the testimony of expert witnesses, and/or a structural engineering report. A site visit was held on January 16, 2015. The buildings appear in sound condition and two of the four buildings – at least at the time were in use and occupied. Testimony of expert witnesses state that the buildings are in sound condition. Therefore, a structural engineering report was not asked for by the BAR based on this expert testimony. So, is the building in structurally sound, weather-tight condition? All four buildings – the answer is yes. The applicant is also not contesting – provide evidence or testimony to dispute this finding.

So, back to our procedure and criterion #3. Building reuse and alternatives to demolition. Is it feasible that the building can be rehabilitated and reused? Support [inaudible] provided by County department heads. At that time, those county department heads, the Sheriff's Department and the like pretty much supported the idea of demolishing totally these buildings. The BAR came up with a statement that the applicant is to distinguish between what it doesn't want to do and what it can't do because of site limitations and code requirements – not just a matter of convenience. So, that direction was provided at that time. The applicant - also the applicant stated that authorization would be needed from the Board of Supervisors in order to explore development alternatives. That authorization was granted in a limited form on March 4, 2015. So, as this application went forward, you can see there is kind of a step by step approach and aspect of this with authorization required by the Board of Supervisors. So, back to our criterion #3, is it feasible that the building can be rehabilitated or reused? No study to identify possible rehabilitation

scenarios has been prepared. Town staff analysis revealed that certain rear sections of each of the four contributing historic buildings are not historic in construction or have been altered such that historic integrity has been substantially comprised. The BAR then asked the applicant is it feasible to construct the new district courthouse and save historic portions of the contributing buildings. Staff did an analysis of each building – the green showing what is historic integrity. Blue is altered in the recent past and red is a non-historic addition or where historic integrity has been lost. So, for each one of these properties and with an elevation analysis showing what could be removed, was provided by staff (myself) and I will refer to these later. Of course, we have these available for additional discussion.

So, based on the applicant's footprint of the historic buildings, this is the proposed courthouse – new district courthouse building in green – I just outlined. You see the red outlines of the current footprints of the historic buildings on Edwards Ferry Road. In my analysis are the solid green polygons that you see right here that are the historic portions of the building with non-historic portions shown in white within this red line here. Also, the applicant was authorized to do a feasibility analysis. They looked closely at – and this was at the Board of Supervisor's direction – of removing 106 and 108 Edwards Ferry Road, whether that be through demolition or, in their opinion, relocation and then 110 and 112 were examined to keep the oldest portions would stay in place. You can see in this diagram, the little tiny little rectangles that represent 110 and 112 Edwards Ferry as the County defined the oldest portions, not as my analysis defined those oldest portions. Then they came up with some cost estimates in association with that feasibility analysis.

So another factor – another fourth variable, if you will, are post demolition plans. The ordinance specifically states that the BAR shall consider – the applicant shall be required to provide post demolition plans for any site governed by this article and the appropriateness of such plans with the architectural character of the district. Specifically, six things were identified by the applicant in regards to post demolition plans that create kind of difficult conditions that with the [inaudible] of these four historic buildings in place, it makes development of the site more difficult than if it was cleared. That includes stormwater treatment facilities, the upgraded utilities for the new district courthouse, fire code issues, the Virginia Courthouse Facility Guidelines provide guidance on perimeter security – there was a concern expressed there, the constructability (i.e. construction staging for the new district courthouse) and the appearance of the new district courthouse. In regards to stormwater treatment facilities, this is the old original submittal back from November and as you can remember, that kind of red rectangles are shown right on top of 110. You can just make out the blue outlines of the former historic buildings here. The red rectangles are on top of 110 and 112. In the revised image that is included in the May 6 Board of Supervisors Agenda Item, you can see those red rectangles have been removed and in their analysis, they kept the historic portions – in their opinion, the oldest portions of 112 and 110 – are shown in this diagram, although there is some overlay of the stormwater management facilities on top of 110.

So, BAR review, after a lengthy discussion, the stormwater treatment facilities associated with the proposed district courthouse, conclusions were reached. Soil conditions in the area around the building at 110 and 112 are not conducive for the installation of stormwater infrastructure so that is one reason why you see these red boxes moved. The soils can't handle the installation of stormwater vaults at these locations. Secondly, the applicant stated that it is likely that one of the stormwater vaults on site will not be needed. Third, it is entirely feasible to address both quality and quantity stormwater requirements off site so that both vaults are eliminated on site. Also, off site stormwater treatment may be the preferred approach as per town department of Plan Review staff and may actually cost less. So, it is conceivable a final decision has been made that there is no need for these two stormwater vaults. In terms of stormwater quality, credits can be bought in the mitigation bank and for stormwater quantity, it is very likely that it could be treated on the Pennington Lot. Overtreatment on the Pennington Lot would help the Courthouse lot in regards to stormwater. In regards to utility upgrades, on this diagram, you see some blue lines and green lines where water and sewer lines are shown a need to enter the property for the new district courthouse. Also, there is some discussion about putting underground some electric utilities, but other commercial projects in the historic district face similar type utility issues so the BAR concluded that utility upgrades is not a requirement for the demolition for the courthouse. In regards to the fire prevention code, this is a page provided by Dewberry and is included in your appeal application, as exhibit 4. It shows, if you will note, the four historic buildings there in their current footprint configurations. So, these distances, right here I am denoting with the red check, are distances that do not consider removal of those non-historic rear portions and so therefore it seems likely that you could create a much greater fire separation. Also, in regards to fire separation issues, what we see in the private sector projects that involve historic resources such as Courthouse Square and Courthouse Commons, you increase the fire rating of that wall that is near the historic resource and it is possible that the wall on the courthouse building could be increased to the fire rating just like we see in private sector projects. Specifically, decided by the BAR was Courthouse Square. The old Times Mirror building being a historic resource facility attached to the rear and also the Courthouse Commons, we have a little frame building that is in the middle of the larger office complex that is all new construction around it. So, the BAR finding on fire prevention code issues, is that the applicant did not provide convincing evidence that fire requirements require demolition – more of a matter of convenience. Other commercial projects in the historic district face the same issues, was also a conclusion they reached.

In regards to perimeter security, the Virginia Courthouse Facility Guidelines were used as part of the security [inaudible] prepared for the project. I will elaborate more on this issue. You see this diagram provided by the applicant. You see a yellow dotted line - two-yellow dotted line. This represents – the one closest to the courthouse building is a 50 foot standoff zone and the second yellow line – the second tier represents a 100 foot standoff zone. So, if you see on the side of the property, you can just make out the footprints of 106, 108, a piece of 110 and here is 112. You can see this yellow line – 112 doesn't quite make it outside that 50 foot distance zone. So, the BAR findings in regards to perimeter security issues is the

design of this courthouse, it appears that the 50 foot standoff distance recommended by the Virginia Courthouse Facility Guidelines, is being treated as a requirement, not a guideline. If it is a requirement, the BAR expressed concern about several privately owned contributing buildings that violate this distance with existing courthouse facility, let alone proposed courthouse facilities. If it is a guideline, the Virginia standard provides alternatives, some of which have already been proposed by the applicant and includes increased policing and the like. The BAR did not receive any information from the Leesburg Police Department and it is my understanding that the Leesburg Police Department do not view the buildings as a threat. Here is – if you project that 50 foot boundary around all of the four facilities, potentially, you know what is within that 50 foot standoff distance, the applicant – let me be clear – the applicant stated it is not their intent to acquire these properties and clear the site, but at the same time it is an issue the BAR looked at. Why is it germane to here, but not, for instance, here but not for 114, which is right next door. In regards to constructability for the new district courthouse, we have a list provided by the applicant here in terms of what is needed to stage construction. Again, the BAR found that in regards to information, that all complicated commercial projects downtown face similar type of staging issues. Hearing some of the details required for Courthouse Square, large projects downtown require complicated staging with construction issues, but the building could be constructed with some semblance of the historic buildings in place.

Okay, now with regards to appearance for the new district courthouse. Here is concept 5D, which you saw earlier. The applicant provided 42 images of the 5D concept. The BAR findings on the appearance of the courthouse, first of all was going to be reviewed under a separate certificate of appropriateness application, which has not yet been submitted. The BAR was hesitant to provide detailed comments because of the design of the courthouse depends on the presence or absence of the contributing historic buildings. So, until that is figured out, they did not give the applicant a whole lot of important information other than expressing some general concern about the massing and scale – the massive size of the 92,000 square foot courthouse building. In here is some brackets provided by the applicant that show that this is a very large building from an aerial point of view. Here it is from a ground point of view. The applicant did provide a photoshop rendering of if the four houses were to remain in place in relationship to the courthouse building and this does kind of communicate what the BAR's goal was – is to maintain the integrity of the streetscape of the historic Edwards Ferry frontages, at the same time reducing mass, size, scale by the smaller buildings being in front. The massiveness of the smaller building behind it is mitigated in the opinion of the BAR. Here is another perspective drawing provided by the applicant and here is an aerial view showing the Pennington Parking Garage proposed in the background here. As you can see, on Edwards Ferry Road – one thing I want to point out, here is the Bank of the Valley building. Here is 114 Edwards Ferry Road and you can see how they are up against the street and without those buildings, the streetscape is diminished substantially from a historic perspective. Also, the applicant provided if these buildings were to stay, what it might look like. Now, please understand the BAR is not necessarily suggesting that the courthouse look like this with the buildings in

front, but we did not reach a conclusion in regards to that issue. Also, understand that the non-historic portion would require removal of that portion of the building as the BAR approved selective demolition.

Other considerations, public versus private projects. The BAR concluded that nothing in regulations or guidelines adopted by the Town of Leesburg allow preferential or separate treatment for public sector applications different from the private sector application including the additional cost typically associated with the preservation and rehabilitation of historic resources. Furthermore, the zoning ordinance explicitly states to apply to all properties for the H-1 including private and public structures. The Leesburg Town Plan and the appellant's letter – there is reference to the Town Plan about the courthouse. There is also a whole chapter on the H-1 and heritage resources in the historic district, specifically objective 3, to use the review process of private and public development to ensure that heritage resources are identified and preserved. Insure that potential impacts are mitigated. Relocation study – there is a lot of discussion on the applicant's side about relocating several of these buildings. The applicant can address that more, in detail because the BAR determined that the importance of the four buildings proposed for demolition is the historic context that they provide in association with the Edwards Ferry Road streetscape and the old and historic district. The BAR concluded that relocation of the buildings to another site is the equivalent of demolition, so they did not request a relocation study. Just so as you know, I am stating that explicitly – the BAR did not ask for, although the applicant did prepare one for each building and actually submitted a request for interest for any party that might be interested in the buildings. A possible compromise was an option 4. You won't hear about that this evening and for a reason, I'll tell you in a minute, but option 4 actually included, if you can just make out here the retaining of 112, and I think there was agreement from the BAR standpoint and the design team that it seemed conceivable that 112 – the historic portion – could be retained in place. Here are some cost figures and issues associated with that scenario. In fact, the county staff recommendation to the Board of Supervisors on May 6, 2015 for their action item – the recommendation was that 112 remain in place – at least the historic portion of the oldest portion. Retain that in place. Option 4 was not approved by the Board of Supervisors.

So, as I previously stated back to the review, on a case by case basis, the BAR will evaluate whether or not the demolition of any primary building will have a detrimental effect on the immediate context of the old and historic district. Criterion 1, the applicant has not met the standard for demolition approval. Criterion 2, structural/physical condition – the applicant has no met the standard for demolition approval. Criterion 3, building reuse and alternatives. It is apparent that alternatives to demolition exist the BAR concluded. In regards to post demolition plans, the proposed plans – by removing all four buildings, the BAR concluded that it will have a detrimental effect on the architectural character of the old and historic district and the historic integrity of the Edwards Ferry Road streetscape. Therefore, and this is pretty much verbatim of the BAR motion. There was two motions made by the BAR. One is for 112 Edwards Ferry Road, i.e. TLHP 2014-0115 – it recommended approval of demolition in modified form – selective demolition – with the following

conditions. There was a condition regarding removal of the rear portion and how they go about doing that. Condition #2 dealt with conditions that were included in the old and historic design guidelines. Those conditions have to do with an intensive level architectural survey, an archeological survey, and keeping the site in a good condition until construction begins. I do want to add that an intensive level survey has already been prepared by the applicant on all four buildings and that an archeological survey is 75% complete. So, they have almost complied with the first two parts of Condition #2. The remainder of the 25% of the archeological survey, and they will be in compliance. I do want to stated that. Condition #3 stated by the BAR – the demolition may occur only after receipt of the applicant of both a building permit for reconstruction of the courthouse and final approval of the submitted rezoning under application TLZM 2015-0002. Condition #4, [inaudible] the areas that you saw in my analysis – defined as the red area and the green area – is identified as exhibit A in the final staff report – that exploratory investigation be performed to identify historic or not historic materials and that would be done under my purview. Number 5, the applicant will return to the BAR with post demolition plans for rebuilding portions of the building being exposed – just seal up that rear in a what that is consistent with the guidelines. Condition #6, the approval shall not be construed as authorization, approval, or endorsement of the design or appearance of the new district courthouse and #7 that a statement of findings, generally, for all four buildings and specific to each building was prepared in the BAR’s review and that is included in your agenda package.

There was a second motion. The second motion basically dealt with the other three properties with the same conditions and with the same conclusion – that the historic portion be retained and demolition be allowed for the non-historic or substantially altered rear portions of the buildings. In regards to options, ahead of the [inaudible] we do have it on the power point here. When you get to that point to affirm, wholly or partly, the decision, reverse the decision or modify the order. You can take this action individually through the four individual actions or collectively under a single motion or a combination thereof. We do have some draft language for the alternate motions as well. This is included in your agenda packet as well. This is verbatim with what you have.

Council Comments/Questions:

- Dunn: Just for clarification – if the nonhistoric portions were removed, it looked like the only issue that was still remaining, potentially, would be the fire safety issue, which would be mitigated by increasing the wall on the courthouse – the depth or the fire safety. And then the only other one was the 50 foot safety zone. Where do we have clarification as to whether that is a guideline or a requirement?
Staff answer: It is stated by the state as guidelines.
- Dunn: Okay, so we do know that it is a guideline.
Staff answer: Right and the BAR interpreted it as a guideline. The applicant did provide information to – just like in the state guidelines, they suggest if you can’t meet this guideline, then provide alternatives, which they propose like security cameras, additional policing and the like.

- Dunn: And where the current courthouse is, there are current properties within that 50 foot security zone, were any additional security measures installed – [inaudible] you mentioned?
Staff answer: I don't know the answer to that question. That is something to ask the county.
- Dunn: When the courthouse was expanded previously, did the courthouse have to demolish any buildings or take over ownership of any buildings?
Staff answer: The Leesburg Inn was demolished originally for the site of the courthouse. In the latest iteration of the courthouse expansion, there were two buildings, as is my understanding, that were moved as questionable. I don't know if the BAR determined them to be noncontributing, but they were not of the stature that these four buildings represent. They were small residences.
- Dunn: Okay. Not that this would happen, but it has happened in the past that conditions for preservation have been set and then oops, accidentally we bulldozed the house down. The fine for that, I believe is \$5,000 or \$2,000 or something like that for that accident. It is not a lot and there is really no provision other than oops, send us a check. Correct? Once the bulldozer makes the wrong turn and knocks the whole house down, there is no putting it back or recourse. I mean, it's demolished, basically.
Staff answer: Not that I am familiar with, but I believe the County would operate in good faith.
- Dunn: As I said, it would an accident. I'm like the Godfather, I don't believe in coincidences. But, we want to make sure that doesn't happen. Is the county going to provide a presentation? So, I'll hold off on any other questions until they do that. Thank you.
- Butler: Just like to say thanks for the presentation. It really helped my understanding after reading through.
- Burk: I had two questions and one statement. Am I correct in understanding that the BAR is not asking for the buildings to be incorporated into the design of the courthouse. They are simply asking for them to be preserved or portions of them to be preserved?
Staff answer: The historic portions closest to the Edwards Ferry Road right of way.
- Burk: So you are not asking to change the design per se, and have them incorporate the building around them.
Staff answer: Right, it is not supposed to be integrated into the design of the courthouse. That is not the intention of the BAR, as I understand it.
- Burk: It is just a matter of leaving them standing.
Staff answer: Yes.
- Burk: The last two applications that were in the downtown for buildings were the Courthouse Square development and is it Courthouse Commons that is a little bit down from this on the other side. Both those applications, we insisted that the developer keep the historic aspect of those – one of them kept the whole building and the other kept the frontage of the historic Loudoun

Times Mirror building. So, we requested that of the developer, but we are having issues requesting the same thing of the county?

Staff answer: I guess it is an approach. The developers were seeking input it is my understanding with Courthouse Square, although I was not your preservation planner at the time, went through many, many special meetings and that design was substantially modified with the project architect to reach a conclusion thereof. The Courthouse Commons project was actually a project that occurred earlier at somebody else's imperative and then was taken with the BAR's work done previously and just inherited and accepted it and was moved forward.

- Burk: But my point being that we expect developers to maintain and save historic properties, but there is no – there is nothing in the guidelines that suggest that we shouldn't ask the same thing of the county.

Staff answer: Both public and private projects are treated the same.

- Burk: The last thing I would like to say is that your presentation was excellent and I think the BAR most certainly has proven the historic importance of these houses. I love when you did the little green line showing that these houses were in this era and these houses were in this era, but most certainly the BAR has done its job. It has done what it is supposed to do and it has proven that the historic importance of these houses and their relevance to the history of Leesburg and we are in the historic district and I just think it is important that whatever happens that we recognize that the BAR has not only done their job, but done an excellent [inaudible] of this job because look at all the work you have done and I really appreciate it.

- Martinez: In your presentation you made a comment that the applicant would not contest the findings of the BAR.

Staff answer: Would not contest the findings that these are contributing historic buildings in the historic district, that the integrity of that historic significance and architectural significant remain and that the buildings are structurally sound. They would not contest the fact – they cannot prove that they are unsound.

- Martinez: So, are they adhering to that? Are they doing that?

Staff answer: They are not contesting the criteria. They are not providing evidence that – normally the BAR could use to justify the motion.

- Martinez: As Tom mentioned, with the firewall break – the security 50 foot, where, you know, you have that surrounding the building yet there are some instances where that 50 foot is not going to – we can mitigate all that and still have the same design?

Staff answer: The County will have to address that – they have the same design they might have – the fire rating has to be increased. In terms of appearance, I don't know if we would have the same design. I think the thought would be that there might be some redesign, if the buildings were to stay.

- Martinez: Just the appearance aspect, but the design of the building itself...

Staff answer: Oh, in terms of the function, you know, kind of the square foot print?

- Martinez: They would still be able to play that design that they mitigated out of the historic issues that the BAR presented?
Staff answer: Yeah, in terms of function of the courthouse, yeah, that should be able to remain. [inaudible] for explicit about courthouse modules and provided the BAR with a lot of information.
- Martinez: So, if all that could be done and there could be exceptions made on how things are constructed, why are we here?
Staff answer: You will have to ask the appellant that question.
- Hammler: Tom, great presentation. I think you get the record for the largest file size, crashing my computer when trying to open it in Sharepoint. I certainly concur with Kelly on the great job of the BAR relative to its guidelines and also just appreciate all the time and effort at the County. I know you have had to sit through probably a really lengthy process, so I appreciate all of that. I do have questions for the county. Quick question as relates to a couple of points you made first. You mentioned that the cost to accommodate the BAR request specifically for 112 was about \$1.1 million. Is that correct?
Staff answer: The information I provided was the information provided by the county and I would let them address that question. The cost is not a factor for the BAR.
- Hammler: Just so we can get on the record if there is more quantitative analysis relative to keeping even that portion, 112, as well as the additional cost that would be incurred for accommodating all of the related items to be able to keep, you know, based on the BAR recommendations, such as the perimeter security, stormwater management and so forth and the reason why I am going to ask that is what is interesting to me visually was looking at the fact that if you retain the houses with the front façade, you basically mask the very large building and in doing so maybe it is a cost benefit analysis relative to going back and forth trying to get to the right mass and scaling that is going to be required without those buildings there. So, it is almost a numbers game at that point. It would be useful just as a reference because we know it is a challenge for infill development from stormwater perspective down that street, because Pittsburgh Ricks had a really difficult time building that building for that very reason. I don't know if at some point you can mention Kaj to have planning look it up, but I think that's a good reference point that is just really is a huge challenge to accommodate the cost associated with stormwater management. One question that wasn't raised, as you know, the Council has modified, you know, our purview relative to dealing with BAR appeals. It used to be it had to be arbitrary and capricious. Now, we have much more broader authority so given that has staff done any analysis relative to if the BAR decision is not overturned, and if based on the assumption of what we have heard, certainly based on statements from Board of Supervisors that if the courthouse moves from the downtown, what the economic impact would be to the town without the courthouse being here. Has any of that analysis been done. Okay, those are my only questions at this point. I look forward to hearing from the public.

- Fox: Thank you, Tom, that was very enlightening. I do have a few questions. One – my first one has to do with 112 too. You had set 112 apart from the rest of them. Can you tell me again, why 112 is different from 110, 108 and 106. You said it is a part of a first annexation of some sort?
Staff answer: 112, the brick portion of 112 – I am flipping that image back up. But, the brick portion of 112 was constructed circa 1813-1820 and that building was built right at the time of the annexation of the add on to Leesburg at the time. It was originally the Nicholas Minor subdivision and then then two annexations happened in 1812 where 112 Edwards Ferry Road was located was one of those annexation areas added onto the corporate limits of the town of Leesburg at the time and the brick portion of what you see in this photograph was standing at the time or right immediately thereafter.
- Fox: My next question has to do with 112 too. During some of the BAR process, there were questions about whether we could move the stormwater treatment tanks closer up to Church Street and thereby maybe preserving 112. Is that still on the table? Is that still something that can happen?
Staff answer: I believe this conversation is still in flux. Mr. Ackman is here. He weighed in on some of these details.
Ackman: Yes, that is still on the table, as well as other options. The last time we met with Dewberry, they had indicated that they may be able to do the majority of the stormwater under Pennington and maybe be able to eliminate that tank all together or at least reduce the size of the one that would be in that location. Then as far as water quality, because of the size of the project and the new stormwater regulations, they would have an opportunity to purchase their stormwater quality credits from a qualified bank approved by DEQ, thereby eliminating one of the tanks all together.
- Fox: Okay, thank you. I just wanted to clarify that. My second question has to do with 106 Edwards Ferry Road. Dewberry did a study and it said the subject structure is contributing to the historic district which they don't deny; but however the structure has been significantly altered with very little original or historic materials remaining based on the current documentation. So, with that statement does it make it a contributing structure still?
Staff answer: There is an issue with statements like that made by Dewberry and their historic resources consultant, JMA, Inc. JMA, Inc's opinion – a professional architectural historian are that all four of these buildings should retain contributing status in the historic district.
- Fox: Okay, so there are two different opinions there.
Staff answer: Right, one is an architectural historian and the other is an architect.
- Fox: Okay. And my last question just has to do with proximity. You went over some distances. You said the distances from the homes to the structure would present a public safety – or at least I think that's in the appellate. I guess I should wait until later, but I was just wondering if you thought that was an issue as well – the proximity, as they stand right now and as they would stand if we took the non-historic portions off. Would that be a public safety issue?

Staff answer: When you say public safety – you mean security or fire prevention or both?

- Fox: Security. Yes.

Staff answer: There are solutions in the fire prevention scenario that you see on the two private sector examples cited where they just have to beef up the fire rating of the wall that is closest to the historic buildings, so there are solutions there. Also, the perimeter security, there are alternative solutions and I think that was the conclusion that okay we have alternatives here. We don't have to – it is not required to demolish the buildings for that reason because there are alternatives.

- Fox: Alright. Thank you, those are my questions.

- Mayor: Tom, very good report. A couple of questions. There has been discussion during all the debate going on on this about the possibility that if the County had to accommodate the four structures and still accommodate an adequate stormwater management system that they would have to potentially decrease the footprint of the new courthouse and build it higher to provide for their needs. Do we know what the status of those conversations is right now?

Staff answer: There was a lot of things in play. I am not sure currently what the status of that situation is. There was some talk about moving 110 forward to give more clearing in the back. There was a lot of back and forth, but nothing that was ever firmed up in terms of a proposal.

- Mayor: Okay, just personally, I don't want to see this building any taller than it is proposed for at the moment. Other question – in relation to moving some part of the stormwater management system onto the Pennington Lot, does that require any invasion of any private property between the old courthouse and the Pennington Lot.

Staff answer: My understanding is that would not be required. Pennington is a large lot and it could be accommodated.

- Mayor: Alright. And then I think the third question at this time I would have is not one of these four buildings is attractive in its current condition. I would assume that is because we cannot require the county to maintain them other than, I believe, according to the zoning ordinance if they fall into greater disrepair, we just have to make sure they are boarded up so we don't get animals living in them. I don't – I mean right now, they don't look great to me. I would think we can't force the county to make them look better than they are. I don't see the appeal of these buildings if they are going to continue to look the way they do now. So, that's just my take on what it is we are trying to preserve right now. I appreciate your very thorough analysis.

Staff answer: Just for the record, it was my understanding that the County has always pulled a COA as required by our ordinances for changes to the exterior. Maintenance is a different issue, but alterations and changes, the county has complied as per my research.

- Mayor: Alright, I think the County is in complete compliance, but they still look pretty bad. County gets a shot at this now. I don't know Mr. Rogers or Mr. Hemstreet....

Tim Hemstreet: For the record, my name is Tim Hemstreet. I am the county administrator for Loudoun County. I am here to present the appeal that has been submitted on behalf of the Board of Supervisors and therefore by the county. You have already read the title and the actual appeal, so I am not going to go into that. What my presentation is going to do is kind of highlight what was in the letter and hopefully bring a little bit of different perspective from that that your town staff presented to you. I told the County Attorney that I was going to go out on a limb a little bit, so he might get a little uncomfortable when I say this, but Mrs. Burk knows this, but I have nine years of historic preservation oversight in my background and I can tell you that one of the things that I have observed and my observation tonight as well as throughout the process is that your staff has really done a good job. I mean they have done a great job and you saw it in the presentation and we have seen that in terms of quality that they have brought to the table throughout the process. Additionally, I think that your Board of Architectural Review came to the conclusions that they needed to come to based off of what your ordinance says and the purview that you, as a town council, and your ordinance on the books tell them that they have to come to. And some of those things are for the reasons that came out in some of your questions and some of the answers that were provided to you already by your staff. The other thing I would say along those lines is the reason why we are here on appeal is directly related to those issues. So, the appeal from the Board of Supervisors, is really an appeal from a fellow governing body to you as the governing body for the town of Leesburg asking you to look at this from a perspective of a taxpayer organization and asking you to look at this as if you were in their position to some degree as to the decisions you would have to make if you were sitting in their shoes. So, just as a backdrop, I do want to point that out as I go through the county's presentation.

Certainly, this is the site. Mr. Scofield has already oriented you to where the location of the site is, how it fits into the downtown area – so I am not going to go over that. You know exactly where we are talking about. One thing I do want to highlight and Mr. Scofield kind of danced around that in his presentation – he also, I guess, explicitly stated at times, but this is a project that has gone back for a number of years. Okay? The courts have been at this location or a location just to the west since the founding of this county. There is a desire by the Board of Supervisors to keep the courts complex here in the town and here at this location. It makes a lot of sense for a lot of different reasons, most of which are operational and convenience to the taxpayer. It makes a lot of sense to keep the courts at this location. There are; however, some reasons why the building and operation itself requires, in our opinion, the demolition of those structures. What this is getting into – the chart in front of you is getting into a little bit is that this has been a long discussion. Okay? The discussion here about locating an addition or expansion of the courts complex at this location goes back to at least 1998. In 1998, the structure was supposed to be smaller, was supposed to be 60,000 square feet. We know based off of the population growth that we have had in this county over the past, I guess, 15 years or so, we need a larger building, so we are looking at 92,000 square feet as opposed to 60,000 square feet, but one of the things we are trying to highlight in this chart is the fact that we have been talking to your staff or talking to the town council directly for at least the

last five or six years talking about this expansion and what would be required to do that. We talk about security. We know of four main issues that our appeal is based on. Okay? One is security and the second we will talk about is constructability. The third are the site utilities, primarily stormwater and some of the changes that need to be done there and the fourth element is cost. To some extent, I need you to look at this from the perspective of a public entity. Okay? We are not a private entity. If you look at the projects that have been referenced, they are fine projects. They are projects that were made better because of ordinances such as your historic preservation ordinances, your old and historic district ordinances. They were made better by the work of your staff. They were made better by the work that the Board of Architectural review does. But, in a lot of ways, the job of those ordinances and the job of the Board of Architectural Review is to get those projects to fit into the vernacular that the ordinance requires and the vernacular of the surrounding neighborhoods. If they can't do that, they need to change their program or they need to change the size of their structure or they need to change what they thought they were going to do originally on the site. As a public entity providing a court function, we do not have the luxury of being able to do that. So, in a lot of ways, we have got to build the courthouse and we have got to meet the functions of that courthouse in a manner that we believe are prescribed by law and in a manner that we believe is most responsible to our residents and the people who have to go to this building. So, security from that perspective is probably our most important problem with these buildings and our largest challenge with trying to locate this structure on this site with these buildings. This is the same chart that Mr. Scofield showed you earlier. I am going to give you a little bit of perspective about it, but primarily from the perspective of we are a nation of laws. We govern ourselves based on the law. In this building, in this structure, just like the one to the west of it, what happens there is people engage in [inaudible] proceedings each and every day. Someone has a difference with each other, they don't go settle it on their own. We are not supposed to – if they do they get in trouble with the law and then they end up in the courts. If they can't do it peacefully, they take it to this building into this structure. What that means is while we would like to be in a world where everybody does settle it in a civil manner in the courthouse, not everybody is going to do that. Okay? There are going to be some people, who are bad people, intent on doing bad things. So, what the courthouse guidelines from this Commonwealth of Virginia, that Mr. Scofield referred to are designed for us to try to build a new courthouse in this location and try to meet as many of those guidelines as possible. The reason why they are guidelines and not necessarily requirements is because in order to meet the guidelines, we would have to condemn property on the surrounding buildings because we would have to demolish them in order to meet that. So, the guidelines don't require us to do that, but in order to be responsible and to meet the security requirements that we need to meet, we should probably address those buildings that we own that are on property that we control. Okay? So, from our perspective we can't do anything about 114 Edwards Ferry Road. We don't own the property. We can't do anything about that. The Commonwealth is not going to tell us that we need to condemn that property or acquire it in order to meet the guidelines. The other residential buildings that are also to the west of this property. We can't meet the sight line, but the state is not going to require us to condemn those properties

either in order to meet the guidelines. Okay? So, what we are talking about is the ordinance – a public entity trying to vacate our liability, we need to deal with the properties that we control – 106, 108, 110, and 112 are properties that we control. So, if we want to do the job that we need to do, we need to address that. So, to answer a couple of questions, in order, and Tom has already explained the yellow line and the 50 foot setback. There is no way that these properties could be located on the site and comply with those sight line requirements. They have to be removed in order for us to comply. There also for those reasons – we are not – we obtained ownership of the property, we are not going to allow a third party to go into those structures. What it essentially means for us is because of the size of operation that we have, or the size of operations that we have and the types of operations that we have, it essentially means that these buildings will be empty. They are not usable for us at the moment. Two of the buildings are presently vacant. Our operations are just too large to be accommodated in the size of these buildings and once they are cut back and made smaller to comply with the Board of Architectural Review's decision, they become even more unusable to us as a government organization. So, the first issue we have is that if they were to remain, they would be empty. Okay? The problem with an empty building is now they become all of these things that are on the right side of this sheet, which means you are providing concealed areas for anybody who is intent on doing something bad – hide themselves there. Yes, if we do the security systems and yes, we could do cameras. Of course we could, but that doesn't, in the opinion of the sheriff, in the opinion of the Board of Supervisors, meet the level of security and safety we need to provide for this site. All of these things are hazards that we are deeply concerned about. All of these things are things that cannot be mitigated as long as those buildings are there. We did talk about fire code concerns. We do continue to have concerns about that. Yes, the side of the building can be hardened. They absolutely can – it means new glazing and new glass. It means we have to close up the side of the building because these buildings – 106, 108, 110, and 112 are wood frame structures. They do not have any type of fire suppression or capability in them, so if they do catch on fire, we need to construct the courthouse building in a manner that it will not harm the building behind it if they catch on fire. So, that is another concern that needs to be addressed. It is a concern not from the perspective that it can't be done – it is a concern from the perspective of cost, which I will cover.

Second issue is constructability – I do want to talk a little bit about our concerns with constructability. When you talk about constructability, again, it is not that the buildings can't be constructed, but there is an issue of convenience and an issue of, I guess concern that we would have for town residents as well as people trying to do business in this area. As you can see, it is about a 1.8 acre site. The building is 92,000 square feet, which is a little over 2 acres, itself. So, we are putting a very big building on a very compact site. Which, you can see from the chart, we cannot locate heavy equipment or stage construction materials to the east to construct the building. We cannot really do it to the north, because there is a cemetery there. So, if we are going to construct this building, we have to do it from the Edwards Ferry Road side, the Church Street side, and a little bit from the Cornwall Street side, coming south from the Semones Lot. The concern back here

are a couple. One is there is a tunnel that needs to connect the two facilities that goes underneath Church Street, so we are talking about an 18 month closure of Church Street to begin with. We need to do that just to build a tunnel. We have to have a secure way to move prisoners between buildings that does not involve them going out into a public area, so there is a need to construct that tunnel for that purpose. What that does mean is now you have two divided sites. Okay? So, you cannot build the south side of the building – transfer materials from the south side of the building using Church Street. You are going to have to do it from the Edwards Ferry Road side. What happens also is in order to build the building of this size, we are going to have to use a couple of cranes. If you look at where the footprints of those buildings are, and you look at where the crane would be located, which is the only place you can locate the crane, unless you are going to close Edwards Ferry Road and put the crane in the street...what that means is there is almost no ability to stage on the property, which means in order to bring in large equipment and materials on the south side to build this, we will have to close the road. How long that road is closed, I don't know. It would be up to us working with your staff as well as the with the contractor. The cost, there is a cost to doing it that way as well. Additionally, we would have to shore those buildings and protect it somehow because when you get to the next slide, you know this is kind of a circle where the cranes will operate – you can see that a portion of time, we would want to take materials over those buildings because we would not want to have an accident. We would have to come around the other way, but it becomes a very compact site. It becomes very difficult to work around those buildings, which again gets to cost. It also gets to inconvenience and issues that you know will have to deal with town residents and those doing business in here and around the courts building. The construction duration for this project is about 24 months. For that amount of time, our perspective is we would not want to have to close Edwards Ferry Road. It just creates other issues, I think, for you as a governing body. We talked about most of these things. I think that is all I wanted to mention here.

Again, this shows the site utilities. Again this shows a better drawing, which is again another evolved stormwater concept from the two charts that I think Mr. Scofield showed you. One of the challenges that we have is that stormwater right now this early in the project is somewhat of a moving target. Conceptually, could we deal with stormwater off site? Maybe. The challenge that we don't know that from the town staff until we get to the very end of the process. Is it possible to deal with water quality issues offsite? We think probably. Water quantity becomes a different challenge. Our preference would be to deal with water quantity issues onsite. But, the main point that I am making here is we are not at the end. We don't know what the stormwater requirements are going to be for certain and if you will listen closely to the vernacular of the town staff, they were saying things like conceptually we think it is possible to do this, but you can see just in the time between February and May when a couple of those drawings were shown to you, this one I think is from February, the concept of stormwater has changed throughout that time period and is still evolving today and again until we get it – the reason why it will continue to evolve is we don't know yet what the BAR is going to require of us of the main building. The only discussion we've had with the Board of Architectural

Review and the staff is about the proposed demolition of these structures, so the concept for stormwater will still change as we get into the design of this building. The one thing we can't touch the program, but the architectural elements and other things may change. We did go through several discussions, as was alluded to regarding drainage. The other thing that I do want to point out that wasn't touched on is we do need to deal with sanitary sewer in this area. The low point happens to be the corner where 112 is, so we do have to somehow deal with sewer connections in and around the structures, should they remain and we are dealing with a gravity system. So that does become a little more challenging. Again it is not an issue of the possibility, but it does impact cost potential.

Which brings me to the last item – the piece of our appeal, which is cost. Okay? This sheet – you can't read it. It is in your packet if you want to take a look at it. We can talk about it if you have some questions about what is on this sheet. This sheet is the best estimate that we could get from Dewberry as to what the potential impact was or is to the county if the Board of Architectural Review decision stands and the Board of Supervisors were to agree to follow and not do something else. It is a minimum in their estimate of \$4.5 million. It could be as high as \$4.9 million, but again as county staff, we have some concerns about this number. Some of the things, I have already alluded to. First thing we need to consider is overall project cost. The construction for this project is \$57 million, so right out of the box before we have had day one of conversation with the Board of Architectural Review of what they might want us to change or do with the structure itself that affects cost, we are already at a nine percent cost overrun assuming that Dewberry's numbers are correct. Now, we do have concerns about these numbers. One of the things that Mr. Scofield talked about was what happens to the four existing buildings – the four existing structures if we start to implement the decision of the Board of Architectural Review. First thing we do, is you cut the buildings in half. Before we could do that, we have to go to the expense of creating drawings of how we are going to cut those buildings in half. Once we do it, we have to stop. We have to stop, the town comes out and does an inspection. They look at what we've cut in half and determine if any historic elements have been revealed that were not visible prior to the selective demolition. If they determine that there are any elements that are historic in nature and have value, the project stops. We have to go back to the Board of Architectural Review. We have to prepare a presentation. We have to have a dialogue with the Board of Architectural Review. They have to direct what happens to further preserve these now exposed elements. The reason I mention that is because it is an unknown cost. It is not factored into this \$4.5 to \$4.9 million number. Everytime you get into that, we are looking at, in our opinion, at least a 30 day delay because the Board of Architectural Review – it is not like you call today and they meet tomorrow. Number one. Number two, it is not like we can prepare the appropriate back up and documentation for that type of body the next day. We have to converse with the staff, we have to talk to them about what may be possible. We have to then issue a task order, just like you do. We have to issue a task order to the architect or engineer, ask them to come up with whatever the town staff has asked us to look at. We then have to ask the architect to come back, go to the BAR meeting and after we are all done with that, we have to execute a change order with

our contractor to go implement whatever has been decided upon. All of that is completely appropriate, but it is a cost that is not identified in these numbers and that is a concern to the Board of Supervisors. It is also an issue that I don't think anybody at this point in time can say, this is what the cost of that is going to be. So, the concern of the Board, as a governmental entity, is we are already looking at a 9 percent cost overrun starting out the gate, how big of a cost problem does this become? In our opinion between stormwater elements, between what is likely to be experienced going into the BAR process on building, and also what could happen with these structures, we could very well be much higher than we already know – already the cost overruns. That is essentially the basis of the Board's appeal. Hopefully that brings the letter that we sent to a little bit of light and provides a little bit of a different perspective to the situation that we have here. Again, my purpose was to present the Board's perspective and to also appeal to the town council from the perspective that these are the things the BAR and the Town staff can really not consider. They are not things that you charge them in your ordinance to consider. With that, I will end my presentation. Mr. Rogers and I are here for questions.

- Dunn: Could you bring up the main slide you are using showing the boundaries of the building. Yeah, that's good. What – I guess a couple of questions. It deals with how big the building is, what is actually needed and I am sure the answer to that is we need even more, but I don't want to go that direction. Sure. What if the building were moved north the distance that is needed to keep the historic buildings and still fall within the security boundary. How much further north would the courthouse have to go? I mean how much square footage are we talking about.
Male voice: [inaudible] we really can't move the building that much north because of the setbacks that are required by the town. So, we also have a transformer that has to be located back there as well. We also need access around the site to address a variety of issues.
- Dunn: If the setback is the only thing being able to preserve it, it is a matter of getting it approved or not we will work on setbacks, but the question I am asking is how much distance is there between the building and the deepest historic building. If you draw a straight line. You've got that purple line on there right now – on the south side of the building. You see where I am referring to? Okay. Now, that is probably pretty close to the furthest line of the deepest building. The deepest historic building that is set back from the street. How far – right there is your security zone. So, and I would say that most likely in most of those buildings, let's say it is at the bottom of the numbers, 106, 8, 10, 12 – let's just say that's where the historic side of the building. What is that distance? How much further would the building have to move north to be within that security zone.
Hemstreet: The challenge that you have is on the north side.
- Dunn: Right, you can't bounce into the cemetery, I understand that.
Hemstreet: Here is the 50 foot line, which is in the cemetery.
- Dunn: Right, but I don't think that the cemetery is going to cause you security concerns as much as the buildings are unless somebody is hiding behind the tombstones.

Hemstreet: I understand what you are saying, but I think from our perspective, we need to say that we still have a problem. Our position would be not to make it worse. Is it possible to just [inaudible] if we move all the way up I guess to this – it would be right here, is the edge of the right of way? I am not sure that, Mr. Dunn, that there is enough space there to meet the circulation requirements back here in this area. Because we also have to move people, don't forget. So, you've got parking up in this area and so people are coming through here to go to the existing courthouse as well as to the front of the courthouse, which is right there.

- Dunn: I guess the question I am trying to get to is two have the homes where they sit currently, don't move the homes at all – the historic buildings – how much would the building have to be moved north or reduce the size of the building on the south side to have this fall within the 50 foot security zone. I don't think those houses are more than probably 40 feet deep on the historic side.

Hemstreet: I don't believe we can move the building enough to get the 50 feet.

- Dunn: So, we don't know what that is?

Hemstreet: Just eyeballing it, I don't believe we could move it enough to get a full 50 feet. Now, we did early on do some volumetric exercises in trying to get to 92,000 square feet with a thinner building and try to give us some more space, but that puts us 20 feet above your height limit, which in talking with your staff requires a text amendment, which is like a two year process, so that we wanted to avoid that.

- Dunn: But we right now don't know how far we'd have to move – we are just guessing whether we took ten feet off the building or 20 feet off the building or moved the building 20 feet north or 30 feet – we don't know what that number is.

Hemstreet: I don't know what that number is. I don't think Peter does either, so...we are not taking 40 feet off the building, Mr. Dunn. If we did that, we would not be able to meet the program needs that are in that structure. And you are still dealing with \$5 or more million dollars in the other issues in terms of cost.

- Dunn: You could build the building over the tunnel. Anything is possible, right?

Hemstreet: You are suggesting that the town is going to close the street?

- Dunn: I'm just asking you questions. I am not suggesting anything.

Hemstreet: Sure.

- Dunn: So, in other words, we could build the building over the tunnel, if we needed. In other words, the tunnel would not prohibit us from building the building over it?

Hemstreet: It would not. It would require a vacation.

- Dunn: On one of your proposals, months, it might be years ago now. I remember going to some of your first meetings you holding at the government center. The extension that is on the north side – at one point that wasn't even there in one of the proposals. And, what would be the possibility of gaining

additional space by extending that even further north through that parking area – if we needed the square footage, could the square footage be made up in that arm.

Hemstreet: I am going to ask Peter and Melissa to get into that. It is difficult to add space going that way because the configuration of the size that is there, it is very difficult to get your hallway space in, the size of your offices in.

Male voice: The proportion of the building was based on courtroom size. So, if the building takes on shapes/scaping because of required courtroom proportions. That kind of sets why the building looks the way it does on the site. To the immediate north, right now, to the north we have the [inaudible] area around, we have parking [inaudible]. We have transformers that are located there. We don't have any other place on site to put those types of items. If we move the building in that direction, we would have to find an alternate location. I am not sure we can do that.

- Dunn: The reason I'm asking these questions, obviously, is because if the decision of Council is to leave the historic buildings where they are, cut off the backs and just go with the historic portions, then there is going to have to be some type of agreement going forward that it is either going to be "we are going to move out of town", which I think that has already been decided by the Board of Supervisors that it is not cost effective to do that – then it is going to be we got to work within the situation that we have. Are we willing to work around the security issue and what can we do to mitigate that and if we can't, and that's a major issue, then what are we going to do as far as the volume of the building – where can we put that square footage that we desperately need – which by the way I don't think we need over the next 20 years. It takes –until we get to max out use of that building. It doesn't make sense to also build today and then build later on – I understand that idea. But, we need to come to some type of agreements, otherwise it is just okay. Everyone pack up and we will keep the buildings and the courts go out of town, which I don't think is going to happen so I am trying to look for other ways you all may have considered alternatives, but if you hadn't, then we may need to start. So, and I don't know if we can get that done tonight, obviously.

Male voice: I want to touch real briefly on the distance between the building-our building – the courthouse building and the structures. That is really going to be based on the architect and the architect sits down and we have an understanding of what is going to be there – they have begun to calculate the distance – measure that distance and that is going to determine the amount of openness – as Tim alluded to earlier – the amount of openness in the building. Based – because these are wood structures, it is either fire rating in the wall or openness, or both. So, when you are trying to make – develop the front of your building – your predominant view of the building from Edwards Ferry Road, that openness is going to close up and you are not going to have the internal light that you are trying to have for the offices and things like that. With respect to security, the county sheriff came out and said that the buildings really should go. That was their decision.

- Dunn: Yeah. This is the quandary that we have in being in a historic town. We are the stewards. I appreciate – I did also take some historic preservation classes in college, myself. We are the stewards today. There will be more stewards later on in history, but if we continue to just decide well they don't look good enough today, I don't like the looks today, that it is worth tearing down history today, then it is going to be even greater destruction later and eventually you won't have a historic downtown. You'll have maybe just one street and we will call that – this is what we were able to preserve. If you don't think that is possible, look at Centreville. There used to be a town called Centreville. There is no Centreville. There is one or two buildings up by a new fire department and that's about it. And it is just townhouses and single family homes and a bunch of stores. So, I think that it is important for me that we look to try and preserve these buildings as best we can and look for ways to work within the possible restrictions that we have but not just say we can't do it – there is just no way around it. I think that we owe it to our future and to the historic preservation aspect of this to look for ways to make it work. I will yield to the rest of the Council. We will see where we go from here.
- Butler: That is an intriguing idea that Tom had that if you could leave the buildings and let the dashed yellow line go behind the buildings – the historic buildings, then you could sell them and that eliminates a lot of problems and probably eliminates the fire problem as well. So, but if you had to make the building taller, the Mayor would be upset. She would probably be worse than that, but not something I'd say on the dais. But, most of my questions are around the cost sheet. Right on the bottom, it says \$57 million and then there is two green boxes and it says \$2.5 million is the low end cost and \$4.86 million is the high end cost, but I can't seem to get to those numbers based on the other numbers that are on the page. So, maybe somebody can help me there. I do see a \$2.6 million dollar number and a \$2.968 million dollar number that don't make any sense, but I am still...
Male voice: The difference is the escalation number – the escalation cost, percentages factored in. That is how we got to that \$4.5.
- Butler: So, you are taking \$2.6 million and then escalating it for six months. I am trying to figure out where the 4.5 and the 4.86 come from.
Male voice: Yeah, that's correct.
- Butler: What is correct?
Male voice: It is based on six month escalation.
- Butler: Six month escalation or \$57 million?
Male voice: No, where it says total cost - \$2.623, the number escalated by – I believe the percentage that Dewberry used was 10%. And that's how it got up to the \$4.5.
- Butler: So, that number escalates at 10% a month for six months to get to \$4.5 million?
Male voice: [inaudible] a month.
- Butler: Well, if you take \$2.6 million and you go a half percent a month, it is not going to get to \$4.5 million. You could take \$57 million maybe and go a

half percent a month and get to \$4.5 million or some portion of \$4.5 million, but the \$2.6 million doesn't make a whole lot of sense either because what you are doing is adding \$1.5 million in capital costs to one year's of operational costs to get to \$2.6 million.

Male voice: I'll have to go back and get the spreadsheet and see how it was calculated.

- Butler: Okay, well I know that's where you got the \$2.6 million because the number adds up – 1.478565 in capital costs and 1.145250, which is one year's of additional operational costs, adds up to the \$2.623 million, but basically what you have done here is sit here and claim that the cost impact is \$4.5-4.9 million. You have absolutely no credibility because I can't see where the number adds up and you are adding capital costs to operational costs, so the number looks to me to be completely bogus until we get more detail behind it. Male voice: Well, it wasn't bogus. I can guarantee it.
- Butler: Well, then you need a different spreadsheet than this one to show that it is not bogus. Male voice: Well, the spreadsheet itself...
- Butler: Okay, but I have seen a lot of spreadsheets come out of the town and the county and developers and that is what happens to a lot of them is they add up apples and oranges and they get pears and then they say, see, there is this many pears and that's why it's a bad idea. Male voice: I would be happy to provide you with that.
- Butler: That would be great. We had a similar discussion last night. Thank you. Okay, so I understand. The project costs 8-9 percent, okay. Again, until we get another spreadsheet, that has no credibility, with me at least. So, is there any – I mean this is a significant impact of the streetscape. There is no question. So, was there any consideration to – you are looking at keeping part of it. I know you brought at least one building to the Board of Supervisors and they shot it down. Sounds to me like – I'm looking for some interest in some kind of a compromise here because when I talk to some people, they look at the old courthouse and the old courthouse is a cool-looking building. Then they look at the addition on the back of the old courthouse – the new courthouse – and that doesn't look any way nearly as pretty as the original courthouse. Then you look at these enormous buildings here and people are saying, well, okay – we have got an enormous county parking garage, and we've got an enormous county office building and now you are going to put in an enormous courthouse and in the meantime, you are getting rid of all these historic buildings which is one of the main reasons why people like living in Leesburg, including people that never go downtown, which is surprisingly. They say, oh, I really love the historic downtown. I'm glad I moved to Leesburg because of the historic downtown and I ask them if they have ever been downtown – well no, but they still like the fact that we have one. So, this doesn't look right – we are taking a not-insignificant portion and removing it and putting up a building that while I understand, the building looks a lot better than the old new courthouse, the scale doesn't look any where near as historic as the four other buildings. Anyway, that's all I have.

- Burk: I, too, have trouble with the numbers. So, I don't know if we are planning on doing something tonight on this, but I am uncomfortable doing anything without having more additional information. But, I did want to – there is a couple of things I want to ask about. You talked about the building being empty, and that would be a safety problem. Couldn't you allow some non-profits to go in there. I know there is a number of non-profits that would love to go into a small space like that.
Hemstreet: Again, the concern that we have from the security perspective is not having anybody in those buildings. Access, again, is [inaudible] that the county performs. If you are going to put a court building there – but unfortunately not – the position of the sheriff is that those buildings need to be vacant and all security risks need to be mitigated fully within that 50 foot setback.
- Burk: So the sheriff says they need to be empty?
Hemstreet: We would not put anything in there, Mrs. Burk. We don't have a use for it. We cannot guarantee or control who a third party allows into the structure. We cannot control who a third party allows into the structure and who has access. Again, dealing with a court building. Dealing with a building which is adversarial in nature. So, that's the position of the board.
- Burk: Okay. On slide six – could you pull that up, sir. You have little circles indicating where the cranes would be reaching and you have that one down here at the bottom reaching over Edwards Ferry Road. You most certainly would not be having a crane moving material back and forth over cars that are driving by, I would assume.
Hemstreet: We would have to be there – we would have to close the road. So, what would happen is – because we can't rotate trucks or having any pull off area because the buildings are there, we have to park the vehicles on Edwards Ferry Road and then the cranes would have to move it from the vehicles onto the site itself.
- Burk: And do you have an estimate of how long you think that's going to take?
Hemstreet: At this point we don't. It is just an issue that needs to be addressed during the construction phase. The other problem that we have is because Church Street would be closed for a period of time, and because there is no place to really stage material on the south side, we may have to close the road a portion of the time just to stage materials, if we can't fit them on that section of Church Street south of [inaudible]. I really don't want to say that is a significant period of time, but we will have to deal with intermittent closures kind of how, the town is dealing with it now on Loudoun Street as you are building the sidewalk and stuff going up – you close lanes at night. It is kind of the same situation – we'd have to close Edwards Ferry Road whenever we needed to do one of those movements.
- Burk: Well, I hope that you will consider doing it at night as opposed to during the day.
Hemstreet: Well, the problem with doing it at night...
- Burk: Is that it is going to cost more money...

Hemstreet: It costs more money. The other issue is you do have residential properties. You also have this on Loudoun Street, but night construction, although you address the traffic factor, as you know, you can't deal with the noise factor...you end up with a noise factor. But, that's a discussion that we'd have to have. I don't know if the board is willing to have that discussion, but if you are talking in the theoretical sense, that should be [inaudible].

- Burk: You talk about the fact that if you started taking down the buildings and you found that there were historic aspects to the buildings that we didn't recognize, that it would slow the process down. But, then that to me says that you recognize the fact that they are historic buildings.

Hemstreet: Absolutely. He have not contested that at all. We have said that they are contributing historic structures. We have not suggested that they are not. We have not provided any argument to the contrary. Again, the appeal is based off of factors that the BAR and the staff really are not committed to really use as reasons to allow the demolition of the buildings.

- Burk: I understand that cost is a component, but this building is going to be there for a 100 years, maybe. Hopefully, if it is built right. And we are looking to take down historic buildings in the historic district, which really causes me to pause and think about what we are doing. That building will be there, but those other buildings won't. There used to be a jail right there and it was a really neat building and they tore it down. There were prisoners in that jail up until about six months before they tore it down. And they used the argument then that it wasn't cost effective to keep it so we needed to get rid of it, so we lost that building. I don't know at what point cost overwhelms the historic significance of things. It is going to take – I don't know, I'll have to listen to the rest of the comments, but this is something that is going to be a hard vote. It is going to be really hard to do this – to do something that is going to have such a negative impact either way. Either vote will have a negative impact one way or the other and what is our role. I think Mr. Dunn was correct in that. That's all I have for right now.
- Martinez: So, let me ask the gorilla question in the room. If we don't approve this and you go further and this doesn't get approved, are you going to move the county building out of the Town of Leesburg? The Courthouse?
Hemstreet: That is a discussion that the Board still needs to have. I believe a number of the statements that Board members have made off the cuff and statements they have made during the discussion of this application. Throughout the Board of Architectural review process, as staff, we continually brought compromise proposals that were raised by the Board of Architectural Review as well as town staff back to the Board of Supervisors for consideration. The Board was not comfortable with entertaining any of those discussions for the reasons that have been articulated as part of our appeal.
- Martinez: So, the reason I say that is that, you know, when those off-the-cuff comments are made, all of a sudden we lose the ability to really collaborate and work together. Because I think that long term wise, we could have come up with a solution if people weren't backing themselves in a corner. I think

we have got to this point because of some of those statements and not wanting to compromise – at least on the county side. I know that I was open to whatever we can do to make this work. I am finding that I am really disappointed about – for example Dave and Kelly already talked about the numbers – if you are going through and just doing it quick – I do finance and business investment analysis for the FAA and their huge numbers. When I look at these things, I do at first glance, you'd like to have a little bit more data behind the numbers and where you are getting those. I haven't looked any further into that, but that's the first thing – a flag. When you talk about the empty houses and security. Everybody knows that an empty house is less secure than one that is having somebody in it. Kelly had a great point because one of the things I was going to mention is the fact that not only are there non-profits, but there is the Loudoun Museum that could probably use those buildings and they would be a great asset because not only would you have the county facility in having those buildings, but security wise, I would think that would be a little more on the safer side. Not only that, I am now looking at 114 and you talk about security – 114 Edwards Ferry Road is in that 50 foot perimeter that you have. It has a parking lot in the back of the building. For me, that would raise even another warning flag that well maybe you need to make sure that those kind of security issues are taken care of before you worry about a building that you own. Now, again, that was something I was looking at. One of my first things when people ask me how I thought about this – I told them I was going to be very open minded and that I wanted to make sure that those buildings had historical significance and the town staff had to prove it to me. The BAR had to prove it to me and you had to have some way to prove that they weren't, but you didn't. So, now I am looking at myself as being – when you talk about historic significance, it is just like when you sell public land. Once you sell it, it is gone and you no longer can take care of it. You no longer can put things in there that your residents need. You can't have something that your residents need. When I look at these historic buildings – if you are saying that they have historic significance, our BAR and staff are saying they have historic significance, all of a sudden that element for me kind of goes in the town's favor. Once you give up those buildings, they are gone. So, I'm still kind of in limbo as to where I want to land, but I know I want to keep that courthouse building here. I know that even though we say there is not a whole a lot we can do with that, I think there could be some construction things done or some redesign done that could do something to help us alleviate this issue. Now, you talk about construction and you showed that one slide – I understand a lot of those concerns but you know, I work in DC every day and they are doing all kinds of constructions creatively and avoiding those kinds of traps that you think you are in or you feel that you are going to be in. Hemstreet: No, they have avoided by paying for it and that becomes a cost issue. That is part of the discussion when you are talking about public [inaudible].

- Martinez: I'll be honest with you. Right now, I'm not – I have still got to do some thinking and I would still like to see some data. I would not like to vote

on this tonight if we can avoid that. If we are forced to vote – Barbara, are we required to vote?

Notar: Not tonight, no. There are two more meetings before the 75 day period ends.

- Martinez: Okay, I would like to have some more discussion on this and see if there is some collaboration – some things we can work on to get this thing to work. I would like to not have to worry about as we go through these discussions, that you are going to take your courthouse and go play somewhere else. You know what I mean? So, I want this to work, but I want it to work where it benefits both the town and the county.

Hemstreet: The Board's position is this project cannot go forward with the buildings that are here. That is why we are before you with the appeal that they directed us to submit.

- Martinez: Well, from what I saw and from what staff has presented, you could. There would have to be exceptions to be made, but it could be done.
Hemstreet: I don't know that I agree with you, sir.
- Martinez: Convince me that it can't be done. I will be honest with you. I am not really convinced right now.
- Hammler: Thank you, Mr. Hemstreet. I really did appreciate your presentation. You did answer a number of important questions that I had. Just kind of to follow-up on a couple things, though, just for the record. Has it been established what the cost would be to move the courts to the Sycolin area if they don't stay in the downtown?

Hemstreet: We have not done that yet. The Board has asked us to start doing that depending on how tonight goes, so that is something the Board has asked us to start looking at. They have asked us to look at two different models, one is to actually – the concept that has been around for about 10 years now, which is to move these court functions into the existing government center and to move the government center out of Leesburg. So, we are costing that, looking at that, because there is a lot of operational challenges with splitting the court functions. You have attorneys that represent people in the circuit court and then in district court. You always have people that show up at the wrong court, so you don't want someone – we wouldn't want someone to show up at the circuit court and be told that they have to go somewhere else in the county for the district court, so one of the things we will look at is trying to keep the courts downtown, but then move the government center. That is one of the things we are looking at. Also would be to move one or more courts out of the downtown. We just haven't done those processes yet.

- Hammler: So, I appreciate how you answered it, but what it does frame for us as a Council is that something negative will happen relative to the overall operations and I think it is critical that this council move forward tonight on a decision just based on all the information that is presented. Along those lines, well we have to make a decision once we have all the input, which is why we are having a public input tonight. You didn't more tactically address – just for the record, we would appreciate – did you do any cost analysis about keeping 112, which is one of the recommendations? Quite frankly, of the four houses, probably the most attractive and is off to the side. Is that even a

possibility? I know the Board has kind of weighed in on it, but any thoughts on somehow maintaining that building?

Hemstreet: I believe Mr. Scofield did refer to that. If you have a packet that we brought with us. I don't know if that has been handed out to you or not – the last page is a cost analysis for 112 if that would remain by itself.

- Hammler: Okay, I'll look at that in a second.

Hemstreet: The presentation document has alluded to, we will give you a more complete analysis, not just the presentation slide. The cost of maintaining that building, obviously is less than the cost for four buildings. The other constructability issues, a lot of those are mitigated by dealing with one building as opposed to four.

- Hammler: Gotcha. We can continue talking about that...

Hemstreet: The Board of Architectural Review did not accept that.

- Hammler: I was going to refer back to that. I understand that the County sent out an RFI requesting any information about anyone who would be willing to move the buildings and that you received a couple of responses. Can you just talk a little bit about any reaction from the Board or where you think that will go relative to if the decision is overturned, what the possibility is to save them and move them somewhere else?

Hemstreet: The Board sent out a request for letters of interest – which is seeing if there were interested third parties that would want to take the buildings. We did get two responses to that, so that we do know that there is interest, but what we did not really gauge is a hard and fast how the cost would be split up, so you know certainly the Board's perspective is that if someone wants the building, then it is 100% on them to go ahead and move and do the construction. Now, I will say that there is a lot of things that have to happen in order for that to occur. We would have to be authorized to demolish the building, but I think the Board is open to having that dialog as to how the buildings are disposed of. There has been plenty of discussion on that by the Board of Supervisors. But, we haven't had a good strong direction from the Board, because they really haven't gotten into that debate, is if they are willing to participate and if so to what extent.

- Hammler: Unfortunately, Marty has just stepped out but to this point, I think there is just sort of this general frustration between the two boards because people are talking from the dais and we haven't had the opportunity to really have a good, joint meeting or even a task force kind of structure to do this in a real relationship building way, but I think we have to take joint responsibility for that and realize that we can still make all of those things happen, so that is where I am coming from. If I may, if I can just take 10 more seconds of your time, just because I would like to keep this on the table about moving the buildings. Tara, can you just pull up the picture of the Exeter Mansion. I am just going to use this as an example. This building was the original mansion associated with the Exeter subdivision, which was torn down and demolished when Walmart came in. You know, lo and behold, that whole area became a whole big box. You know, we probably could have done a lot even saving that part of Leesburg history. This – the original owner was related to George Mason. It was eventually sold to General George

Rust, who expanded the house. It played a major role in the American Civil War when the battle of Balls Bluff was fought on its plantation lands and Confederate General Jubal Early actually used the house as his headquarters. There was an opportunity to somehow keep that within the framework of what is significant to Leesburg. I would just like to as part of my comments and questions, and thoughts to you to bring back, you know, if we can find a way to move those buildings so that we can retain, you know, them somewhere I would appreciate that discussion.

- Fox: Thank you, Mr. Hemstreet. I just want to reiterate something you said earlier, that the four buildings in question would remain empty and no third party would be permitted to occupy them if they were to remain there, is that correct?

Hemstreet: I'm sorry. I didn't hear all of that.

- Fox: Would the four buildings remain unoccupied under county control – no third party would be allowed?

Hemstreet: That is correct.

- Fox: The second question I had had to do with the 50 foot security buffer. I am in the courthouse a lot as it is and I can reach out on those – there are some houses on North Street that are very, very close to that courthouse. Closer than it seems than these would be to the proposed building. That hasn't been a problem. I was wondering why this is a problem?

Hemstreet: Again, the reason why they are guidelines and not requirements is because we can't deal with things on a property that we don't control. So, the issue for us is mitigating the security risk on our property.

- Fox: The third question I had, why so big? 92,000 square feet. Is it really needed to be that big?

Hemstreet: Yes.

- Fox: I guess my last question has to do with 112. Is there a way that – sorry, let me take a look – is there a way that you could work with keeping 112. Would it be too much of a problem to try to keep one of the historic homes there?

Hemstreet: Again, that was kind of a compromise that we carried, as staff, to the Board for the Board's consideration. The Board did consider that. They did specifically deliberate about that possibility and the Board chose not to explore that option. The reason was very much along the lines of all of the reasons that are in their appeal, which is it still represents a security risk, it still represents a cost, it still creates an ongoing cost in terms of having to maintain it, and it is something that would not be occupied or utilized by the county.

- Fox: Okay. Thank you.
- Mayor: Mr. Hemstreet thanks for hanging out here so long.
Hemstreet: Absolutely. Happy to do it. It's what I do.
- Mayor: My concern is that there is no way to keep those buildings – there is no way for the town to require that those buildings be kept in what would be an attractive state. So, what I see happening with those four buildings is they will deteriorate and as long as they are boarded up and the windows are

sealed up and the doors are sealed off, we face the likely possibility of four eyesores over the years. In trying to determine what the \$1 million of minimum yearly anticipated maintenance times 75 years is, I assume that is not a million a year, but over 75 years to maintain those four buildings, it would be a million or a million dollars a year over 75 years.

Hemstreet: That's a 75 year long.

- Mayor: Okay, so a million dollars over 75 years. As I said, I don't want to see this structure go any higher and I think County staff has done a pretty good job trying to keep it within the current limits, so I appreciate that. I appreciate all the outreach County staff did to the community – the meetings you had for the community and I think you listened to the community especially when you found a way to keep Church Street open. I am very concerned about the loss of, I think, Mr. Hemstreet, you had said about 400 employees in the County government center. The potential loss of those should the Board, and I heard several members of the Board say that they would need to look at moving either the County government center out of Leesburg's downtown or the Courts. I think the consensus at the one meeting that I attended on that was that they would look to move the County government center out of Leesburg and then they would put the courts into the Government Center for their expansion needs. I think that would traumatize the businesses that are in our downtown and I think we will lose a great deal of commerce in the downtown, if we lose either element. Now, I know that economic development is moving out of the government center and we are not thrilled about that, but I certainly don't want to see it aggravated and I don't want to see more county functions move out of the downtown. So, for me, the scenario I see is we are going to look at four buildings that have historic value that are going to fall into disrepair as the years ago by. There will be probably minimal upkeep because the Board of Supervisors will see no real purpose. Can't use them and so we have four eye sores on Edwards Ferry. I don't see the benefit to the town in that. I would be ready to vote tonight to overturn the BAR even though I think the BAR did a very, very good job under their mandate of what they are supposed to do, but I don't see it is in the best interest of our downtown to lose any more county functions and if I felt these buildings – if I felt some private owner would buy them and restore them, I could see a purpose to maintaining them, but I don't think that is going to happen. The non-profits don't have the money to do it. These buildings will be high maintenance and expensive and I just don't want to see our downtown merchants lose any business. Other council members have asked for more information, especially in relation to the spreadsheet and I would certainly support their ability to get that information. But, I think it is time to move on. We do have, I think the BAR gets an opportunity and I think Ned is here. So, Ned, if you wanted to give a presentation, we would welcome it.

Ned Kiley, Chair, Board of Architectural Review:

One way to solved the – attractiveness is not an appropriate guideline when you are dealing with demolition in the historic district. It is not something, we can

under the law, consider as a relevant fact. When we look at [inaudible] all four buildings. Then it would be off their hands and [inaudible]. If you look at his cross figure, despite what Mr. Hemstreet says, there is a figure of \$320,000 to \$360,000 improvements to four structures. If they are not going to do anything with them, why is that in there? The capital costs, I don't have a problem with, but when you look at the ongoing operational costs, which is not \$240,000. That's a 75 year figure, that has been added to the overall cost. Same with ongoing maintenance. That \$905,000 is a 75 year figure.

- Hammler: Madam Mayor, I don't think that's the way the spreadsheet reads. It's times 75 years.

The BAR spent a lot of time on this time, the last time yesterday, to figure out how many BAR member and staff person hours went into this project and this total was 330 hours. We actually spent more time on Courthouse Square for better results. I don't understand the county's basis in this appeal. They are in effect saying "we're special. We're the county. You can't apply the same rules to us as you do everyone else". But this is a "nation of laws" and the law in this town applies to the county as it does to me. As it does to any citizen, or company, or property owner in the town. And the county has admitted they do not satisfy criteria under the law for demolition of these buildings. The security issues and the fire separation issues have been dealt with. Tom's presentation demonstrated that categorically. To say that we are going to let these buildings become demolition by neglect, I think it is an affront to this Council and to this town. I would suggest you all take as much time as you need within the 75 day period. Take a hard look at this. Mr. Hemstreet said the standard in the shoes – whose shoes? Which Board of Supervisors? The one that is sitting there now or the one that will be sworn in in January. It is the same with your shoes – the Council member sitting here now or the ones in ten years. If you decide to let these buildings come down, they are gone forever, not matter how many iterations of the Board of Supervisors or the Town Council come and go – those buildings are gone forever.

Leo Rogers, County Attorney: Prior to coming to Loudoun County, I worked for nearly 25 years for James City County, part of the historic triangle, Jamestown, Williamsburg, Yorktown. Historic preservation and the accommodation of public structures and public facilities in historic areas is certainly not something new to me. I think the issue that you have tonight is you are trying to keep a courthouse downtown on a very small site that is very constrained and the county being the owner of the site is trying to follow the rules of law as identified by the BAR. We are not disputing that the BAR followed the criterion as are established in your ordinance, but there is another provision that is in your ordinance and that's the discretion that is given to this Council as a legislative body to make decisions, as stated in your ordinance, as ought to be made and there are purposes for which you have an historic district. You want to have that historic district so it is going to promote economic vitality. You want to have the value of community resources, contributions to the town's unique character. A courthouse does that. A courthouse is a very unique public, civic space. There is no more traditional public

forum than the grounds of the courthouse. It is the place where people go to conduct business, to get information, to resolve disputes. Keeping that courthouse in downtown Leesburg is what the county would like to see happen. The county is also the property owner of four structures, residential in nature, that do not fit into a courthouse campus. They have no purpose as part of that courthouse campus and the county being a public body is looking at the expenditure of taxpayer funds to keep four structures that have no use to a courthouse facility and those structures are going to detract from the purposes of the courthouse, the design of the courthouse and the security of the courthouse. That is what Mr. Hemstreet said when he asked you to put yourself in the shoes of that property owner – another public body that is looking to expend public funds for that purpose. What we are doing tonight is we are coming to Town Council as a legislative body that has the discretion to consider all of these factors and to consider the factors that should you not make a decision to overturn the decision of the Board of Architectural Review, which we are not disputing. They operated within the criterion you all have established by ordinance. But, if you don't do that, the county is going to have to make a decision as to what it is going to be doing with its public facilities.

Mayor: Dieter, at this point, you are, I think the only BAR member here, but the Council may ask additional questions or take additional testimony from either the County or the BAR. So, if Council members have any questions, would you prefer to answer or would you prefer not?

Meyers: I would answer.

- Dunn: Yes, actually. So, I have a historic building in the historic downtown on any street and I decide I need to put boards up on the windows. Do I need to go to the BAR? Because I think that would fall under window treatments and I know that I have heard Dieter and the Board on a number of occasions deal with people about what construction materials they can use for window sills and windows and window panes, so would I have to go to the BAR for approval to start boarding up a historic building?
Staff answer: That would be an alteration that perhaps would have to go to the BAR.
- Dunn: So, anything I want to do to that historic building, I have to go to the BAR, externally.
Staff answer: Unless it is maintenance. As long as it doesn't change – using like kind materials. As long as it is maintenance and you are keeping in the same condition, you do not have to go to the BAR. [inaudible].
- Dunn: Thank you. And so far there hasn't been any discussion from the county. I think that the County is obviously headed in a certain direction. The direction has been we want to get rid of the buildings, otherwise you wouldn't be asking for it. I think that if, and maybe part of the future discussion would be if the buildings do end up staying, is and there with outside of possibly that security zone is what could be done with those buildings as far as offering for sale or using them for another government

purpose, but those are discussions the board and the county really hasn't had, is that correct? Have you all discussed any alternatives?

Hemstreet: If you are asking, have we had a discussion, as staff, with the Board of Supervisors about uses for those structures, the answer is yes. We have had those discussions with the Board at length about whether or not the Board was interested in compromising through the process with the Board of Architectural Review. If the Board were interested in talking about maintaining one or more or four of those structures. The answer has been consistently no. The Board has not been interested in entertaining that discussion. Again, our biggest concern is for security. We would not allow or permit a third party into those buildings because we cannot control who goes into those buildings if they are under control of a third party. That means that the only use then for those buildings would be for a county operation. The buildings already are too small for any of our county operations. If we were to implement the direction of the Board of Architectural Review, we then would have even less use for those structures because they would be even smaller than what they are today. So, again, we don't see a viable use for those structures on the courthouse grounds.

- Dunn: Okay, so there has been no discussion of alternative uses. Basically, we would not use the buildings and we want to demolition.

Hemstreet: There has been no discussion of alternative uses because we will not permit a third party on the courthouse grounds to occupy those structures.

- Dunn: Provided we still have the courthouse grounds where they are.

Hemstreet: Yeah, we are talking about keeping the courts downtown. That is the whole point of the discussion.

- Dunn: Right. And let's see. Got that answered. I guess this just to carry on a couple of comments that were made about public use and the county has employees, correct? And you pay them? Of course, and they provide services and the public pays for those services. What is the difference between a private business that were going to do the same thing? They have got employees, they provide services, the public pays for those services. Now, we know obviously that there is a difference between the public sector and the private sector, but when it comes down to it is the real main difference is the public is forced to pay for your services, but they can decide whether they pay for the private services. The difference is that we are being asked to provide a different standard for the public sector, which in fact the public is actually forced to have to pay for. So, there is [inaudible] way, whereas the private sector, they can decide whether they want to pay for it or not and get that service or not. It's hard for me to say well because we are the government, we deserve a different standard because if it were a private sector, and I think the BAR just talked about Courthouse Square, right across the street from here having to deal with nearly the same issues, yet the private sector in fact they are not building yet. They can't necessarily afford to just put it up because they are not going to have \$55 million to do it. You are going to get \$55 million, whether we like it or not. It is going to happen. So, I have a real tough time saying you know the public sector deserves more consideration just because we are public, but then again you are providing the same service

as a private sector individual would be doing or company just being funded in a different way. Anyway, that's just my point. Nothing you have to respond to. Thanks.

- Butler: Just a couple of small items. One, let's say theoretically, we could move the main building so that the four or move the four houses or a combination thereof so that the four houses moved outside of the yellow dashed line. That would eliminate the security problem and presumably they would be far enough so that the cost of the fire rating of the south façade would go away, but that doesn't seem to be a very high cost. Would there then be any objection to selling the houses and allowing anybody else to live there if it wasn't that close to the courthouse. Yeah, somebody from the county assuming that they are outside the yellow dashed line.

Hemstreet: Again, the structures themselves are on the courthouse property. We do not have the use, whether they are a few feet outside of the 50 foot buffer – I mean there are two zones – the 100 foot sight line, which we haven't spoken about and then the 50 foot set off from any other structure. To begin with, I don't know that we can move the building enough to meet the 50 foot set off. We certainly can't move the 100 foot sight line with the structures there and it again becomes a situation where we are sacrificing what we believe are our security risks on that property. I do not see a scenario where the board would go to the cost of redesign to move the structure and allow a third party to occupy those buildings.

Hemstreet: I think that is a hypothetical question that I do not believe we can practically get to and again, there is no way to meet the 100 foot guideline or sight line and if we were outside the 50 feet it would only be by a few feet. I don't believe there is a way given the configuration of the site just based on what I know about it to move the building enough that we can be completely outside of the 50 foot line and make all the operations of the court work. It also creates an additional problem on the north side of the building, which we are also not meeting the 50 foot setback, but again that is not a property we can control. I don't believe that is a realistic solution. If you are asking me my opinion tonight on July 14.

- Butler: I understand. Now, what is the deal with the 100 foot line because there seems like there are a zillion properties within that 100 foot line.
Hemstreet: 100 foot is a sight line. [inaudible speaking from the audience].
Again, we are trying to control – meet the guidelines on property we control. We cannot meet – obviously, if it is not property we control we cannot meet the guidelines on other people's property, but the 100 feet is a sight line. We want to have 100 foot distance of unobstructed sight line. We definitely cannot meet that to the road. The structures are in the way. You cannot meet the 100 foot sight line from the building to the road. There are two guidelines. We did not talk a whole lot about the 100 foot sight line. We talked most of the time about 50 foot building set back line, but there is no way to meet the 100 foot sight line. Clear sightline where the buildings are.
- Butler: It doesn't feel like the county has exactly gone out of their way to try to meet us somewhere in the middle. It doesn't feel that way. I know that staff has taken their direction from the Board of Supervisors. I get that. So,

maybe it would be more accurate to say that it doesn't feel like the Board of Supervisors is giving staff enough discretion to compromise with the town and try to do our best to preserve the heritage that we have while we are meeting with the county's needs. I certainly would like to do both and there are always engineering solutions to things. In my opinion, it would be more helpful if the Board of Supervisors was a little more flexible. Thank you.

- Burk: I just need some clarification on this sheet. I thought we were supposed to be asking BAR – I didn't realize we could ask. Is it okay if we continue to ask?
- Mayor: The council may take additional testimony from the county or the BAR.
- Burk: Okay. Then, just a couple of things. The ones in yellow where it says additional security staff – it says roving security staff and full time employees at \$32,000 per year times 75, 10 %. You understand what I am – I don't even understand what that number means and then the one underneath is the minimum yearly anticipated maintenance for 75 years. So, are you adding something that is a 75 year cost to something that is a yearly cost? The two yellow lines.

Male Voice: That was a number estimating what it would take to add additional security for 75 years to patrol around the houses.

- Burk: So you have added into this \$4.5 million is costs that are spread over 75 years.

Male voice: Yes. It is a 75 year building, so that was why we do 75 years. When you design a building, you typically design a 75 or 100 year building.

- Burk: Okay, that's all I've got. I still don't see where you are getting your numbers from.

Male Voice: I can break out the numbers in more detail and provide it all to you.

- Burk: That would be very helpful.

Hemstreet: If the presentation slide is not working for you, we can break it out [inaudible].

- Burk: I'd appreciate that.
- Martinez: [inaudible] Ned is still here because he is speaking for the BAR. Dieter, can you respond? I just had two questions.

Meyer: I couldn't hear.

- Martinez: What was the BAR vote?

Meyer: It was unanimous, 7-0.

- Martinez: And why?

Meyer: Because it was determined by the BAR that the guidelines really didn't give us any additional flexibility. There was just no way we could vote to have those buildings fully demolished and not only that, what we tried to do was come up with a compromise in allowing the rears of the buildings to be demolished, which would then greatly increase the fire separation distance between the existing building and the new courthouse. That created quite a perimeter there, you are getting awfully close to if not at the point where you can get a zero hour fire rating on that side. I am skeptical that you can't make

something work from a fire rating standpoint. Security issue – I have my opinions on that, but I am not going to go into that.

- Martinez: I just wanted that clarification. Thank you.
- Hammler: Just to reiterate, I think a couple of us on Council have already mentioned and so has the county administrator that we completely appreciate everything that the BAR did and we agree that according to the guidelines, you did an enormous amount of work and came to, you know, a very logical decision, unanimously. So, I don't think that's the issue. I know that you have already mentioned citing the historic significance of the building. I do think that Tim made a very good point and addressed certainly something I had heard from a few people – why is it fair that the county gets to possibly have this broader scope, which we are looking at, which includes what would be a significant economic devastating impact if certainly the courthouse moves or any other major government function moves out of our historic downtown. I think that point has been well made as well. I appreciate what Kristen said about the actual buildings in terms of the state of repair they are in and so I guess my question for Tom, we have several buildings in the downtown that really are in bad disrepair and quite frankly you could ask yourself why on earth, like are those tin can buildings even allowed in the downtown? So, I don't know if it sort of rhetorical at this point – it is late, but I think we need to keep that in mind relative to what for me is going to be an important guiding factor in my purview as a council member and what we can take into account in this decision whether to overturn or not, which is the broader economic impact. If we agree with the assumption that some major portion of government functions of the county will move out of town if we do not overturn this decision, it is going to be very negative. And, you know, do we sacrifice four houses and ultimately have the significant negative economic impact to the rest of the historic downtown to save them. I know the issue of politics came up relative to the timing of the demolition. So, for the record, I would also appreciate knowing if we overturn this decision tonight or whenever we may within the 75 day window, when would the actual demolition take place relative to what is on the timeline? What would be the timing of that?

Hemstreet: It could be years.

- Hammler: It could be years? So, there is the opportunity for that to just.... Hemstreet: [inaudible] and buildings we would have to have approval with permits for the new building [inaudible] before we do anything.
- Hammler: So, it really just keeps the options open to have a really positive dialog because this is a very complex construction project that we have to work closely with the county on, streamline the process, address things ranging from stormwater management to parking to you know all of the things that we have discussed tonight. I am looking forward to finally hearing from the public. We have gotten ahead in line of what you are probably talking about – so anticipating that.

Staff answer: One of the conditions that Mr. Hemstreet mentioned was that make sure that the rezoning is approved and building permits pulled for the

construction of the courthouse before demolition is to occur. Also, we would like to clarify that the vote by the BAR was a 5-1-1 vote, not a 7-0.

- Hammler: Oh, thank you. And of course no matter what the decision is from Council...well, I shouldn't say that because if Council doesn't overturn, then some – we may not be looking at the courthouse architecture, but if it does then that, of course, is coming back to really be the – the architectural review board will be very closely looking at that and we look forward to working on that as well.
- Fox: I just have two things – one, if we are going to vote on this tonight and I don't know whether we are going to – I have some observations or some remarks. No extra questions for Mr. Hemstreet. No extra questions for the BAR. The second thing I'd like to do is acknowledge this gentleman. Very, very patient gentleman sitting here in the front row for 3 ½ hours. I think he has something he wants to tell us, so I just wanted to put that out there.
- Mayor: I agree. I would just make one comment because I think Tom and I would disagree. Tom Dunn, not you Tom down there. The county is not asking for anything that an individual homeowner couldn't ask for or an individual business owner couldn't ask for. We have had notable appeals from BAR decisions that have come to Council. The county is exercising its legal rights just as individual home owners and businesses exercise their legal rights. I don't think there is anything special about what the county is doing right now in appealing. But, we do need go now to public comment. We have got a gentleman who has been waiting.

Joe Scanlan: My name is Joe Scanlan. I live on Rickenbacher Square in Ashburn. I grew up in Leesburg and am a Loudoun County resident. Currently in the process of selling my home. My wife and I are moving back to Leesburg. One of the main reasons coming back is the atmosphere of downtown Leesburg has been greatly enhanced over the years with new restaurants, businesses, and residential projects all being added to the historic district. The ability to offer a walkable community with restaurants and shops downtown creates a unique and exciting experience same as moving in and around the town. It sets itself apart from a regional filled with suburban sprawl and strip malls. We should be allowing projects such as the Loudoun Courthouse Expansion to move forward for the survival and betterment of the quality of life for downtown. This is an essential project for the businesses and jobs already located downtown and those that will be created in the future. Allowing the courthouses to relocate out of downtown Leesburg would be devastating for all of the work put in over the years making downtown a destination for history as well as restaurants and shops. It would truly limit the continued transformation into a community where people want to live and businesses want to be located. I would urge the council to work and allow this project to move forward, substantiate their hard work and work with others over the years to create the project. Thank you.

Mayor: We do have the possibility of having a vote tonight. My perception is a majority of council have questions that they want answered, but now would be a time to make a motion, if anybody wanted to.

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

MOTION

I will move to reverse the decision of the Board of Architectural Review was rendered on May 18, 2015 and approve the county's request for total demolition without the modifications issued by the BAR.

Council Comments:

- Hammler: Just very briefly to reiterate the key points – the BAR did a tremendous job for all the reasons that have been mentioned, following the guidelines. This council has a broader purview relative to the broader economic questions about the viability and sustainability of the downtown and the what the impact would be. I, for one, believe that there is significant reason to believe that this BAR decision is not overturned, that a significant portion of government, Loudoun County Government operations would be moved outside of the historic downtown. I certainly welcome the opportunity to work closely with the county moving forward on some of the real important [inaudible] discussions including how we can possibly have someone who is interested move the historic houses elsewhere as well as things like parking and very important things that are extremely important for the future of the downtown. So, in summary, it would be economically devastating to have that courthouse or any other major Loudoun County government function blocked and in addition the specific refinement of the architectural details is definitely coming back to the BAR so that gives me extra pause. So, the issue of fairness has been addressed. This is not a typical office building. This is a courthouse with very specific complex needs that you require and I think it is important for saving taxpayer money to move this forward effectively and use this as an opportunity to work better moving forward as two governing bodies. So, I would say that is sort of the [inaudible] but this council should not be throwing out our baby, which is our historic downtown, with the bathwater.
- Mayor: The only thing I would add to what I have already said and what Katie has said is that talking to individuals who have invested and want to invest in the downtown, the possibility that any more county services might be moved outside the downtown has made banks and other investors extremely nervous and I think we are going to see a ripple effect if we do not secure the courthouse expansion for the downtown. I think there will be a negative impact on the downtown – on the existing businesses there as well as the existing restaurants and I think we will lose the possibility for additional investment in the downtown. That is all I would have to say at this time.
- Fox: I do have some comments. I do support my colleagues ability to get answers to their questions. I don't mind whether we vote tonight or not. I'm good with that, but I do have some things that I would like to put out there because I am liaison to BAR, I have been privy to the conversations that the BAR has had and I have agreed with their assessment and their recommendations given their purview. However, my job is to look at this

issue through the political lens – that is what most benefits the people of Leesburg and for our citizens what is most important. Keeping the courthouse in Leesburg or keeping the four houses in place, which learned tonight will remain empty. There are two issues that I have. First of all, I don't feel like we have the entire picture. We have been given a little actual empirical data as to why the expansion needs to happen. We have also heard from the county that if we don't consent to demolition, they will strongly consider moving the courts. I think we probably need to take that seriously. I was at the hearing at the Board of Supervisors with you, Mayor. Tonight's County appeal rejects the compromise set forth by the BAR – that of saving the historic footprints of these buildings, so in essence, I hate to say it, we are kind of being held hostage in a way, given our commitment to preservation of history and I think that is unfortunate and I don't think it accomplishes anything but hard feelings, but that said the county courts and the government center are a major part of this town's economic engine and without them, I believe the town will suffer economically. The courthouse, in my opinion, is important to the preservation of the town. Prospective business and prospective residents are watching us and they will respond to how we address this issue this evening. My major concern is that if approval is granted for demolition of the four buildings without ensuring approval of all elements of this project such as a parking structure, building design, etc., the town will feel pushed and compelled to finish this project because we went ahead and consented to demolition and I don't want to see the town stuck in this situation. Once we demolish, we can't undemolish. If we approve demolition, I would ask that we do so with the condition that the demolition may occur only after receipt of the applicant of both a building permit for the new construction for the new district courthouse and final approval for the submitted rezoning application TLZM 2015-0002.

- Burk: Well, I have to express my disappointment that we are going to make a vote on something that we don't have all the information that some of us had asked for. I would just like some more information. I think that we are making a decision without having all of the numbers and all of the information we have asked for. I don't think it is unreasonable to ask for it. The county has agreed to give us the information. I hate to vote on something when I don't have all the information. I also think it would give us a little more time to find out if in reality that this is an idle threat, or if it is really true. But, for me, the biggest thing is that I need the information to be able to make the decision that I think is accurate and correct.

Vice Mayor Butler made a motion to postpone the vote on this subject to July 28, 2015. The motion was seconded by Council Member Butler.

Council Member Hammler offered a friendly amendment to form a subcommittee between Council members and Board members.

- Hammler: What has been missing is any dialogue between Council and Board of Supervisor members and there would be value in having that discussion.
- Mayor: You haven't seen all the emails I've seen, apparently.
- Hammler: I think we need to have somebody sit down together so that there is joint learning and that could come back by the 28th.
- Mayor: There has been a fair amount of dialogue back and forth, I think. At the Board meeting where this was discussed, I think we heard where the various members of the Board were on it and Mr. Reid certainly has not been shy about sharing his thoughts on this, but Kelly and Dave have to decide whether to accept that as a friendly amendment.
- Burk: From my point of view, we have had quite a bit of discussion. I think that meeting was pretty clear how they were going, but I understand what Council member Hammler would like to do, but I think it's probably already done. I'm thinking. Wait a minute.
- Butler: I think the time for a task force was a while ago. We can decide on a task force at the next meeting if we don't want to vote it up or down.
- Mayor: We are going to run out of time. We will have, what, 75 days, Barbara and that ends in September?
Notar: In August, so you have two more meetings to discuss this.
- Butler: So back to comments. One, I would like to see a spreadsheet, obviously. That is one thing I – bring my intensity on the spreadsheet. I come from an industry background and you could have gotten 50 slides on your presentation and 49 of them are confusing. The one that needs to be very, very clear is the one with the money. So, anyway, I would like to see that and I also would like to get the town staff's input on whether it is possible to do a combination of moving the main building to the north and some combination of the historic buildings to the south and see if we can pull them outside of the yellow dashed lines. That may be a fairly easy question to answer, but I think if they are outside the yellow dashed lines, it gives a lot more flexibility to the county. I don't believe for a minute that the county is going to move anything out of Leesburg unless they absolutely have to. There was some numbers, I seem to recall a spreadsheet that they came around with preliminary numbers and it was about \$20 million more to move the courts down Sycolin Road. I can't see the judges and the court staff wanting to move into the county building. If it was moved out, it would be for political pete and not for any rational or economic reasons. So, I trust the Board enough that they wouldn't do that, plus it wouldn't be very many months before it is likely that at least some number of the Board members may change. So, it would be rash for the board to make a decision based on a few million dollars and a couple of houses that would negatively affect the county for many years. So, I am confident that is not going to happen, although there has been rhetoric on all sides. I am a little bit disappointed that we seem to have a number of Council Members that are all scared of the county and taking threats more seriously than they rationally should. That's okay. That's their prerogative. I'm just not buying into it. So, I am more than

happy to postpone for a couple of weeks so that we can get some more information and look at a couple more alternatives.

- Dunn: I would be interested in postponing because I do have a few questions. I don't know if you are able to answer those now, but I wanted to know what the cost estimates were of moving the courts to the County government building, the cost estimates then of moving the government center to another location – what that is. Also today's point what that could estimate was to move the courts out of town. As you remember, there was number floating around about that at one point. Also, to know what should the courts move to the government center and the government center move out of town, or maybe in town to another location, what would you do and what would be the estimate – what would you do with the current courts complex. I imagine you would sell that because if you are moving the government center somewhere else and the courts are in the downtown, you don't need the court complex, so what would you do with that. The courts complex would remain? Why don't you get back to us on that one. Unless you have an answer now.

Hemstreet: The courts directed us at some point to bring the answers to those questions back. We are not talking about moving the 230,000 square foot structures that are there right now. The circuit court would remain where it is. When we are talking about – what the court is talking about is an extended building – is a 92,000 square foot structure. What would happen is the existing government center would be repurposed for the district court and for the expansion of the juvenile and domestic relations court, so they have moved into the government center building. So, there wouldn't be any property to sell.

- Dunn: You'd just have different court functions in the current courts complex and then other court functions..

Hemstreet: The existing court functions stay.

- Dunn: You'd just be expanding into the government center.

Hemstreet: That is correct. They have outgrown the size of that building. The size of the new courthouse building at 92,000 square feet [inaudible].

- Dunn: Okay. And right now that expansion into the government center would be how many new employees, because they got to be somewhere now, right? Or you have to have new employees if you are expanding.

Hemstreet: There are two issues – one is we have a number of functions that are in leased property in and around this area as well as two functions that are in two of the Edwards Ferry buildings today, but they have outgrown that space. So, there is also changes to the Valley Bank building, okay? That hasn't been talked about too much here, but what we would like to do is remove one of the rear additions on that building, so what happens is a lot of staff gets moved out of existing space and moved into the new structure. We also would be adding, I think there are some additional courtrooms that are called for as part of the district court plan and we certainly have already added another circuit court judge, which there is no space for that circuit court judge. Also, for different security reasons, would like to no longer have to use the historic court building as an active courtroom so it allows us to

discontinue the use of that structure. I don't know that it is as much an expansion as it is a bringing everybody into the same campus, if you will. There is some expansion, that would be up to the supreme court to add additional judges for those additional courtrooms.

- Dunn: So, if that scenario were to happen, would you then find uses for these historic buildings, or do you know that?

Hemstreet: Those are leased space, so we would no longer occupy those buildings.

- Dunn: The four buildings we are talking about in question. You don't know at this point? That's fine. So, the other thing I had was just a quick comment on the need for preservation over restoration. There is a difference between restoration and preservation. Regardless of how you feel something looks – you may not like the looks of the pyramids, but you are not going to bulldoze those down either. So, you know some people don't like the pyramid that is in front of the Louvre, but there it doesn't look good, but out in the desert it does. So, again, you can't be basing your historic preservation on how you feel it looks, but I would be in favor of postponing this. I actually did have a question on that. The 75 days, if you don't come up with a decision, is it an automatic approval?

Notar: Yes, it is an approval of the BAR decision. An affirmation of the BAR decision.

- Dunn: It's automatic. If we don't make a decision, it is an automatic alignment with the BAR decision?

Notar: Yes, and it would trigger the county's right to appeal.

- Dunn: Again?

Notar: Appeal to the circuit court.

- Dunn: Oh, alright. Very good. I am in favor of postponing.
- Mayor: Suzanne, did you get to give enough comments for the postponement motion?
- Fox: I did. I have questions, but I feel like these are questions that could be addressed if we postpone.
- Mayor: Katie, did you have anything else to say on the motion to postpone?
- Hammler: Just was wondering if Council wanted to do a work session or if we are just planning to put this back on the dais. While I have the mic, I just would comment on Dave's earlier point – it is not a question of being scared about thinking the county is moving out. It is understanding that it is a rational decision based on taxpayer money and the current financial picture. The county is at its debt limit, just like we are. I think the \$200,000 and they are at \$199.9 so a million dollars here and there makes a difference so I am just cognizant of time being money. I will certainly support my colleagues – obviously this is an extremely important decision. But, I just think we have to be as careful on the dais about what we say out of respect for the Board's decision as we expect them to be for us.
- Martinez: Since what I want to say is not within the scope of the postponement, I will not. Not like others who just like to keep going.

The motion to postpone until July 28, 2015 was approved by the following vote:

Aye: Burk, Butler, Dunn, Fox and Martinez.

Nay: Hammler and Mayor Umstattd

Vote: 5-2

It was noted that the public hearing is closed.

11. RESOLUTIONS AND MOTIONS

a. Amending Resolution 2015-001 Making Councilmanic Appointments to Add Liaisons to the Diversity Commission and Leesburg Rescue

On a motion by Vice Mayor Burk, Council Member Martinez was nominated to be liaison to the Diversity Commission. The motion was seconded by Mayor Umstattd.

The motion was approved by the following vote:

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

Nay: None

Vote: 7-0

Mayor Umstattd declined to serve as a liaison to Leesburg Rescue.

Council Member Hammler moved to postpone a vote on a liaison to Leesburg Rescue until July 28. The motion was seconded by Council Member Martinez.

Council Comments:

- Dunn: I don't feel we need to postpone it because I don't feel we should be appointing anybody to the rescue squad. I think that adds way too much politics into their situation and I just don't think it is productive. I would not be interested in postponing. I would be interested in not having any councilmanic reps.
- Butler: I kind of agree with Tom. I don't see this as a whole because it is not a Leesburg Commission. It is a county thing and so I don't know. We may at some point, but I don't see a need.
- Martinez: Sorry, I jumped in there Kelly. I think the reason why we were going to put somebody on the rescue squad was there was a lot of questions on the money we give them and the fact that we have no visibility into the rescue squad at all. Not that I am volunteering and not that I think we need that. I think that was the reason why this whole thing came up, so if we want to find an alternative to get some more accountability, I think that would be better than putting somebody on their board.
- Burk: Well, I just remember when the Board of Supervisors put two board members on the water board and how political it made it at that point. It wasn't a county committee and it was pretty disastrous and so just from having experienced that, I would be reluctant to do it.

The motion to postpone was approved by the following vote:

Aye: Fox, Hammler, Martinez, and Mayor Umstattd

Nay: Burk, Butler and Dunn

Vote: 4-3

12. ORDINANCES

a. None.

13. UNFINISHED BUSINESS

a. None.

14. NEW BUSINESS

a. None.

15. COUNCIL MEMBER COMMENTS:

Council Member Fox: I don't have much to say. It has been a crazy few weeks leading up to yesterday, so I have done a few things and most of it has been with my daughter, but the one thing I did accomplish was the ability to get to the Legacy Farms event back in June, which was amazing. There is a special program going on for the autistic kids and it was quite a treat to be able to attend that. But, everything else has been daughter centric, so I will just leave it at that.

Council Member Hammler: Well, speaking of autism, Jennifer Lassiter is joining a small group going down to VAVF, the [inaudible] school of music, which is an education/performing arts center in downtown tomorrow, so I will report back on that. If another council member would like to come – Kelly can't – so we can have one more council member join us tomorrow. Heading down about 5:30. A couple of quick disclosures. I had a call from Bob Sevila on June 29th about Mr. Saghafi's letter and Banyan Cove. I did have the meeting with Kelly and a large group joined on the 29th about the performing arts when we had [inaudible] Levine and Tina Dove and the gentleman who is in charge of music at George Mason here and I also did attend lunch with a small group. The value of that was \$20, I'll disclose that. I had a call with Shye at ProJet on July 2nd and a call with Dave and Eric Major yesterday. I just wanted to – on a different note, please have everybody mark your calendars, it will be coming up. I am really excited that Makersmith is opening up officially with its ribbon cutting – our maker movement organization, the first in Loudoun County on August 1 at 11 and there will be an article in the VML magazine so thank you, Marantha for all your help with that and happy anniversary, Ida Lee.

Council Member Martinez: I had a lot of fun at Legacy Farms and got to see peacocks chasing people, which I thought was fun. But, I honestly enjoyed [inaudible] fourth grade and was glad to be part of it again and that is all I got.

Vice Mayor Burk: Just a couple of things. I want to congratulate the National Conference Center for their reopening. They opened on the 24th and invited people to come in and see it. They are booked all the way through September, so it is really a dramatic turn around for the National Conference Center. On the 26th, I participated in Law Camp for the

first time and that was pretty neat. I really enjoyed that and I was very impressed with the kids and one of our staff people, his daughter was one of the lawyers, Callahan, so that was kind of fun so he was in the audience and threatened me if I didn't vote for her. That is beside the point. I need to acknowledge I attended the Potomac Station pool party, which was a nice event, but they did talk about their project to me and I didn't realize that was what they were going to do. Welcome Mesh Omnimedia that just opened in Leesburg. This is a public relations kind of media new business in town and it is a great addition. I, too, talked to Shye Gilad on the 2nd and I attended the Performing Arts meeting. Then, along with Marty and the Mayor and attended the Little League softball tournament. They had out of sixteen leagues around the state of Virginia, fourteen were there and it was a really neat event and it was a lot of fun. I was delighted to be asked to attend.

Council Member Butler: Just a couple of things. I do have a disclosure. I was also on the call with Katie – she called me up on it with Eric Major yesterday. It looks like we won't end up getting to see any of the all star game last night even though I wore my tie. It is now the bottom of the ninth, national league is behind 6-3. At any rate, that's all I've got.

Council Member Dunn: I normally don't make very many comments during Council Member Comments, since everyone was so brief and yielded the rest of your time to me, I would like to say have a good evening.

16. MAYOR'S COMMENTS

I've got one disclosure, which is I had a phone conversation with Bob Sevila about Banyan Cove, which is on Edwards Ferry Road and is looking at a potential rezoning. It is currently zoned for townhouses. It was rezoned to that use and they are looking at potentially rezoning it back to a commercial use. He mentioned that he had been calling Council Members to talk about that possibility.

Butler: Does he need a Town Plan amendment?

Mayor: That's after all the discussion on who gets to initiate those, I assume.

17. MANAGER'S COMMENTS

Mr. Dentler had no comments.

18. ADJOURNMENT

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

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2015_tcm0714

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

Council Members Present: Kelly Burk, Thomas Dunn, II, Suzanne Fox, Katie Sheldon Hammler, Marty Martinez and Mayor Umstadd.

Council Members Absent: Council Member Butler.

Staff Present: Town Manager Kaj Dentler, Deputy Town Manager Keith Markel, Town Attorney Barbara Notar, Director of Finance and Administrative Services Clark Case, Assistant Director of Finance and Administrative Services Mike Goodrich, Interim Information Technology Manager John Callahan and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. **Work Session Items for Discussion**

a. Transparency Initiative

Members of the Technology and Communication Commission (John Binkley, Eric Byrd, and Tom Coleman) presented their initiative.

Key Points:

- Only asking for support of the policy statement so that the Commission can work on the initiative.
- No request for obligation of funds or commitments to timelines.
- Morgan Wright, owner of Safelock, discussed how to use information to drive economic development.
 - Access to information creates a progressive atmosphere.
 - Creating relevant technology so that people can self-serve themselves to obtain information.

Council Member Comments/Questions:

- Fox: I took a look at everything and I think transparency is always a good thing. I wanted to know a couple of – what you are after tonight is an approval of a policy statement, am I correct?
Speaker: Correct.
- Fox: And is just for the town or overall? Is there an economic development bent that you are trying to establish, or is this something for the town website?
Speaker: This would be from data that the town has that is going to be valuable to both businesses and educational institutions and coincidentally to the town itself. One of the great – look at case study after case study in data transparency – open data – one of the largest consumers of open data is governments themselves. Many cities have found that once they make this information available through these open portals and to these open platforms, staff uses it. It is actually easier to access and much more efficient. Outside of

efficiencies inside the government, because you are looking for inside of the town government, what we are looking at being able to do is to drive economic activity, like you were just hearing about from Morgan and one of the things I would like to do is to make Leesburg more attractive for educational institutions and researchers so that we could attract additional entities to the area.

- Fox: How does this differ from what we have on the town government website, the OpenGov, financial transparency portal? How does what you are proposing differ from that?
Speaker: In two primary ways, [inaudible]. The first way is that site that you are referring to is primarily a visualization tool, not necessarily what we would refer to as straight, open data. Now, it is powerful and it is useful, but we are talking about making information available in essentially its native form, not something that has a presentation layer to it where you can go to a website and create graphs. We are talking about much more raw data that is going to be much more useful to businesses that are trying to do their own analytics and also saves the staff time, etc. in terms of preparing that data. So, we are not talking about a lot of expense in terms of pretty graphs or fancy websites. We are just talking about making the raw data available. The second area that is different, you are talking about beyond just financial information. Any information that would be essentially discoverable by a FOIA request, that is not protected by Virginia State law would be made available and why would we not do that if that is something that would be effective in driving and stimulating economic activity and also attracting new entities from an educational, academic and business perspective.
- Fox: You mentioned cost. I know that is probably not a discussion for tonight, but have you – I was just looking at some of the Google analytics that we don't have many hits on this. Do you expect what you are proposing to have to have a lot more traffic?
Speaker: We are and there was two primary reasons to that. So, the financial data is very cyclic in nature. So, during budget cycles, etc., you will see spikes in that traffic. So, any individual period of traffic on that site might be a little misleading, but the second aspect of this is that there has not been a real effort to publicize this. So, part of the plan that we are talking about going off and creating is a way to publicize and raise awareness of this. Other cities have actually combined both awareness and cost efficiencies by doing things like Hackathons. There are actually national Hackathon days when you bring in essentially people from the community who actually work on some of the actual infrastructure for the open data initiatives or work on applications that utilize that data. There is no cost to the town at the same time it raises awareness. So, there is a couple of different things that we have – areas on our clipboard that

we have to raise awareness. We are looking at working through some of the various educational institutions in town. There is a whole historical component to this that we were looking at exploring. Is this something that we could do in conjunction with the schools. Then, as I said, there really hasn't been a lot of promotion around the open data that we already have. Even if it is never used extensively directly, the idea would be that it is an indirect relationship. Companies, institutions will come and use that data and then that would be made available, mostly through value added elements like Morgan was talking about. It is not necessarily anything we are going to get massive hits on directly because again we are talking about doing this essentially in a very bootstrap fashion, making data available in the raw form, so it is not going to be something that a lot of people are going to just go to the website – it is not a very user friendly environment, but it is a data heavy, value rich environment for the people who know how to use that data. It is not about necessarily the direct access numbers, it is about who is taking that information and then using it in a way that is going to drive economic activity and research.

- Fox: Madam Mayor, reading the staff report, one of the only concerns that I had was the fiscal impact study that there hasn't been one yet. So, would we be – if we went ahead and had some sort of action on this tonight, that would open up discussion about the fiscal impact study?
- Mayor: A fiscal impact study, of course is going to consume staff resources, just to do that study, but if the council were seriously considering implementing what the commission is requesting, then I think we would need a fiscal impact study because I could see this being extremely expensive and we would want to know are we putting out there items that nobody in the public is ever going to care about, but are we spending 10s of thousands of dollars to do it, so we are going to have to be evaluating that issue.

Speaker: If I could just add one thing to that. I think there is a couple of different ways that we are thinking about that. What we would like to do is through the policy statement, we will go off and create a plan that you could then do a financial impact study on and that plan would be both phased and tailored exactly to those kind of concerns. There could be off ramps essentially in terms of hey we are not seeing a return on investment here that we expected. We are not talking about something that would be a huge up front investment and you know, then the hope and a prayer that it is going to work. We are talking about iterating in a very agile fashion. A lot of us are from start ups. We are used to doing things on shoe string budgets and iterating it and bootstrapping it as we go. That's what we are talking about.

Other speaker: I hate to try to over simplify this, but I want to oversimplify it. What we are not talking about doing is building a website where you go and look at the data and all of these graphs and all this fun stuff. What we are talking about is releasing the raw data. It sits in a file, probably on multiple servers at this point and it is ones and zeros and numbers. So, what we are talking about and what the trend is all across the county is that governments are making this data, as Morgan said, that is already available to people through a public information request, available in a block of data so that they can take the data and look through it and figure out how to sort it and try to present it. This is actually what Open.gov, the website Open.gov does. They take the data that our staff sends them and they pretty it up. Okay? We are not saying we want to pretty it up. So, the cost of this is going to primarily be in figuring out what's the process to make sure that the process that needs to not be released, isn't released.

- Fox: You mean scrubbing, correct?

Speaker: Yes, so it needs to be scrubbed and redacted – so it needs to be appropriate before it is released to the public. That is the primary cost because once it is ready to release to the public, it is basically a file that you copy onto a server and then if people want it, they come get it. We don't have to do anything with it. We just leave it there. Now, the value of that – is very, very difficult to quantify. Here is a reason –Morgan and I were talking on the phone earlier. He mentioned nobody wanted an iPhone before there was an iPhone because nobody knew it existed, so this is why I liked his application that he created. He, because of his background, recognized that there was this information available about sex offenders, specifically. Nobody else knew that this existed, but he knew that this data was available, so he accesses the data and then he creates as an entrepreneur creates everything that needs to be done to be able to deliver it to the public. We don't do any of that. None of the people who hold that data did any of that. He just accesses the data. So we are talking about making the data as easy to access as possible so that people then can figure out what they should do with it. Now, the impression part of that is actually the really important economic driving part here. If Leesburg is not seen as a technology friendly environment to work in, then tech companies won't come here and that is pretty straight forward. So, if we are tight and we are behind the curve on this and by the way we are in danger of being behind the curve on this – a lot of other municipalities and a lot of other government entities are doing exactly this thing and they are releasing all this information. That is potentially going to hold us back from getting the kinds of companies that we want to actually settle here, not because they are coming here specifically for that data. That is the hard part to

understand. It is because we are all about making sure that they get what they need and we do release whatever can be released. It is more of an attitude kind of thing. Does that make sense?

Other speaker: We have also looked very hard for quantification of what the value of this value – the direct economic value of this data is and while I can't give you something that is specific to the town of Leesburg, I can tell you that McKinsey and Company, a pretty well respected consulting company, pegged the value in the US at 3 trillion dollars sitting in towns and states in open data in direct value – not indirect. Direct value – 3 trillion dollars. That's about 1.1 percent GDP, they are estimating a buck for organizations, organizations usually being countries or states or towns. They estimate about a 1.1 percent bump in economic activity.

- Hammler: I appreciate all the tech commissioners who are here this evening – John, our chair, Eric, our official spokesperson as relates to so many key topics and above all, Tom Coleman, who is casually sitting in the back but he has really been a passionate driver behind this important initiative and has really kept the focus and moved it forward. I was fortunate enough to be your liaison, so I won't take up much time, because I am sure my colleagues have many more questions but I fully support the policy statement. I know you are going to go back and are very, very sensitive about all of the cost concerns but already know that you are developing really important partnerships, not only in the entrepreneurial community but the Sunlight foundation, other municipalities that are in fact taking the lead and I'll just pick up on the key point you made about in fact we are lagging behind. I think it is absolutely critical that the largest town in Virginia where the county seat of one of the fastest growing towns in the county, right here in the center of Silicon Valley east in Northern Virginia where there is so much activity and potential that it is critical that we take this leadership role so I will look forward to continue to work with you on this and I hope my colleagues will support it.
- Martinez: So, you mentioned some data that we are talking about putting up. I am assuming things like budgets, you mentioned the police reports. What other types of data are you looking at that we are going to now put up there? Anything specific? Especially towards economic development?

Speaker: Part of my work that I did with the Center for Digital Government, we do the 50 Digital States Performance Index and we look at these same issues. What information do you want to make transparent. We are talking everything from GIS information, utility, power, to water. All of the things that may not be apparent to somebody who is sitting on one side, even us. But some entrepreneur, some academician, some university is going to look at the information and say what makes Leesburg unique. For

example, for the airport, for this for that, whatever else and they are going to want to be able to pull in data from multiple sources to do all different types of analysis. Having that information available is going to make it easier to analyze the information, easier to produce reports and I will tell you kind of circling back to the cost issue, part of our advice at the Center for Digital Government to our states, to our counties that we work with, is don't look at a one year plan. Look at a five year plan. When you start standardizing interfaces to access the information technology, you lower cost, you lower barriers to entry. You lower staff time, IT time that it takes to support it. What happens is over a five year period of time, you not only have repaid your initial investment, you have a cost savings because now you have eliminated all of the service that has to be done to be responsive to public records requests and servicing other types, sharing of information between departments. I would say that you just don't adopt a data transparency policy, but you also look at standardizing the information sharing interfaces between all your different departments so that information flows freely and then all you have to do is flag what information is either protected and what information would be responsive to a public records request. The minute you do that, the system takes care of itself because things that are protected require then the consumer or the citizen to come in and make an official public records request. You now analyze it, produce it, but otherwise you let the free flow of information. You let the market take the information and have at it.

- Martinez: So, what you are saying is the savings is in that the staff is not creating these graphs or these charts, you are allowing the businesses to come in and make them themselves and make their decisions based on the raw data not on what has already been created by somebody else.

Speaker: Right, and to your point, if you put a graph out, that is your interpretation of the data, but I want the raw data. I am actually going through a survey right now, market data for a large company I am working with. I am actually working with a Ph.D, a statistician, but it gets back to all of that – here is the raw data. I said, well I get the raw data, now help me turn it into something that is presentable. I could take a set of raw data and I could create a thousand different presentations out of that, but again it goes back to, I think, what you are looking at is don't look at a one year plan, look at a five year plan. Don't look at what it is going to cost you tomorrow – look at what the cost of not doing it will be five years from now.

- Martinez: So, going back to the economic development you were talking about. When we are looking at this raw data, we are looking at businesses coming in looking at the different areas for

development, you know, what's a variable there via our GIS information? What kind of services can be provided and they are getting all that analysis on their own dime, not on ours. That is where the cost savings comes in.

Speaker: Exactly. So, part of what we are asking you to do, we realize is a little unusual. Okay? Typically the governmental process doesn't really work like this and we get that. This is why we are keying on what we call the iterative process. We don't know what data. We don't know how much it is going to cost you, because we haven't looked at that. So, rather than spend a whole lot of time, and a whole lot of effort and a whole lot of staff time coming up with a plan to say here is the way we think that should happen, we figured we would come and ask you if you wanted us to do it first. So, essentially, this is us doing that and saying look, we feel that it is important to have this policy, and once we have your blessing that yes, we want to go investigate this and our goal is to be able to release whatever is releasable, then we will go back and create a plan with staff that makes sense – that is a multi-year. Tom and I have talked a couple of times, but we don't have an end time goal. It might take ten years to do this, we don't know. It is going to be phased in over time. It is not like we are going to come back next year and ask for \$300,000 for something.

- Martinez: My next question is you mention some date of August 1. What are you actually looking for on August 1, 2015?

Speaker: All we are asking for now is a blessing and approval of the policy statement that allows us to then go and start to really investigate what is it we should be doing more specifically. Then, that would come back to you before anything actually gets done and you would approve or not approve and we would figure out what the plan needs to be moving forward. We would take it slow. We are not going to come in and try to disrupt what staff is doing already. They already have a hard enough job. We actually want to ultimately make things easier for them, so we are not going to come in and blow things out next year and suddenly ask for a whole bunch of money and the costs on something like this are, I think Morgan and I were talking about – I use the phrase ridiculously cheap to do something like this because there is no website to build. There is no front end. There is no making it pretty. It is all working with the data files.

- Martinez: So, you a policy for transparency by August 1st and you want it to include the eight principles of open government and data redaction plan. So, what are the eight principles? Now, I am not going to expect you to tell me them now, but those are things that you want us to vote on that – I didn't see it.

Speaker: It should be on the next page from that.

- Martinez: I was trying to scroll through there and it wasn't coming up on my iPad, but now I understand what you are talking about because I know when I get, you know, we have people coming here with their charts and their stuff, for example, the county. They had their own little spreadsheet – immediately those don't add up. A lot of times I want to see the raw data and let me create my own chart – my own stuff so that I can interpret it the way I want to see it, not how you want me to see it. I think that's the true value of having this raw data out there. I do understand what you are trying to do and I have no problem with it. Other than my biggest concern is the culture we are trying to change in the town staff and how they are going to have to figure out how they are going to do this. How are we going to put this data on there? How are we going to make it accessible. Those are just my questions or my comments/statements, whatever. Thanks a lot. I really appreciate the initiative.

Speaker: I understand, but one thing. You were saying what would it look like? What it would look like is one webpage with a listing of what they call open APIs – application programming interfaces – somebody says I want this data, they connect with. That is all the work that it takes. That is what it would actually look like. One webpage, 50 links and that is it.

Other speaker: It would look like a webpage circa about 10 years ago.

- Martinez: Anyway, I don't have it. Your eight principles are not on the document I brought up.

Speaker: I also have some case studies that we can put up on one of the town sharepoint that talks about some of the other towns and cities that have used open data.

- Martinez: I take it back. I did find it. It was embedded in the document, not at the end.

- Burk: Thank you very much for coming. I just have one question. Can you give me the names of some localities that are using this now?

Speaker: I mean there is quite a few. The leaders, I think, Montgomery county.

- Hammler: There is an entire book that was distributed. It has a ton of good examples.

- Burk: I would just like two or three localities in the area that are using it.

Speaker: Okay, so Montgomery County is probably the best example locally here. The Sunlight foundation speaks highly of their efforts and is going to hook us up essentially with their staff over there that have been working on that so that we can get the benefit of some of that local experience. I apologize, we actually

spoke to another town in Northern Virginia but we are blanking on the name at this exact moment. It is quite extensive.

- Burk: So, Arlington, Alexandria, Fairfax County – they don't use it?

Speaker: Almost all of them have at least a rudimentary type program, something along the Open data website.

Other Speaker: So, there is nothing to use. In that sense, I am not sure I understand the question. I kind of get, you know, is anybody else doing this in the world? Well, the report that we presented – the Open Cities report had, I don't know how many are in there, but there are literally hundreds of localities and states who are doing this initiative. The federal government...

- Burk: I don't doubt you were – I am just trying to find out if there are any locally that I could reach out to talk to. That's all.

Speaker: Sure. I tell you what? We can absolutely get you that information as follow-up to this. And we can try to get the contact at Montgomery County, which would probably be very easy.

- Burk: Thank you.

Speaker: And I am pretty sure the state of Virginia just did an open data census, so we can even get you some...

- Dunn: Thank you, it was probably about a year and a half ago that Tom Coleman called me on the phone and I think I had some burgers on the grill and he had me on the phone and then I had to put hotdogs on the grill. I think I am still eating that barbeque in the freezer, he had me on the phone so long, but I did appreciate you calling me and bringing this to my attention. I am glad we are finally here. I know this has been a slow train coming and hopefully we can take it home from here. You know, there is nearly 1800 municipalities in this country when you consider towns, cities, townships, counties and states. I would not be ashamed if no one else was doing this and we were the leaders. That is a good thing. It is good to hear some other communities are doing it, but this is definitely something Leesburg should not be feeling shy about being in the forefront thereof. By the way, you have in your report here, you only have seven of your eight principles. So, I don't know what the other one is. You have got complete primary timely accessible, open format, nondiscriminatory and license fees. If you know what the eighth one is, that would be great.

Speaker: We actually combined. We combined two of them. It is the machine readable and open format. We actually thought they worked better together.

- Dunn: Just want to be open, right? And you know, I would tend to agree that I don't see much of a cost in this except for possibly staff time and even that should be fairly minimal because I don't know what we are using any carbon paper anymore these days. If we have it, Kaj, let me know because everything is done electronically

so it would be just taking it from one pile of electronic format and putting it over to another pile, if needed or just allowing people access to where it is currently sitting because I don't know anything we are doing that's just handwritten. It is all in e-format, so it just allowing people to get equal e-format. There might be some archival costs, potentially. Also, I wanted to point out this was one of the primary objectives for the diversity commission. One of the things they wanted was to be able to have more access to government information and how they can help the diversity community get that information so this falls right in line with what another commission is already working on and I encourage you all to get with the diversity commission. You all can marry up their goals with this goal. I know that the last time you were before us, you had a mission statement that you wanted us to approve. I think for the most part, Council was falling in line with it. They wanted to hear some more information, but it was one of those statements that sure, who wouldn't want to do this. Well, that was the easy part. Saying it – that you want to do it is easy. Acting it is the other and hopefully we don't just make this a feel good statement that is actually an action statement. That we actually go forward and take action on this and as much as possible open up the information to the public about government. I am fully supportive of this and I appreciate all of your efforts. Thanks for coming tonight.

Speaker: I think that it is important to point out that part of the reason why we want to take the approach we are taking is to keep the costs down because there will be staff time involved in this in some way, shape or form both in planning it, figuring out what needs to be done and then implementing it. It is not always just as easy as saying oh there is a file here and I'll move it over here. It is a lot more complicated, and you know that. I just want to make sure everybody is clear that this is why we want to take our time and we want to get the policy understood so that then we can sit down and go okay what should the plan to implement this be over time so that it doesn't cost a lot – so that we are able to do it with a minimum of staff time and get all of the benefits without having to spend – that is extremely important to this iterative process and the entire commission is totally onboard with that. So, thank you for reminding me. I definitely want everybody to understand that is the approach we want to take.

- Dunn: And I am glad you pointed that out too, because I know one of the things that we are voting on tomorrow night – it is something small, but I noticed that on tomorrow night's agenda, we have an item that is dealing with move to rescind the approved minutes for the regular session and then I look back at tab 12 and I am looking at the minutes and we have now decided to go with a verbatim minutes while we have video and people can listen verbatim to what

we are saying, I guess some on Council felt that there is a need to get this written down. Well, unless it is an automated system, or is somebody actually required to listen to it and type it down. You have got to listen and type. Talk about staff work intensive. Hopefully there are ways to maybe getting around that that voice recognition programs, if we really have to get this automated, that this could be something that the staff doesn't have to do it. It would be really interested in finding out how much time is involved in typing out these verbatim minutes and seeing if there is another way of doing it. To me when there is other ways of people to get this information, i.e. to watch a video, that this is really a – to me a waste of staff's time. I would hope that wouldn't be something that if there is alternatives, I would hope that the commission doesn't go forward and say, well we really want to get this done. It is going to take a lot of staff time. I would look for are there alternatives to having to do that. Again, thanks for coming out.

- Mayor: I really appreciate your presentation. I especially appreciate your awareness of the cost concerns that Council members might have. I do share those cost concerns. I mean, I am looking right now at Palo Alto's budget. Palo Alto is generally considered to be one of the top municipalities for open government and having just about everything you can online, but I am looking at their IT department expense and it looks like it is going up to about \$7 million in this fiscal year. We don't have that kind of money here. Our annual budget is between about \$47 and 50 million and to dedicate more than 10 percent of that to IT is going to be a tremendous hit on our taxpayers. So, I am a bit concerned. I think that you have a great point when you say that once you have the system in place, there may be less staff time needed, but to get this in place I think is going to require tremendous staff time and that is staff time for which we will not be compensated the way we are for FOIA requests. So, we are going to be asked, possibly – you guys are very cognizant of cost concerns, but if we are going to be asked to dedicate a lot of staff resources, even in the beginning, to something that may not have much interest for the public, you can see the hurdle that some of us may need to get over. I think it would be interesting to see if you took, say the Loudoun County website and Leesburg's website, which you think works better. I find it very difficult to find any information on Loudoun County's website but they do have a lot of information on it. So, when you are talking about having all the raw data out there, you need to have in mind not just people who are very well educated in technology like you, but also your average citizen who needs an easy way to access information and I don't think the county is there yet. I think ours is a bit more user friendly in certain areas than theirs. I agree with the Vice Mayor – if you can provide Virginia jurisdictions that

you feel are doing a top notch job, then we can take a look at how much of a budget they are dedicating to this and look at if what they've got out there is of much interest to the public. I did appreciate the points you made that maybe it is not of interest now – your iPhone point, maybe it's not of interest now, but it might be in the future. I can see where you are coming from with that, but I'm not sure we can afford the Tesla of systems and maybe a Hyundai is going to be more affordable for our people in town. So, that's where I am coming from, but I think it is an interesting concept.

Speaker: Let me just say that most of us on the commission are business men and women and make our living in the technology sector and are very used to living within budgets and living within our means and very cognizant of the controlling costs. We will approach this in an iterative and staged fashion, which will allow us to control risks both from an operational perspective and from a cost perspective and from a staff perspective as well. I am really quite confident, this is not something we have just come to on a whim. We have worked on this for over a year now inside the commission. I am very confident that we can find a way to move forward, minimally in an incremental fashion in a way that is at least going to set us down, you know, this path. No one here thinks we have to do it in one fell swoop or we have got to eat the elephant with one bite. I think we are well aware of the realities and the practical difficulties and are preparing to meet that challenge and come back to you with a plan that you will be comfortable with.

Other speaker: And I really like the idea of shooting for the economic development that Palo Alto has. I think that's fabulous. We could solve a lot of problems if that could happen.

It was decided that endorsement of the policy statement could be brought up under Additions to Future Council meetings, if so desired.

b. Downtown Parking Task Force Recommendations

Keith Markel stated he would like to go through the Parking Task Force's recommendations.

- Five hundred foot rule for public parking – Task force recommendation is to remove this option as relates to the County parking garage:
 - *Consensus to remove this option for proximity to the county parking garage.*
- Sidewalk improvements for pedestrian access to the Liberty Street parking lot – Task force recommendation to add a CIP project to improve walkability in this area:
 - Hammler: I'm a maybe.
 - Dunn: I may have been a maybe. I'm not sure. I guess my issue was which is going to come first – improvements to the lot or

improvements of how to get to and from the lot. Then the other thing was is there the possibility of directing people another way where there is ADA compliance?

Staff answer: There is no ADA walkability whether you go down Liberty Street, whether you down Wirt to Royal. All of those have significant problems and no sidewalk.

- Dunn: Okay and the other thing was I guess before I can say yes, let's go forward, what are we looking at as far as cost. Where would you put the sidewalks, how much of that is public land versus we would have to get easements and we probably don't have any information on that at this point. To me, I think we need to do a little more research on this before we can go green light.

- Burk: So, would the sidewalk improvements, if we suggested that, would that start you on doing what Tom just asked?

Staff answer: Yes.

- Burk: So, we wouldn't actually do anything yet, we would just be getting the information that Tom is asking for.

Staff answer: That is correct. We would just start the process for staff to develop a plan of attack to see what is feasible.

- Burk: Does that change your vote, Tom?

- Dunn: No, I think what I was saying is I would like to get more information to know whether we can go forward. How much wider are we going to have to make the sidewalks...would we ever get to ADA compliance? Because there are sidewalks in town that are not.

Staff answer: Next year's CIP process, so you would have to approve it as part of that program that you would want to actually move forward.

- Dunn: Because I believe we do have some sidewalks in town that are not ADA compliant and in order to get there would be pretty tough to do. That is what you deal with the historic district, but yeah, I would like to hear from staff what we are dealing with as far how we get from point A to point B on this concept.

- Hammler: Well, Madam Mayor, for a number of these I guess it is hard for me to just react and say yes or no because at some point you sort of have to ask how is it going to help us get to the bigger end goal, which is we are trying to increase x number of short term spaces in these quadrants and we need x number here, x number here, and in the case of Liberty, I know for example we are anticipating that there is really not enough spaces there. We couldn't even put all of our town employees there. So, I guess my basic question tactically, would be well how much staff time is it going to take to even come up with the estimate for us to get more information. Obviously, we wouldn't make a decision until next fiscal year, but if it doesn't take a lot of staff time ultimately, or even engineering costs coming up with what is a reasonably accurate CIP project, then I wouldn't necessarily have any issue with getting the

information. So, I'd be a yes in that case and there is more questions I have.

- Martinez: Still trying to figure out what Katie said.
- Fox: I just wanted to be sure that some of the sidewalks we are talking – when we went on that little walk from Liberty Street down Royal Street, are those the type of things you are talking about at this point – where the sidewalks were just falling off and there are no – you know, there is just no way it is walkable? Is that what you are talking about?

Staff answer: Not to that extent, where we walked down the length of Royal Street and saw a lot of issues all the way to South King and beyond. In this case, you can see just from this photograph where you have asphalt right up to the front door of those homes along Royal Street, this is the one major avenue of walkability from the Liberty parking lot down Royal and then across Loudoun Street to get to this facility or downtown. There you can see where the cars are parked on the right hand side, the sidewalk stops mid-block into large shrubbery. So, that is not an option there. So, if you are walking from this building, for instance, you have to walk in the street for a good portion of that walk. Same goes on Liberty Street by the Thomas Birkby House. That sidewalk ends halfway along their property frontage – you have to walk down into the street with no handicap ramp to transition you up or down.

- Fox: So, it is just this piece you are talking about.
- Staff answer: The immediate concern here is getting walkability from the sidewalks we have on Loudoun Street back to the Liberty parking lot. Not a full streetscape project for all of Royal Street.
- Mayor: One of the concerns that I always have on proposed sidewalk projects is this is, if I sound critical, I am not being critical. I think staff and you have done a great job, but the implications of this are potentially we are going to have to take either people's parking spaces or we are going to end up taking their property to accomplish this and that is information we don't have in front of us. I don't know – I would say yeah this sounds great, as long as we don't have to remove any parking spaces and don't have to condemn anybody's land, but if we do have to do either, then it is looking not so great to me. It is hard to give you a yes or no in that situation.

Staff answer: We can have staff gather some more data – not the full engineering detail or a big expense, but maybe look at a higher level of what sort of issues we would run into and see if that is helpful to you all.

- Mayor: That would be helpful to me, anyway. I don't know if other council members feel the same way.
- Dunn: I would also like to know how legally, if we do anything to the lot, do we have to improve the sidewalks for ADA compliance.

Staff answer: If you improve the lot itself? And there are no recommendations to improve any aspect of the lot.

- Dunn: Are we required to do anything with the sidewalks for ADA compliance? If we recommend that staff has to use that lot, would we have to do that?

Staff answer: That would be more of a legal question. You would have to make accommodations at the very minimum for mobility issues because you are not providing ADA access.

- Hammler: Which, is I guess what I did not articulate as clearly as you did, but that is where I was trying to strategically understand what is the ROI as relates to we will gain this many short term spaces which is one of the main goals of this task force here if we are able to accomplish more long term spaces based on investing in say the sidewalks and these improvements there. It is achieving the long term goal based on knowing what the costs and the benefits are. So, I'd appreciate the additional information.
- Burk: I have a feeling that any of these that aren't four yeses are going to have to require more information. We ought to just go through the ones that have fours and then bring back the rest with more information.

Staff answer: We have to know what level of information. Maybe we can talk about those that are more on the fence issues. So, if there is enough concern there, I'd say just put this aside for six months or if you'd actually – how much detail you'd like us to work on because some of these do require a good bit of effort to get more information.

- Passenger pick up and drop off zone. Task force recommendation did not include a specific area, but they liked the conceptual idea to have someplace for people to wait.

Consensus was to implement this recommendation.

- Increasing the fee for meter bags.

Consensus was to increase the fee as recommended.

- Increasing the fines for parking violations.

Consensus was to increase the fines for parking violations as recommended.

- Increasing the Payment in Lieu fee.

2. Hammler: I plan to bring this back under new business, but these are two central aspects of \$6-7.5 million question, which is at some point how do we get a new parking garage built. I will defer to perhaps two weeks from now, but I don't think we are going to fix it by tweaking the parking in lieu fee. We have to approach it as a project and figure out how to do a public partnership.

3. Dunn: And that was sort of my question too – on number 6, I guess my issue is that if we are never – to go to Katie's point – if we are never going to actually going to get enough money to build a parking garage through the parking in lieu, why would we even consider raising it to the cost to make a space? We would never get

there. I don't think you'd have 300 parking in lieu fees at \$20,000 a piece because that's what it costs for a parking space. That doesn't even get you the cost of the parking garage so...

Staff answer: I would only work if you were in a partnership with a public/private partnership perhaps or working with the county as a contribution towards the overall deck or you put it under general funds and this was used to offset some of those expenses. No, I think we all agree that payment in lieu itself isn't going to build up a war chest big enough to build the structure.

4. Dunn: So that's what I would like to know too, is if we are going to raise it, what is the end goal? Right now, what we do it for, the money doesn't go to much of anything other than defray costs in relation to parking, but it isn't getting us additional parking spaces.

Staff answer: I think the task force concern was reflecting an amount, but it is not a realistic amount, so it is a rather arbitrary number to come up with. If it doesn't actually create a parking space, it is not even enough to create a surface lot space let alone structured parking. We need to center that more to a realistic number. So, that people who are not providing parking, they are actually providing at least the money in place of that to be used in some form or fashion down the road.

5. Burk: I think you started on the point that I was going to make is that Parking in Lieu means that you are not providing a parking space and so a developer that comes in – if they provide their spaces, they are paying for those spaces in their development. So, if somebody comes in and they want to develop something and they don't want to have parking, it is a lot cheaper to do a parking in lieu one time than to build those parking spaces that we need. So, to me it is not necessarily for the parking construction of a parking garage necessarily, it is that you are trying to encourage them to make their own parking spaces so we don't end up with this shortage of parking that we've got because it is cheaper again to put that one time payment for that parking in lieu than to actually pave the whatever you need to do to make a parking space. For me, it makes perfect sense to increase the payment because we are trying to get people to – we have a parking shortage, but parking in lieu does not help us.
6. Dunn: But that is the point I was trying to make too is that you would have to get to a lot of those parking in lieu fees to get to the point where you could actually build a parking structure or even a surface lot.
7. Burk: Right, but for me I am not looking at this to pay for a parking structure, necessarily. I am looking at this as a way of encouraging the developer to make his own parking so that we are not short more parking because they give us this one time fee and then they don't have to worry about parking anymore. They don't have to take care of it whereas the other developer who puts the parking in,

he pays for it, it is there, the person gets to use it. To me, it is helpful to make sure that more of them will be willing to make parking spaces. That's all.

8. Dunn: That fee would have to be substantially higher, then. I think you were suggesting \$20,000, correct?

Staff answer: Hitch it to something realistic, so either it is a surface lot or a structured lot. Taking the average cost of that as being \$12,000 – 20,000 or even higher. That leads into the next portion of that, you know the town contribution – realizing that \$20,000 is a pretty high price tag as a new business trying to establish itself downtown that one of the ideas that the task force had come up with was the town, being a partner in that expense and contributing to that to help offset the cost to the business. This did not get many yes votes from any of you all, so we can move past that one.

9. Hammler: I don't know where and how this might make sense, but just in the context of when we were discussing capital intensity factors, for instance, I was wondering if there were a way for us to consider where if there is say a developer that wants to come into the downtown and has converted say retail or kind of non-residential and wants to turn it into residential, there could perhaps be a guideline for – like a capital intensity factor to contribute to something like parking in the downtown. Is that conceivable? It just seems to me that we are getting a number of applications that are once again just all residential and you know we talked about schools and other things that are not directly helping us say from an economic development perspective in the downtown and perhaps there is an opportunity for us to articulate that better. So, I don't know what or how we would do that, but to me it just kind of falls under the umbrella of the capital intensity factor discussion as it relates to this zone.

- Mobile Payment apps for parking – Task force recommended a new system for people to be able to pay from their smartphones.

10. Dunn: The other issue is how this would tie into some of the other initiatives. That maybe why you have the maybes on there. It sounds like a great idea, but how is that going to tie into kiosks and other things you have on the sheet. It sounds like a good idea.

11. Fox: That was my concern too, Tom. Thank you. I was a maybe because I didn't know if we would try to have both a mobile app and a payment kiosk as well. I see you are moving on to Payment Kiosks, which can be pretty darned expensive. I wanted to know the fiscal impact of having one or the other as opposed to both.

Staff answer: I think because of the cost of the payment kiosks, we would only be looking at those for the parking deck itself. That would allow us to have the fewest number of payment kiosks. The pay and go or park mobile would be used out on the streets around town where we just can't make the economics work to put payment

kiosks every block or so based on the charge that we have hourly for parking, we just could never make those things pay for themselves and the upkeep and maintenance on them.

- Payment Kiosks for first floor parking garage parking to replace payment booths that are currently used at the exits to the parking garage.
 - Fox: You said the initial cost is \$14,000-40,000. What are the ongoing costs?
Staff answer: I don't have specifics on that, but we are working on getting a full proposal from a few companies. I would say up to maybe \$1,000 per year, plus you have got the daily or weekly going in and making sure there is money, paper, coins, tickets, all those things. There is a daily operational expense from a staffing standpoint.
 - Burk: Frederick has these, so you could most certainly call them and ask them.
 - Dunn: I would recommend one centrally located kiosk per level. The garage is not that big on each level. You are not walking that far. I have been to plenty of garages where you usually have to walk a good distance. Generally people are – the kiosk is going to be located near where you either enter the garage from a building or exit it. And then, I also recommend that rather than having it be a system that is having somebody to monitor – since we are going automated, it seems like we are defeating the purpose by making it where you print the ticket, put it on the windshield and then it has to be enforced by somebody seeing if there is a ticket. I recommend that you draw a ticket, just like you do now. Upon leaving the garage, you go to the kiosk, put your ticket in, make your payment and then it gives you a five or six minute window to exit the garage and then the gates lift up when you put your paid ticket at the exit kiosk. I think that, again, if you are going to have an automated system, why would you have the enforcement be relying upon humans to enforce it. Just let the automated system enforce it.
Staff answer: The thing that makes that difficult – one of the things that the task force really felt strongly about was increasing the friendliness factor of the garage. They felt that the gate coming down to go into the deck, the gate to leave the deck – not going in because you are going to pull the ticket, but just the overall openness of the deck in not having any confusion about how it works. So, I think that was their concern.
 - Dunn: But it becomes unfriendly when somebody starts giving you tickets because they are monitoring whether you have paid or not.
Staff answer: It will be clearly posted if you went that route. The second concern is if you went with the proposal that calls for the second and third level free. Then those people, it wouldn't work because they are going to have to get out of the garage and they

would have to have some sort of ticket to open that gate. How would it be able to decipher well I was on the second floor so I was free, so I get to go through without paying versus...

- Dunn: That is if you went that route.
Staff answer: So, if you went with that paid with the ticket like Frederick has in their garage, on your way out you pay automatically at the kiosk then all three levels would have to be charged parking.
- Mayor: Question, Keith. One of the main irritants, I think too, certainly Dave Butler and others about the garage currently is the arm that blocks you from entering the garage, just immediately so you have to stop and you have punch a button and get a ticket, then the arm comes up. I think Dave and others would probably like to just eliminate that arm, but if you eliminate that arm, don't you risk having lots of people just scooting out of the garage, going the wrong way out?
Staff answer: It's certainly, I'm sure, a possibility, yes.
- Mayor: I can't recall how other garages do it, but my suspicion is that most of them have an arm that only goes up when you grab the ticket?
Staff answer: Usually, that's what I have seen.
- Dunn: They don't let you have a free for all. I have never been in a garage that said just come on in and go on out.
- Martinez: Normally, you get a ticket going in and they let you go in, but they don't let you go out.
Staff answer: Get your ticket, and like you say, you pay. You know you feed it back into the machine. It has the time stamp on it so it knows when you came in. The company here that you see the picture of, it actually reads the license plates now. It is fully automated. So, there is no ticketing involved on the way in. It has, like you have on a police car, it does a scan of your license plate – holds on to it. As you go out, the other scans the plate on the way out and it automatically brings up the tally on the machine on the kiosk on the way out – you pay it and the gate opens. There are all sorts of scanning – they keep changing as the technology gets better. They are watching.
- Mayor: Most of us wanted the removal of the gates but is that actually not going to be feasible?
Staff answer: Well, it is kind of contingent on how you all want the payment system to work. If you feel strongly that they pay on the way out at a gate, then we are going to have to keep the gate.
- Fox: Actually, mine has probably more to do with the first, second, third floor – charging for the first floor, keeping the second and third floor free. I think that is counter-intuitive and I wanted to talk a little about that as well. I am trying to understand why we would charge somebody to be on the first floor, when the second and third

floor parking is mostly town employees and we are charging somebody to come in and spend a dollar, two dollars, three dollars, however much they are in town for to go have lunch. It is kind of a discouragement in my opinion.

Staff answer: The task force thought about this long and hard. We had a number of business owners in the downtown who were on the task force. They felt that there is a convenience factor, so people and some of them self admitted that they would much rather park on the first floor, come in and pay and go about my business.

Others said they would rather go up a level and have the inconvenience of being on the second or third level, having to walk the stairs or take the elevator but then not pay. So, it gives people a choice –whether you want the convenience of the first floor, or if you are willing to take some extra time and go up. One of the big things, I think you were smart – when you set up the task force, you included a lot of folks who weren't business centric downtown but are actually residents in the community and they said from their own personal experience that they come in and they cruise through the first level of the deck, if it was full, they would leave. They might leave Leesburg. They might go to dinner somewhere else because they dislike the convenience factor and the comfort level of being on the same level. A lot of people don't like the ramps. We have a uniquely styled deck where you are on a flat surface and you ramp up to the next level and you ramp up to the third level. A lot of them don't like that claustrophobic nature of that ramping system, so they felt if they couldn't get on the first level, they were out. That was, again, kind of addressed in the free on the second and third. Kind of encouraging people to move up and still give the people a free option in the deck.

- Dunn: I, and I don't need to go into what I was talking about before, but I will follow-up with Suzanne's – somehow I just don't see somebody who is concerned about the ramps being less concerned for a buck off. In other words, I will pay to park on the lower level only because I don't like the ramps, but I will go ahead and go up to the next level since it is free. I don't know if that argument is strong there, but whatever. I would encourage us to just pay for all levels unless there is something we are doing that blocks it off from use. There are parking garages that do this too. I am sure you have been to them. They will block off a section of the parking garage where you can't enter because it is full or it has now been filled by town staff and therefore we encourage you to use one of the lower levels. If those are paid levels, then so be it. If it is town staff you want to block it off, they have got to get in by a certain time or you know they can't get in. A lot of times, it is just cones that they use to block it off, so it is not like it is an arm or a chain or something. But, I would encourage us to either consider

charging on all levels or if you are going to keep it reserved for town staff with it not being paid, at a certain point is blocked off so the general public can't get up to those levels.

- Burk: How many town employees park in the spaces?
Staff answer: How many town staff use the deck on average? We are in the 50-60 vehicle range, depending on the weather and the time of the year.
- Burk: So that is a substantial number up on the top decks.
Staff answer: It is. About half of the top deck is used by town staff, maybe a little more.
- Burk: I actually like the idea of you paying for the first floor for the convenience of the first floor and then the other levels are free, but that does cause an issue. I hadn't thought about it with town staff parking there, taking almost half of those spots.
Staff answer: A little more than half of the upper level. The second level, which you can see now stays fairly empty. That picture is actually a second level photograph there. You can see the number of spaces at any given time that are open. What they thought was that by making that second/third level free, you are encouraging more people to utilize the deck. The goal is to get higher utilization.
- Burk: Right. Get them off the street. Get them up in there. Right. That makes sense. When you said half, you weren't saying half of the parking spaces in the whole garage, you were saying half of...
Staff answer: Of Level 3. More than half of level 3 is taken by town staff.
- Burk: That's different then. I thought you were talking about the whole...
Staff answer: Oh, no no no. The deck has got 371 space and I am looking on average when we did the counting in March, we had between 50-60 town staff in the garage.
- Burk: We will get to the other question I have on that, but okay so you've got the majority support for 9, 10 and 11 and 12, I guess.
Okay.
- Martinez: I think it is confusing and [inaudible]. I think it is confusing to have paid parking on the first floor and free parking on second/third floor. I think that if you are going to park in the garage and you are charging one floor parking, you ought to charge them all. I don't think those people who do not like our ramps and do not like to come in our garage – I don't think that there is enough there that is going to make a difference on the rest of the people who will. I think having a payment kiosk on each one where you can pay, prepay and then leave. It is probably a better idea than having just one kiosk on one floor. But, I just – having gone through a lot of parking downtown and going through all types of different things – mobile apps, and/or the kiosks on each floor and every floor paying is the simplest way to do it and trying to do it any other way,

for me, it would add confusion to the people who are parking there and others.

Staff answer: I should add one more detail here that the task force discussed is with the mission of trying to free up short term parking spaces, they saw payment on the first floor would encourage longer term parkers to go up, because if you are an all day employee you are going to go to that second, third floor. People just by their nature aren't going to want to park on the first floor all day long and perhaps and spend that money so that would create that churn on the first level. If you did charge at all levels, you might want to look at how you treat that first floor to still keep that churn.

- Martinez: So how do you get the second and third floor parkers through the gate? Do you give them a pass that says you can now – you don't have to pay?

Staff answer: That's why the task force recommendation was no gates. So, the payment would just be enforced as on-street parking is enforced on that first level. It is tricky when you try to have two different styles in the same deck.

- Martinez: Right, and my feeling is that if you charge for the parking and if you are going to allow employees to park on the lot, then you give them a badge that allows them to go through the parking, but you should always have a gate to keep them from leaving without paying, you know. And every one of those parking spots should be charged and if we are going to allow staff and employees to park, then they should have a way to get out. I mean, that's what we do. We have our little badge, so I park – I don't park – my carpool guy, he parks for free. Everybody else pays. He just pulls out his badge, hits the thing and he is gone. Everybody else has to go through the payment thing.

Staff answer: That's how the deck works for town staff currently.

- Martinez: Right and so that could still be the same, but we should not give away parking on the second/third floor and make it more confusing. Because, I tell you if I went up there, I'd park and you let that gate open, I am going to drive through it.

Staff answer: But, if you park there for any period of time, the enforcement, the same person who is out writing tickets on the street, would do a walk through the deck and make sure that you have something displayed or you've got payment on the kiosk tracking the time, so that there is an enforcement component. You could perhaps get away with it and you get lucky and they don't have enforcement making the rounds. I am sure we'd lose some, but I think we would still be writing a good number of tickets if folks aren't paying.

- Martinez: Yeah, but then we become the ticket town. I'm done.
- Dunn: I had a question. My view would be is either charge for all levels – staff gets through already with their badge or one of the

other options that I think was on here, I think, was don't charge on any level because I think the confusion – there is going to be plenty of confusion with first floor parking and then the other thing is I think you were losing this, Marty, is when do they find this out? Because they have to turn and make a commitment to use the garage and what's the sign going to say? First floor parking \$1, second floor parking 2 or 3, oh, I don't like either of those options and I am afraid of those ramps anyway and then also what is first floor? Is it Loudoun Street First Floor is the same as Market Street first floor?

Staff answer: It would all be signed. That is one of the items here.

- Dunn: Because it is split.

Staff answer: Exactly. We don't want any 1a, 2a, 3a and b's.

- Dunn: To me, I think we are setting ourselves up and I can already hear that finance and town manager are going to be getting all kinds of calls about yeah, I was here, and I didn't...I mean we will be issuing refunds all over the place, but I think that it needs to be one of those things where we are charging all levels or no levels.
- Fox: I agree. I think it would be tough to manage and I also believe if it is going to be all floors, or no floors, you still whatever happens, you still keep the long term parking, those who buy the spaces, we can still have the revenue from that. That is the basement spaces, am I correct?
- Hammler: I think this was the honorary Kevin Wright suggestion a long time ago for whatever reason never got implemented, but if we as a council decide to go with what Dave has always recommended, which is no gates, no fee, cordon off the first floor for a couple of hours in the morning when people who want to come all day can't park there and then open it up. That might be that compromise to ultimately keep that lower level for the shorter term folks that aren't coming all day long, who have to be at work by say 9 or whatever time because I would lean towards keeping it simple at this point if we want to encourage short term parking and keep it simple and promote that perception that there is plenty of parking probably the thing to do is make it no cost. It is only what, a buck an hour? It is almost just not worth worrying about.
- Fox: Let me just put this out there. If we did have free parking, we wouldn't have to pay for an app. We wouldn't have to pay for any kiosks. Kind of a win/win situation. Just saying.
- Burk: You'd still have to do the app because that's street parking.
- Fox: Okay, well I think an app would be cheaper than kiosks. Just a thought.
- Mayor: A third member has joined the nos and we are not sure who was in what category initially, but I would say I guess item #10 is kind of up in the air at this time, so I have to see where Dave is on it. Go on to your next one, Keith.

- Keep the \$1 per hour rate in the garage, which is a slightly incentivized rate versus the on-street \$1.50 with the goal to get on-street parking freed up.
- Removal of gates and payment booths.
- Reallocate staff to additional parking enforcement. If the manned booths are discontinued, staff could be used for street enforcement.
 - Dunn: I would like to see the cost of enforcement versus the revenue generated – expectations.
Staff answer: You have already got that person on staff so it would just be a matter of them sitting in a booth or are they out on the street writing tickets.
 - Dunn: Right. If we did away with the booths and the cost to enforce is now more than the revenue generated, then you wouldn't need them at all.
Staff answer: You don't. You actually make a great deal more with enforcement on the street than you do in the garage.
 - Dunn: But, I'd like to see those numbers.
Staff answer: I can get you those numbers. Just to give you an idea, they make about \$40,000 annually in what people are paying with cash and check going out to the booth about \$100,000 from expired meters on the street.
 - Dunn: But are we actually enforcing that?
Staff answer: We are – that is actually collected revenue.
- Widen parking spaces in the garage. Task force felt strongly about widening some, if not all of the spaces.
 - Martinez: Well, I was going to say that I could understand the rest, but where you have two parking spots, if you would just enforce that only compact cars could park there and get the big cars out and ticket them. I like the idea of having a space for a compact car, where the small cars get in. If we are going to do that, we need to enforce whenever anything bigger than a compact car comes in, ticket them. Say, look, you know, this isn't just your private parking spot.
Staff answer: And they are not taking two spaces when they are going into that. It is self regulating. If you want to park in that space, you can, if you don't, you don't. People are using them. Some people obviously feel okay with it, but I have been in there a number of times watching folks get into the space and then realize, wow, the door is really snug to try to get in.
 - Martinez: I know that when I park my compact car next to another compact car, I have no problem and I have no problem getting out. It just bugs me when I park and a big SUV parks next to me and I can't even get into my car. That's a problem.
 - Dunn: The other thing you could consider for those spaces is use those for handicap spaces and then trade out another handicapped space somewhere else, or just add those as handicapped spaces. I

notice that many times our handicapped spaces aren't being used. But, if we think we need more, those might be ideal for a handicapped spot versus...

Staff answer: We have the proper number and we have added some over the years when the deck has been redesigned a few times – configuration. We do try to keep those handicapped spaces close to the doorways and elevators, just for convenience factor. If we put handicapped out in the center, there is a pretty long path that goes out to the car.

- Dunn: Those are the only two in the center?

Staff answer: Those are the ones that have the concrete walls between the ramps.

- Burk: And getting out would be a real problem, if you are handicapped.

- Dunn: You could possibly consider those for motorcycle spaces too. Because I don't think we have any motorcycle spaces in the garage.

- Fox: Have you quantified how many spaces we would lose in the garage, if we did that?

Staff answer: No because we wanted to see what your thoughts were on this. We could go as much or as little as you wanted to depending...I highlighted here that long run where you could see – we have got 20 spaces in a row. We could take out one space, two spaces, depending on how large you wanted the space to be and then share that loss – that 8 ½ feet among however many spaces are left. I think that the thought among staff was that the diagonal spaces are appropriately sized. They are easy to get in and out of. The hard part is where you come in and try to make that 90 degree turn into a space that you can see on the ends of the garage. That is where the extra space helps in making that turn, especially if you have a larger wheel based vehicle. The diagonal spaces are fairly easy to get in and out of for most all vehicles.

- Dunn: To the right, is that first floor Loudoun? Because that is the exit, correct?

Staff answer: Yeah, if you are looking, that is Market Street on the right, Loudoun is on the left.

- Dunn: One of the things that I was going to suggest on that, is I don't think on that level you have any handicapped. Is that correct?

Staff answer: Level 2? Level 3 has handicapped.

- Dunn: Level 1 Loudoun.

Staff answer: No. Because you don't have a ramp down from Level 1 B to Loudoun side.

- Dunn: Except for the car ramp.

Staff answer: Except for the car ramp, which is not handicapped.

- Dunn: But if somebody is still wanting to exit the garage to Loudoun and they need wheelchair accessibility, I was going to

suggest the two spaces, or the spaces that are closest to Loudoun Street. You have the two spaces that are on the other side of the gate. You could make that as one handicapped spot or any of those four or five that you have along the Loudoun side as being handicapped. A couple of those. Just a suggestion because there are no handicapped spaces on that side if somebody wanted to just exit the garage from there and go on out to Loudoun Street.

Thanks.

- Paint the interior of the garage a bright color.
Consensus was to paint the interior white.
- Install exterior signage on the deck wall to make it more inviting.
Consensus was to add wall mounted signage to the outside of the garage to make it clear that it is public parking.
- Welcoming information kiosks – repurpose the parking booths.
Consensus was to repurpose the parking booths to display welcome information.
- Eliminate the parking validation program.
Consensus was to eliminate the validation program if there was an option for free parking in the garage.
 - Dunn: Just a note on the validation process – the only way it could be validated is unless you had attendants or the merchants had a way of coding the ticket to either affect the kiosk or affect the exit gates. Just keep that in mind depending on where we go forward, that process may not work.
- Continue to rent the basement of the garage.
Consensus to continue this program.
- Update signage in the garage.
 - Dunn: Do the colors have to match the colors that are allowed by the BAR? Is that considered an indoor sign, which means that the BAR has review? We do have limits on the number of colors that we can use on our downtown signs. That may actually be why that is that color. You might want to look into that.
- Signage that directs folks to other parking options should the deck be full.
 - Hammler: How would we monitor if the garage was full.
Staff answer: The signs would just be there.
Consensus was to update signage as recommended.
- Additional safety features in the garage such as mirrors, emergency call boxes, closed circuit camera that record activity in the deck.
- Should the Council want to make the second and third level free, the task force felt that would necessitate the need to move staff to Liberty Street.
 - Mayor: They are leaning towards yes.
Staff answer: We have tracked usage at Liberty – although there are sufficient spaces for all town employees, if we were the only

ones there, but we are not. We are finding that there are not sufficient spaces to accommodate 50-60 extra cars every day during the work day. Even if you directed employees to park out of the garage, we would not all be able to park on Liberty. We would have to park wherever we could find a spot. We would do whatever you want, but it is not as simple as saying move to Liberty and all the spaces are adequate. It does not exist in today's supply.

- Dunn: My view is let the staff stay there. We haven't hit the tipping point in the garage at this point. If and when we get there, we can make that decision at that time. There is no use in disrupting staff's parking patterns when as we saw by the pictures, second and third levels are free – we can't even give them away.

Staff answer: Well, they are not free now.

- Dunn: Okay, but they are still not being used. As you said, the top level is not being used either. I would just say leave it as is until we reach that point where we need to make a decision.
- Martinez: I agree. My reasons are basically I just don't like the idea of having our staff having to walk to Liberty through the town and thunderstorms that we are having, snow, any kind of weather event, if there is any construction around. I would much rather them be in the garage. I think it is a perk that our staff..
- Mayor: Alright, it is shifting back. I am hearing, one, two, three, four against moving staff to Liberty at this point.
- Burk: Maybe we could find some sort of incentive, if they did use the Liberty Lot, they could get...
- Mayor: A free ice cream cone.
- Burk: Maybe something more.
- Martinez: But that is really not a bad idea.
- Hammler: That is exactly what I was going to say, Kelly, but I was also going to say it doesn't have to be an all or nothing thing. There could be departments that have a competition between departments or rotation schedule, but tying into incentives. Totally different, but parallel example, leading to what my main point is on the county the results from the task force pointed to the real need for additional spaces where the county garage is, so depending on how the vote goes tomorrow night on the court house appeal, I will be bringing back for new business or discussion how we can reach out to the County administrator to talk about county employees and how to figure out ways that he might be able to create incentives. I know they have got a shuttle bus, but at some point work through that issue a little bit more, but the example I was going to use is county related too, which is you know they have health benefits that

they offer. A lot of companies give incentives if you don't take company or organizational set of benefits. If their incentive is so low, that nobody takes advantage of it so it has to be a good incentive and I think it would be deeply appreciated to keep increasing the perception that there is plenty of parking.

- Fox: I just wanted to bring it back around to the fiscal part. There were a lot of ideas that were thrown out that we liked as a group, the painting, the signs, things like that. So, at this point are you going to go do some kind of fiscal impact study and then come back to us? What pot does that come out of? Is this general fund? Is this CIP? Where does this all – how will it be paid for if we go ahead with these things.
Staff answer: We can come back with that information.

Consensus was for staff to return with a resolution to approve those items that there was a clear consensus to implement. Those items without a clear consensus will return for work session discussion in September.

2. Additions to Future Council Meetings

Council Member Hammler: “I would appreciate putting on the agenda in two weeks, the open data transparency policy statement. Council will be receiving the original power point that lists that policy statement. I have already forwarded the open data document that has a lot of background municipal examples and one additional phrase, which is directing the commission to reach out and brief and discuss this with the economic development and diversity commissions.”

It was decided to put this on the agenda for Tuesday, August 11 for a vote for support.

Council Member Dunn: “The only other thing I would like to bring up at a work session is to discuss staff and probably the diversity commission getting with the county on the idea of creating a cultural diversity awareness center in the four buildings on Edwards Ferry Road”. There was no support for this. Council Member Dunn verified that he could bring this up for a vote at a future meeting.

Vice Mayor Burk: “I was wondering if I could get a memo from the town manager regarding the Standing Residential Traffic Commission's structure. It is one of the most unique structures I have seen in all of our commissions. I would like to take a look at it and at some point in the future, have a discussion on whether it is the best way to set up this particular commission. She also requested a memo on the support team”.

These memos will be provided to Council.

Council Member Fox: “Ideas for future meetings, I believe. Just real quick, I did have a concerned citizen talk about Royal Street and how all the cut through

traffic is affecting Royal Street. I don't know if this an issue for the SRTC, but she asked me to ask the Council to maybe have staff look at that situation (between King and Church). In people's haste to get out of town, they are taking that street and taking it fast". It was decided that the concerned citizen should ask the Standing Residential Traffic Committee to look at possible solutions.

"I would like to ask that the Council consider asking staff to talk to the owners of Dulles Motor Cars seeing how we are getting a lot of information – a lot of emails about the skate park and the potential move. I think that it is in our purview to talk at least to th Dulles Motor Cars because there may be some sort of switch in location. I know that we have gotten a letter from them. I just think it is our due diligence to follow-up with them and just bring any kind of information back to the Council to consider as we consider the skate park."

Staff will follow-up with the owners of Dulles Motor Cars acknowledge his request and ask for elaboration of his request.

"As we were talking about the transparency issue and the tech issue tonight, I have been approached about possible cell pods being put on town property, but the person who approached me said that there is nothing in our ordinances that would support that or even address that."

It was noted that the citizen should touch base with Planning and Zoning to identify locations in town which would be appropriate for this type of use.

3. Adjournment

On a motion by Council Member Martinez, seconded by Council Member Dunn, the meeting was adjourned at 9:52 p.m.

Clerk of Council

2015_tcwsmin0727