

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

Council Members Present: Kelly Burk, Dave Butler, Thomas Dunn, II, 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 Public Works and Capital Projects Renee Lafollette, Assistant Town Manager Scott Parker, Director of Finance and Administrative Services Clark Case, Deputy Director of Capital Projects Tom Brandon, Deputy Director of Public Works Charles Mumaw, Senior Management Analysts Lisa Haley and Jason Cournoyer, Director of Parks and Recreation Richard Williams, Deputy Director of Parks and Recreation Kate Trask, Land Acquisition Manager Keith Wilson and Clerk of Council Lee Ann Green

AGENDA

ITEMS

1. **Items for Discussion**

- a. Historical Marker and Memorial on Courthouse Grounds
Kaj Dentler reviewed the specifics of the County's actions thus far.

Key Points:

- The County has set aside \$50,000 for a future memorial on the courthouse grounds.
- Some of that money can be used for a historical marker that is being requested by the local chapter of the NAACP at this time to designate the courthouse grounds as important in the Underground Railroad.
- President of the local chapter of the NAACP, Phillip Thompson, is working with the Courthouse grounds committee.

Council Comments/Questions:

- Mayor: The main question, and Kelly jump in, does the Council want to dedicate any funds to this effort? Kaj, I heard a couple of different versions of what the county has proposed. One of which is the county proposes \$50,000 if the NAACP or other groups can raise the bulk of the money. I don't know if you have the exact language of what passed at the board level or not.
Staff answer: I am looking at the minutes of the meeting and it indicates that they have identified or are willing to put \$50,000 forward. They have not appropriated that, I believe.
- Mayor: I think you are right.
Staff answer: So, they have basically pledged \$50,000 toward the future memorial, but they have not appropriated that and they are waiting for progress from the local chapter. Kate, is that right?

Trask: Correct, the way it is worded, that it will be held in reserve until the remaining portion of the money needed has been raised. The same precedent they set with the revolutionary war statue.

- Fox: If I am reading this correctly, this is talking about the historical marker and not the monument. I think the \$50,000 is towards the monument, am I correct?

Staff answer: Well, the \$50,000 was for the memorial. Then later, it was in conversations about having a historical marker placed because that could be done much sooner and earlier in the process at a much cheaper price than the time it would take to raise the money for a memorial. So, the county indicated that the cost of that – some of the money of the \$50,000 could be used to offset the cost of the historical marker.

- Fox: Okay, so are we contemplating the historical marker or the monument or the memorial?

Staff answer: Town staff is not contemplating anything at this time. This was a discussion that Council requested. Don't know where you want to go with it. We have provided you with the background information of what has occurred today at the county level. The town has not done anything or been involved other than your attendance as well as Kate's attendance at the meetings. That is all.

- Mayor: The memo or the minutes of what happened at the county is a little bit confusing because there is after Ken Reid requested that the motion be divided, Scott York had moved two things – one \$50,000 for the memorial and then what some of that money could be spent on a historical marker. It is not clear from the minutes of the board meeting what happened to that historical marker portion of that proposal. It is clear that the \$50,000 for the memorial passed 8-0-1 but I don't know what happened with the marker. It doesn't really say. But Chairman York's initial plan was to allow the \$50,000 to be used for both of them. So, the question is does the Council want to follow suit and dedicate any amount of funding either along the lines that the County decided to go which is wait until the rest of the money has been raised and then give them an additional amount or do we want to give a certain amount or do we not want to do either of those? Kelly, do you have any thoughts?
- Burk: I would be in favor of setting aside some money to contribute to it. I think it would be a great addition down at the courthouse and it is well worth remembering the importance of the events such as that. It was a place where slaves were sold. It was part of the underground railroad, so there is a lot of historical significance there. So, I would be willing to support it both privately with a contribution myself but also will put some money forward from the town.
- Mayor: Alright. If we were to divide the amount the board designated by eight because we are 1/8 of the county, we would get about a little

over, I think, \$6,000. I don't know what sum you might be thinking of or if you want that for a later discussion.

- Burk: Well, I would round it to 10 just to round it up.
- Martinez: I am in the same mind with Kelly that we have – when it comes to the slaves and all that – there is significant historical background in there and we need to also remember even though that was a black mark on our history, doesn't mean that we shouldn't remember it as a reminder of where we have come as far as that and as far as the \$10,000 I am willing to vote in favor of that. What I would also like to do though is I would like to invite the NAACP chairman or president to come talk with us a little bit about what he is looking to do, what his expectations are, what they are looking to fundraise and so I think \$10,000 would be a good base on which to start, but we could really see what the needs are. I don't think historically we can afford not to help and support it.
- Hammler: Given the questions that came on the dais are the same ones reading the packet that it was really unclear what was being asked of Council, it certainly would have been helpful for someone from the NAACP to come forward and explain exactly what they are requesting. I certainly see the value in commemorating, you know, with the marker and the monument, but I also think there are ways to mobilize the Friends of the Thomas Balch given their connection with the Black History Committee and I would be open to encouraging, you know, private donors as well. At the very least opening up for a public input session to find out where the taxpayers are on this. I do appreciate the fact that the county has taken the lead because it would be on the county grounds.
- Fox: Yes, I agree with Katie. I think private funding should be looked into. I really don't have a figure in mind, although I think it is appropriate to have a commemoration. I think it is very appropriate to do that. I am of the mind that I am not sure a marker and a monument is necessary, but that's another discussion. I think there is some redundancy there that could be a cost issue; however, it is appropriate and I would be willing to talk about the amount probably down the road. I am not sure I have anything in mind right now.
- Butler: I am good with whatever. I think that it is a good idea to do that on the courthouse grounds and if we want to kick in our fair share towards it, I think that's very appropriate.
- Dunn: I think it might be worth making a donation, but I just want to point out that we are making a donation already because the county money is partially the town's money. We are, depending on whether you look at from the county's point of view as far as taxes or population, we are between somewhere at 10-14 percent of the county, not 20 percent of the county, so if we base it off the \$50,000, we would be looking at more along the lines of a \$5,000 to \$6,000 donation. As I mentioned when this was first brought up is before I start allocating

taxpayer dollars to anything – nonprofit or profit or government, we should know all the details, and right now we don't know any of the details other than some people would like to have a marker. The other thing I would like to find out is if they are looking at working with the state and making this an official state historic marker and then how much those cost. I know that the folks over at Balls Bluff – the friends of Balls Bluff Battlefield just replaced – is that on the street yet on Rt. 15? They just replaced that marker and I am not sure what the cost of that was to replace that.

Trask: they are working to do that as a historical highway marker. When you say marker, that's exactly what they are talking about is one identical to what the Friends of Balls Bluff did. Roughly what I saw is it could be around \$1,500.

- Dunn: Yeah, I was going to say I thought they ran about \$3,000 – maybe on the higher end at \$5,000.

Trask: Actually, Mr. Thompson is coming back to the Courthouse grounds committee meeting tomorrow to discuss hopefully if he is in attendance to discuss the actual wording and everything for that marker because they are on a tight timeline to do that as indicated, they want to have up by June 16.

- Dunn: Yeah, and I think too that that also adds more validity to the request that they have gone through the historic process and that the state agrees that yes there is definite historic evidence for this and that they can help contribute to what the wording is and so forth. So, I don't have a problem having us donate some funds – what that is I couldn't say right now because I don't know what the project is. How much did we donate towards the revolutionary war monument?

Staff answer: None.

- Dunn: I was involved with getting a monument placed up at Balls Bluff Cemetery and those were all private funds that were used for that. The government wasn't requested for any donations. So, I would like to see more about what is going to happen here before I just blanket say let's donate a certain amount because I don't know whether it is needed or not. If we should donate any, I would recommend going along the same from what I can tell the county did – it is more let's look and see are they going to need these public funds or not. They may be able to get this all through private funding and that's great. That way they don't have to wait for government bodies to get involved. Anyway, I am more of a let's look and see. I could see donating but I really don't know what we are donating for at this point other than a good idea.
- Mayor: So, Kaj can we get an email to Mr. Thompson inviting him to come and speak to Council firming up the request.

Staff answer: Sure, I can do that.

b. Potential Projects and Available Funding

Kaj Dentler stated this is a request from Council Member Butler to consider some potential projects.

Key Points:

- Staff has identified some savings on several previous projects.
- Staff has developed some estimates on potential projects.

Council Comments/Questions:

- Butler: This list came up from a number of projects that we had talked about in the past that at least had significant, you know, enthusiasm from the public and some of them are ones from the downtown improvements that we weren't able to fund at this point. So, I just listed those together with the estimates that we received from staff on what they would cost as well as available monies that staff has identified that could be used for these projects. I would note one thing that on the available monies, we also identified there is \$892,000 in the fiscal 2019 capital plan that is designated for downtown improvements, but there is nothing specific allocated to it so some of the downtown improvements could be, you know, allocated towards that project as part of our fiscal, our next year fiscal capital plan. And then, as you see, the gas tax needs to be used for transportation projects, but there is some savings from Hope Parkway and Sycolin Road. So, our Council could discuss to see if there is some of these projects that we might want to get done in a shorter term as you know, obviously like I said there is around Mervin Jackson Park and the Rose Garden, there has been a lot of constituent input that you know these things would go a long way towards helping re-energize downtown and as well as some of the others. So, how would you like to proceed from here?
- Mayor: Let's see if Council members have any questions, but Renee I think I am looking at your memo or maybe it is Kaj's memo on potential projects and available funding and the reference to VDOT experiencing cost increases. I associate VDOT with roads, but this – the implication here is we might experience similar cost increases with sidewalks and bricking. That is not intuitively clear to me that there is a direct correlation.

Staff answer: There could be. We bid the South King Street, Phase II project in the summer. That bid came in approximately 37% over our engineer's estimate and when we forwarded that information to VDOT, they told us that we had to rebid that project. VDOT, right now is experiencing anything from 18 to 28% above their engineer's estimates on projects that have been out to bid and that is small projects to big projects for what VDOT is doing. We experienced that with the Downtown Improvements Project. We were not expecting those bids to come in as high as they came in for this last phase of the project, so we are starting to see an uptick in construction prices.

Dentler: And I think, Mayor, just to provide another piece of clarification – one of our concerns is if our main construction projects do rise, some of the available funding that is identified for some of these projects may need to be used for the project we already have approved. So, we are not indicating we are opposed to Council Member Butler's request, we are just providing caution that if the big construction projects that she has before her are higher than what we have already planned for, our available funding may not be as available as we thought.

- Mayor: Okay, I guess my question would be, Renee, I know that VDOT deals a lot with asphalt. Some of Dave's projects don't really seem to be asphalt type projects – I think more concrete, but the price of gas is fairly low. What is driving these cost increases?

Staff answer: Wages. Engineering News Record. I sort of watch that every month and they give price index on each commodity. Oil and PVC pipe products are starting to tick down. Cement, concrete pipe, metal pipe, those are still ticking upwards. Wage rates are going up as more and more projects are going. The labor costs are increasing on the projects is what is being indicated in the Engineering News magazine.

- Dunn: Let's see. On this, I am not sure the connection between VDOT and Mervin Jackson park, but to go along with what we talked about at our last meeting, we talked about also trying to get funds from the county and I think there may have been – well there was at least one road project that I mentioned was the bump out on Rt. 7 that the County really isn't really – those discussions should have been in the same vein. The county is going forward with their requests for state funding and I think that we should try to piggyback on with the county and do that in addition to what we are trying to do here. Make our request with the county and see if the county can also help come up with funds and the state funds. So, I would also recommend adding in that – we will just call it a million dollars. It should be less than that, but we will say a million for the Rt. 7 bump out between the bypass and Battlefield Parkway. That is in the right lane heading east. Also, I have noticed throughout town and it may be because it is getting to be a funding issue, but our crosswalks are – I am sure they are on some type of schedule for painting, but there are some major crosswalks – I mean the most glaring one is Market Street at Catocin Circle. Those crosswalks are almost gone and I think that if funds are tight, we need to focus on our major crosswalks in town. The Battlefields, Fort Evans, any of the major intersections.

Staff answer: The Market Street at Catocin Circle is part of the milling and paving program for this fall, so that intersection will be taken care of for sure.

- Dunn: I guess the point is, Renee, is that while it is scheduled major intersections, if needed should go unscheduled. They should always be

painted properly. You just never know where people might wander off the path if we don't have them painted in line. But again, if that is something that is a funding issue for us versus a scheduling issue, then I would say that we definitely need to request funds for that to ensure that our major intersections are covered. The other things on here, I don't have a problem with us requesting. I have been looking in my travels lately – I have been looking as Dave has pointed out in the past, major intersections across the metro DC area that have four, six, eight lanes with crosswalks and yeah, they are there and people are negotiating them just fine. So, I don't see a problem with looking into putting a good crosswalk at Battlefield and the Rt. 15 bypass north. Let's see, I think that's it. Again, just maybe Dave unless you have got some feedback on why on a transportation request we got the stuff in for Morven Jackson Park in there. Unless there was some other funding source you were looking at for that other than VDOT.

- Butler: No, it was just the savings from Hope Parkway and Sycolin Road Improvements, we can spend as we see fit. They are not required to be used for transportation projects.
- Dunn: Oh, okay. You are just talking about the savings. You were putting in suggestions.
- Butler: The gas tax has to be used for transportation projects.
- Dunn: If we have savings, I wouldn't want us to at this point be earmarking what those savings would be going towards. There may be some other things that we would want to spend the funds on versus what is listed here. I think that would warrant a greater discussion.
- Fox: I took a look at the staff recommendation. It says at the very bottom, "as a result, I would recommend financial constraint at this time". I totally agree with that statement. I do feel like some of the things that are mentioned here are viable. I am a little more of the thought that we might want to take some of these monies and maybe take care of our parking issue – get that addressed before we get into anything else. That's just my thought. I honestly feel that this is more of a budget talk – conversation that might be more appropriate at budget time.
- Hammler: I appreciate Dave bringing this forward. Also, looking forward to fiscal year 2019 for available funds because that would frame the discussion. The one thing I think we should consider is this permanent stage on Town Green given that since we spend so much money in staff time and outside resources continually setting up the state so at least I would be curious what the ROI would be in getting that permanently built sooner, rather than later but that we have that information now or when we specifically make this decision. I just did get additional information this evening given we pulled one of our items tonight that there is more information forthcoming regarding possible parking garage options and so I would at least want that to be part of this discussion given that we have limited funds, but I am

certainly open for whatever input other council members have as well as the parks and rec commission as it relates to some of these items relating to park expenditures. I am open to the discussion and additional analysis.

- Martinez: As far as the list of projects go, I really have no issue with us putting forward these things. I would like to ask Kate on some of the issues that affect the parks and rec to bring that forward to the parks and rec commission and get their thoughts on there. I know some of the stuff we talked about, we originally trying to get Morven Park done. But since then, we haven't got any of these up now – how we are going to do it in the future. So, I think that might be something – items for the parks and rec commissions. One of the things that I have always been trying to get this council to do is to have – and I hate. I should not say I hate. I know the word retreat kind of makes people cringe sometimes but I do think we all on Council have visions for what we would like the Town of Leesburg to be and I really would like to have just a discussion without staff for us to sit down and talk about what do we really see the town of Leesburg, what it can be in the next five or ten years and how we set that apart. Then, once we can come to an agreement on what we think, for example like the water park. Like other things that other people want and that is a discussion that we can bring back at a budget meeting or to be part of the budget discussion that this is what the Council kind of wants to see. How does it impact the capital projects? How does it impact our debt? Is there a way we can generate revenue to pay for this without hurting taxpayer's pockets? I think that is a far reaching discussion that we need to have and I am glad Dave brought this up, because at least now we have something that we can jump off of and maybe we can open up the discussion to do that because I know for example, mine was a bike and walking path so that anybody around town can get around and of course when we had the bike path people come up and talk about it, I thought that was really encouraging so I would like to see us, you know, delve into this a little further. Everybody sitting down and really looking at what can we as a council have a vision for for the next five to ten years on what we want this town to look like. We all have our ideas and I am more than willing to listen to what anybody else has to say.
- Burk: Well, I would be interested in supporting the splash park in the Rose Garden. I have concerns that we have some major expenses coming up in the next few sessions and we ought to be very careful about the money we are spending, so for me it would be, I think I could support bringing forth the idea of the splash park in the Rose Garden, but I have real reserves about having restrooms at the park. A food stall that is not something I think the town should be involved in. A bridge over the exit lane- I am not sure that is really necessary. The whole thing about the sidewalk widening, I most certainly support that, but I think that is something we need to do at the budget time. I most

certainly would like to see that done. I think we have a good opportunity to see how it works with the projects we have going, but I think the widening and that sort of thing needs to be part of the budget discussion. Many of the other things, I personally would not be interested in pursuing, but I most certainly would support allocating the money for the splash park in the Rose Garden. I think that would be a nice addition over there. That's where I am.

- Mayor: I like the idea of the permanent stage. Kate, would it be larger than what we have been putting up for Acoustic on the Green every weekend, because that strikes me as being somewhat cramped for the musicians.

Staff answer: Slightly larger and I don't have the exact measurements of the Acoustic's stage, but this one would be slightly larger, especially with the wings.

Williams: The actual stage, Madam Mayor, would be approximately 10-15 feet deep.

Trask: Which would be about 2-5 feet deeper depending on how we set it up because we don't set the Acoustics stage identically each Saturday.

- Mayor: I know you guys are always way ahead of us, but have you guys talked to Stilson about what he thinks the ideal size would be for the Acoustics?

Williams: We actually chalked off the stage footprint outside and had Stilson come out and look at it and he was literally jumping up for joy with the potential of something like this happening.

- Mayor: Okay. I mean, that is, I think our cheapest proposed project at \$50,000. I would happily support that permanent stage. I really like the splash park idea as well. It is a bit expensive, but I think that would be a huge draw during the summer for families to bring their children downtown. Lansdowne Town Center has one and the Village at Leesburg has one that is extremely popular. I assume that \$200,000 price tag is based on what was spent at both of those venues? How did we come up with the \$200,000?

Williams: That was based on a manufacturer kit component or a developer installing one of those as well as all the various utility costs that would be associated with servicing the site.

- Mayor: Okay. Is there a way for us to find out what was spent at Lansdowne and at Village at Leesburg for their splash parks?

Williams: We could definitely – if that was the option that Council wanted to go with, we would definitely do further exploration and try to get more firm numbers. We haven't had any specific engineering done on the project, so it is more general estimation at this point.

Lafollette: We did ask Hobie about the one that was built at Lansdowne and that one was somewhere between \$40-80,000 because it was in the bigger construction part. That was the actual construction – he did not give me any design costs for it.

- Mayor: Those are the two items that intrigue me personally. The others, I mean they are all very nice ideas, but the total price tag is pretty steep.
- Butler: I appreciate some of your enthusiasm. Like I said, a lot of these are – we can always find say we have to spend x million dollars on this road or that road or something – which are good for the town, but some of these things like the splash park, you know, would literally help liven up the town and give the town something to talk about and really increase quality of life and buzz and just make it a nicer place to live. I hate to think that we are always spending money on stormwater management and curbs and painted lines and everything else and not doing anything fun with the money. We should have some money that we do fun things –you know, that really make it a better place to live. I guess there is at least three of us that would be interested in moving forward on the splash park and the stage. I guess I would vote probably for all of them, but most of them would get one vote, I think at this point. Is there any chance we can get a fourth vote from somebody to move forward on these two things? I think it would really excite downtown, both of these. I have gotten significant feedback from residents that those are probably the two that they would want the most.
- Fox: I could support the stage. I think it is a great idea. I think the money the parks and rec spends to put up and take down the temporary stage, the stage would pay for itself very quickly and it would be a nice feature, so I could support that.
- Hammler: I have been a proponent of water features for many of the reasons that have already been mentioned. I think it is going to be a terrific draw in bringing people downtown and quality of life. I guess my follow-up question, if parks and rec, Rich and Kate are prepared to answer, has the analysis been done relative to there being enough space in the Rose Garden – that being the best place to put it relative to wanting it to be downtown. Any guidance from a professional point of view you would like to provide?

Williams: From a safety perspective, the Rose Garden would offer a better alternative to something on one of the plots of land on Mervin Jackson Park in the front area just because of the proximity to Loudoun Street. If we were to put it on the Rose Garden, we would probably have to look at how to relocate some of the amenities that are currently out there in order to make it fit properly and in order to make it flow properly.
- Burk: Most certainly have to put a fence. You've got that section that goes straight down.

Williams: That is something we would have to take in to account for topography of the land as well as is it closer to the cabin than it would be to the other side.

- Butler: That has got to be better than having it right out there near the street.
- Fox: Just one more thought – the two splash parks that were referenced – the one at Lansdowne and the one at Villages at Leesburg – those are private parks and the insurance, I guess that is associated is assumed by private entities and I would like to know what would happen with our insurance costs too in relation to this.
- Martinez: I am not that excited about the water park, though. I am not going to have any heartburn if, you know, Council supports it. I do like the idea of the stage. The question I have is will there be power to the stage? Will there be ability to hook up a PA system – in other words, instead of having to bring all the stuff in, is there a way we will be able to set it out?

Williams: We would definitely include power outlets onto the stage. I don't know where we would need lighting. We would also explore the option of maybe putting a permanent sleeve in the stage so that the town Christmas tree could then move back to that location and be mounted at that site. We could also explore the option of incorporating mic jacks into the stage itself that we could then plug our speakers directly into the side of the stage and get away with some of the cables that run on top. There are a number of different options that we could look at if we were given the go ahead.

- Burk: Obviously, I would support the two items.
- Dunn: I think they are good ideas. The only thing I would –what first comes to mind is that I am not sure if I want a stage out in front of town hall. I could possibly see putting it on the other end of the town green, back by where the Christmas Tree goes or even considering it at some other public parks that we may have, but to put it right in front of Town Hall. I'm not sure about that. As far as the water feature goes, I am not sure if putting it in the Rose Garden is going to get the attention that we want. Maybe it would draw more attention over there, but I think it would be one of those things that if you don't know about it, you will never know about it. Because it is one of those things if you don't see it, it will just get missed. Again, there might be some other locations in town that we want to put in a water feature in one of our other parks. That might be something to consider. I am not opposed to the ideas, just maybe review the locations a little bit better.
- Mayor: Thanks. Dave, did you want to bring these two items forward to a vote in the near future before the budget session starts up or do you want to wait until the budget session?
- Butler: I guess it would depend on Council. The original list I put together was dated like June 15, so it has taken us four months to get to this point. You know, I just hate to delay too much and then keep looking at it because we just never get it done and then downtown continues to have reduced sales because there is no real attracters to bring people down there. Just had so many people with small kids say

look it would be wonderful if you had a splash park there. I'd bring my kids down there, they would get tired out. I guess the two options are we would bring it up for a vote, you know, at the next meeting. We could ask Parks and rec or staff to flesh these out a little bit to get closer to the real dollars. So, whatever Council would like. My preference would be let's just vote on them tomorrow and move them along. I am not sure we have four votes for that.

- Dunn: Do we have the funds for it?
- Butler: Yes, we have \$500,000 in savings from Hope Parkway and Sycolin Road Improvements, Phase III that we could use immediately for these projects.
- Dunn: If we don't do spending elsewhere.
- Butler: Well, yes. If we don't spend them elsewhere. There is always an elsewhere, is my point. There is always an elsewhere. You can always spend it on something that sounds good, but we need some things, especially downtown that are fun and will draw people and I think the stage and the splash park are two perfect examples of things that will really put some buzz downtown and help draw people there.
- Mayor: If you want to bring them up for a vote tomorrow night or if you want to request that staff do more leg work on what they think the best estimates are and come back to the next Council meeting, if staff is able to accomplish that work in two weeks or so.

Staff answer: The only question I have, is there was some reference to having the parks commission look at this. Is that something you want done prior to the next meeting? I don't know what the schedule is, Kate or Rich. Would they meet in the next two weeks?

Williams: No, they are the third Monday.

Dentler: If you want that, we can't make that other than to get feedback. We can't get a formal endorsement prior to two weeks.

- Butler: Okay, why don't we see if you can revise the numbers by the next Council meeting, then we can bring it up for a vote and see what happens.
- Dunn: Planning and zoning and BAR, so they are going to be involved in this too. So, I don't know where they will be in the mix. I don't know if we have to rewrite zoning regulations to even allow this. Do we know? We don't know.

Staff answer: We would find that out, as we do with any project. So, we can have this back in two weeks for your consideration for a vote.

- Mayor: Then the only question I would have of Rich and Kate is, if my great interest were the stage, how much lead time do you need to get a stage constructed for next summer's Acoustic on the Green series?
Williams: I would need to speak with probably Bill Ference to get a better idea on the timeline. In my initial conversations with him, he did not feel it was that long of a development thing. So, I think that – knock on wood, we could make something happen within that.

- c. King Street Downtown Improvement Project – Use of Parking Spaces
Scott Parker stated there is one decision point that needs to be made with respect to the section of the Downtown Improvement Project between Market and Loudoun Streets.

Key Points:

- There are 44 foot spaces at each end of the street that can accommodate two vehicles.
- Spaces can be parking, loading or a combination thereof.
- Project will complete by Thanksgiving.
- Staff recommends utilizing the spaces for short term loading and unloading of passengers and/or commercial goods.
- Short term is recommended to be 15, 20 or 30 minutes.
- No meters – appropriate signage will be installed.
- Merchants are supportive of using these spaces as short term.

Council Comments/Questions:

- Fox: If you gave me a choice, I would say 15 (minutes). I do have one question. Under fiscal impact, there is a \$15,000 estimated cost. Can you explain that to me. You said signage would be minimal, but there is something else associated with this cost. Can you explain what that is?

Staff answer: Yes, ma'am. If you look at the ends, in this area right here, what we have right now, is we have them ticked off on asphalt as a typical parallel space you would see on the street. It would be our intention at some time in the future, since we are increasing the size of the intersections with the street print pattern, as well as the mid-block crosswalk is already budgeted to have a street print pattern on it in the future at some point, not yet defined, we think that it would be nice to have those spaces delineated with a street print pattern like that. That cost is \$15,000 that is not currently budgeted.

- Fox: I see a good opportunity for public art, just saying.
- Hammler: The only person I heard from is Sola and she gave me a call and asked if we would support 20 minutes to allow a good amount of time for patrons that may want to get across the street and grab something. So, I certainly could support 20 minutes. My one question is what about enforcement to make sure they actually turn over?

Staff answer: The enforcement would be part of the routine of parking enforcement that we would have downtown and we would have to be diligent about that because the parking limitation would be during the time that we currently enforce the parking meters, so it would be part of our regular routine of the downtown and other parking meters with our staff that would enforce that. They would make note of the cars parked there and then make sure that they don't exceed that limit and I am sure some of our merchants will help us with that as well.

- Hammler: And the parking fine would be similar to if you stayed past your metered time?
Staff answer: It would be consistent, but I don't remember what the fine is at this point.
- Hammler: You'll report back if you find that people are abusing it, but we will be monitoring it. Twenty minutes is my input.
- Martinez: Before I could answer that, I have to do a trial run on what it takes me to order at China King, get in and out. I think that 20 minutes should be enough.
- Burk: Okay, there is a line here that says staff has spoken to merchants along the street and they have stated that regardless of how the spaces are used, time limits should be short. When you say staff has spoken to the merchants, are we talking about all the merchants, or certain people?
Staff answer: It is not all of the merchants. I have spoken with the Vintner. I have spoken with Sola. I have spoken with Mike O'Connor, who is obviously a property owner and I have spoken with Waily and Josh and Mindy and I had a conversation with Angel at the hotdog place and Justin at the Wine Kitchen.
- Burk: Okay. And they all agreed that they wanted it to be a loading zone, drop off zone, pick up zone as opposed to actual two parking spaces.
Staff answer: That was not specifically – it's either passenger or commercial loading/unloading as long as it was very short term.
- Burk: And that's what they stated – most of them stated that's what they wanted?
Staff answer: Yes, Ma'am.
- Burk: And after 6 o'clock in the evening, what comes of those spaces?
Staff answer: They can be parked in as you can at the meters for an undetermined amount of time.
- Burk: I would lean more towards 30 minutes only because really – even though Marty was joking, going into the Wine Kitchen, picking something up, or China King or even the Vintner, by the time you get in there, get your merchandise, pay for it, talk to the person for a few minutes, that time can go pretty quickly, so I would think if you allowed 30 minute loading/unloading, that sort of thing, that would be sufficient.
- Butler: I am okay with 20 minutes. I think shorter is better because in real life since there is no meters and somebody has to visit you twice in order to know you have been there longer than 20 minutes, in real life, the 20 minutes will end up being longer. Let's say somebody goes around every 20 minutes – on average it is going to be 30 minutes and it could be up to 40 before you get visited twice, so I think 20 minutes is fine. The short term parking is what we told everybody that we would do, so that's good. The only question I would have is why would we stop at 6 and not make it till like 9 or 10?

Staff answer: It was just our thought since the other meters stop at 6, that it would be convenient to do the same thing, but it most certainly could be signed until later in the evening.

- Burk: So, people couldn't park there until after 9, is what you are suggesting?
Staff answer: Or it would be short term parking; however, we don't have enforcement in the evening either, which would be the drawback of that. That was one of the main reasons that was chosen as well.
- Butler: yeah, which is kind of too bad because you would still have, you know, the Vintner is open a lot of the evenings now and China King is open in the evenings. Some of these restaurants are open in the evenings so I don't know, even though there is not necessarily enforcement there, I would lean towards 20 minutes, but just say short term parking 20 minutes period without putting a time specific on there. That's what I would vote for.
- Dunn: Well, when you first asked Council to make a decision and put this on the consent agenda, I thought that was very optimistic for you. I am often reminded that our decision making process is much like listening to an Arlo Guthrie song. They just go on and on and on. I would – I could go either way – 15 minutes, 20 minutes, 30 minutes. Originally I thought 30 minutes would be good only because for folks parking at the end of the street getting to the center of the block will take a little longer. In some of my work that I have done in marketing analysis, most stores that you go into, typical grocery stores, the time it takes you to get into the store, find your product and check out and usually the parking is fairly close is usually about 8-9 minutes. So, could it be done in 15 minutes. Yeah, it probably could. But if the merchants are looking at this being more of a loading zone, then yeah that only needs to be 15 minutes, but if they are looking to go and eat, I don't think you can get that done in 30 minutes anyway. If they are just going to shop, yeah, they should be able to get that done in 20 minutes. It sounds like most folks are leaning towards the 20 minutes. I can go with that. Originally, I felt that 30 minutes would be acceptable if the merchants were looking at actually having people come in and giving them enough time to shop. Because it could take a little bit longer to find – unlike a grocery store, many of our shops people don't necessarily know what they are going in to buy. These are unique shops that take a little bit longer to look around. So, I would probably lean more towards the 30 minutes, 20 minutes on the short end.
- Mayor: I am comfortable with 20, so I think we have a majority for 20.
- Hammler: I am open to extending the time.
Staff answer: We will prepare a resolution for 20 minutes signed as 20 minute parking at all time or some other commensurate language that meets standards.

- Burk: So, you are now changing it so that it is not going to ever return to parking during the evenings?
Staff answer: We need your direction.
- Burk: well, we had one person say that.
Staff answer: We are waiting on your direction.
- Burk: I would be opposed to doing that. I think that it should be some point where we no longer have enforcement people anymore, it seems unreasonable to expect that we would be able to enforce it and I don't think that we should put things in place that we can't enforce, so I would be inclined to say after 7 o'clock you can park there.
- Butler: I just want to remind folks that the point of these spots was originally for pick up. It wasn't to stop and then go in and shop or go and eat a sit down lunch or anything like that. It was to stop, go into a place like China King, grab something that you have ordered and bring it out or to go in and buy a case of wine that you ordered so you can carry it out to your car and not have to walk very far. That is what the intent of the parking spaces were and considering that you have to multiply the time by one and a half because that is what the average amount of time is going to be before you get cited. I think 30 minutes is too long and certainly I could go with 15 or 20. Certainly I don't think I'd want to encourage people to park there for hours in the evening and perhaps take business away from the Vintner or China King.
- Mayor: So, I guess just go with 20 minutes and if a majority of Council wants to amend that, they can. I agree with Dave as to the purpose of these spaces. It was so that those that do a carry out loading business were not overly injured by the widening of the sidewalk. So, you have your direction.
Staff answer: I think I just need direction on – I think from what I have heard about what the signs are going to state about when we are going to stop. Is it going to be until 6 like the meters is or is it going to be at all times.
- Burk: I would like to have a chance to go and talk to the merchants myself and I probably should have done that before, but I didn't know we were going to do the time. So, if you could wait until tomorrow since I seem to be the one that has the main objection to it, of course, since maybe I'm the only one you don't want to care anyway.
- Martinez: I would make a recommendation that it is 20 minutes, stops at 6 and if there are any friendly amendments, we can do it tomorrow night.
- Mayor: I'd say 20 minutes, stops at 9.
- Hammler: I'd say 20 minutes, that's what it is all the time. Honor system.
- Mayor: We are building support for stopping at 9 p.m.
- Butler: We can always change it. 20 minutes, 9 p.m.

d. 2016 Legislative Agenda

Keith Markel presented the proposed legislative agenda and positions statement.

Key Points and Council Comments:

- Staff is recommending that the first two items from last year's agenda are removed – the first dealing with the Northern Virginia Transportation Authority. There was not broad-based support for this from the legislative representatives.
- The second recommended deletion is transit funding because there are a lot of other mechanisms in place that are working well at the current time.
- Restoration of HB599 Law Enforcement Assistance Funding is recommended to remain in.
- Mayor: How much money have we been losing every year from when they started cutting back on the 599?
Staff answer: I think we did that last year, so we will just add to that.
- Revision of Local Fines and Fees – Would like a better idea of how that money comes back. Meeting has been set up with the Clerk of Court to discuss the local process.
- Private Unmanned Aircraft Drones – the town continues to support legislation that would allow local regulation of drones.
- Burk: Isn't the FAA coming up with regulations, as we speak? They are supposed to have it before December.
Staff answer: They are working on it. I hadn't heard that. I think they were looking at early 2016. Maybe the [inaudible] statement? I know that the time keeps pushing out.
- Burk: I just heard a report on it that was by December, they hope to have their first one.
- Martinez: There have been active policies and stuff with drones and all that, but the biggest issue that we have is whether locally we have any authority to do anything outside the FAA policies and their regulations and I don't think their regulations [inaudible] for local applications.
Staff: Or trespassing. I think it was somewhat of the issue we really were looking at here, because right now the drone is a trespassing vehicle.
- Martinez: That's a general laws issue – how the state can define local [inaudible]. The biggest problem is not just the trespassing but the height of the drones. Whether, you know, for example, if the drone is being used to look at a ranch and maybe happens as it is turning fly over another person's property and they shoot it down, you know what are the rights of the person who owns the drone who is actually doing it for the ranch or farm versus somebody who feels they are being threatened or trespassing. Where is the no harm done? There is a lot of

questions to be asked, but we do need to have that defined and us have the authority.

Notar: Like last year, if FAA regulations are looming, they probably won't do anything again this year. We thought it was important to keep it on your agenda so that it is on the forefront and other jurisdictions are doing the same.

- Mayor: I think Marty makes a really good point when he makes a distinction between the realm in which the FAA logically would regulate for the purpose of safety of other aircraft versus the realm in which we would try to regulate to try to protect the privacy of our citizens. Those are two very different issues and I think we should keep pushing for the ability to define trespass as trespass in the air above your property and be able to go after people for hovering outside windows or over decks or whatever. Let's keep it in there.
- BPOL taxes – no changes from last year.
- Construction of grade separated interchanges – recommend that it be moved to the positions statement feeling that in 2016, we are not ready for the construction of the three interchanges.
- Mayor: To back up this recommendation for the purpose of both the Council and our delegation, it is probably a good idea to just have a paragraph reminding us all that design and engineering funding is not construction funding and here is how much we have gotten approved through NVT A for say design or engineering when we might anticipate that work being completed. Just a synopsis of each of these three projects and those three levels, unless we are doing some kind of design/build, Renee, which I don't know if we are or not. But, we are going to forget that there is a difference between design, engineering and construction. We will just say okay we got money for these interchanges, but we probably should break it down just so we will know what to say to our legislators so they know as well.
- Hammler: I thought this fall, and right in the middle of it, we were going to get the full report on the Route 15 north bypass that included the statistics about license plates so that we could have strong wording encouraging even our state delegation to seek federal funding for this interstate problem as well as the other components besides just the interchange because that was part of the recommendations that we were going to be looking at.
Staff answer: It is on the December 7 work session.
- Hammler: And there is no way we could push that forward so that we have more information to be able to prepare our delegation for what we need?
Staff answer: That information was provided in your packet, I believe at the last Council work session. We certainly can provide that, yes.
- Hammler: That needs to be part of our discussion then, at our dinner. You said you did provide it?

Staff answer: We provided an informational memo I think at the last meeting and we can resend that and certainly provide it as part of this. That is no problem.

Lafollette: The traffic study that VDOT is in the process of doing – we have not received that from VDOT yet. When it was initially submitted to VDOT, VDOT rejected it and sent it back to the engineer as being incomplete. So, we are still waiting for that study to come in and we do not have a date from VDOT of when they expect that back in yet, but we will call tomorrow and see if we can track it.

- Water quality funding, which includes a number of different issues (TMDLs, MS-4 Permits) – no change from last year.
- Recommending for removal temporary family healthcare structures, which has not been an issue and tree save efforts.
- Burk: that's a shame to lose that one. To not try to work on that one.
- Mayor: Are you thinking the first one?
- Burk: Correct.
- Mayor: I tend to agree with Kelly. I am reluctant to drop the first one on amendments to the state code that would grant localities the authority to require new construction projects to save existing trees. I think it would be good to have that authority. I have always felt we didn't have the authority we needed and our citizens tend to really mourn the loss of trees. I am reluctant to sit up here and say let's stop fighting for it. Let's see. Where is the rest of Council on this?
- Fox: I could support keeping that measure.
- Martinez: [inaudible]
- Dunn: I am okay with staff's position.
- Mayor: Sounds like we will keep it there.
Staff answer: Okay, so we will keep one and remove two.
- Bills of financial impact to the town – no change from last year.
- Bicyclist Safety (Dooring) – no change from last year.
- Dam Safety Funding and Regulations – looking at how the state can support the town when faced with very high costs with dam safety issues. Public Works and Capital Projects staff is working on the text language.
- Chesapeake Bay TMDL and State Water Quality Management Planning Regulations – Make sure that no bills are introduced that would change the regulations for existing plants.
- Mayor: In this case, I agree where this is going, but I also would support a request – useless request though it may be, for federal and state help in meeting the TMDL requirements since it was a federal/state decision to impose all of that on us. But I don't know if we are specifically in any of this language...
Staff answer: F has it under water quality funding. We could go in and put it in more specific language.
- Mayor: Just do a reference to the whole TMDL issue.

- Hammler: That just cross referenced to C, opposing any unfunded mandates, but they are really just not – there is no consistency with being emphatic about that point as it relates to you know these catastrophic fees that are coming down to us that there is no funding for. I don't know how we can make it stronger language, but I would support that.
- Fox: You know that Delegate Minchew has some oversight legislation that he is working on and he has asked for some support on. From what I can read, it is one part protest, one part nullification, one part directive to the DEQ so I thought maybe we could ask him more about this during that dinner and find out if that is something maybe we could support.
- Mayor: Remind us to ask him that.
Staff answer: Are there any items that you would be interested in having us put together text for the agenda itself?
- Hammler: I would support reinserting the language about lifting the moratorium on city status.
- Butler: I would agree.
- Dunn: That's fine.
- Mayor: It looks like we have at least a majority.
- Dunn: The other thing I was going to mention too, in this, especially with some of the issues that we are seeing going around our country quite a bit. We have the item now about the localities prohibiting fire arms on public property. Right now, we already have laws in place that do this – such as schools. It is already prohibited, but often where these shooters show up – they target places they know there is going to be very little opposition. The Colorado shooter specifically chose gun free theater to attack knowing that there was going to be no opposition. Somebody who wants to do harm is not going to be swayed by an ordinance. They are out to do harm. And we already have regulations too about you can't discharge a firearm inside the town limits anyway. I am not in support of this. I understand on the surface it sounds like it is good to do that we are going to actually prevent something, but we really don't. If anything, we could cause government employees, government localities to become targets for those people who mean to do harm knowing that they will have less opposition there. So, I would recommend taking that off of our list. Are we still trying to pursue these things? Is that what this second section is?
Staff answer: This is the position statement. Those are the broader positions that the town would take – not specifically asking for any legislation to be drafted but should the issue come up, this would be the consensus of the Council so that we would know where you all stand on the issue.
- Dunn: I would rather we just stand silent on it just because I think it could create more of a target for what would otherwise seem like a good idea, but just looking at what is going on out there across the

country when they know that you don't have a way of defending yourself, those that mean to do harm definitely go after those folks.

- Mayor: I tend to agree with Tom, but I am not sure the rest of the Council will. Does anybody else support Tom's thoughts on this? Not hearing anything...

Staff answer: We will leave that in.

Notar: I am sorry. I thought we had taken off "T", the Eminent Domain appraisal process. That caused a stir last year, if you recall. It was opposed by the Eminent Domain attorneys that represent localities and it caused problems when they were trying to pass other things that would assist localities. It was only on the position statement, but I guess somehow it was brought to the attention – as part of our legislative agenda, so I would ask that be removed.

- Mayor: You want to remove T. So, we would no longer support an amendment to the state code that would require parties in condemnation to agree upon a single independent appraiser.
- Hammler: The genesis of this was how costly it is for taxpayers. So, could you please clarify you are just saying lawyers were not happy with this?

Notar: It absolutely is a wonderful aspiration, but the state code has so many specific provisions for when parties can get appraisals, it would – the state code would have to dramatically change and this provision has caused a lot of stir in the general assembly - by VML. VML wrote to me. Sandy Cherry, Sharon Pandak. They all wrote to me and said where did this come from? It took up a lot of time. While it is a lofty aspiration, it is not something that will happen in the near future. I am sorry. It won't. So, they asked me to remove it so that it wouldn't come up again.

- Hammler: Well, we are here to represent Leesburg and taxpayers.
- Mayor: Barbara, do you recall – did we have the support of Delegate Minchew on this?
- Hammler: I think he brought forward the language, if my memory serves me correctly.

Notar: He may have.

- Hammler: I will ask him at the dinner.

Notar: Fine. And I will speak to him beforehand as well.

- Hammler: Well, we would prefer to just probably have that discussion, I would think.
- Dunn: I don't necessarily agree with this either because eminent domain is bad in itself, but then forcing that property owner to take one appraisal, really I think takes away their ability to put up their own defense. I am not in support of that either.

- Fox: I agree.

- Dunn: But, I have another one, if you are ready to move on. On the – again, Item S, it is a lofty thing. I put it up there with flowers and butterflies. We all love them. Great idea, but the idea that you are

going to have redistricting or anything labeled non-partisan is a complete fallacy. In fact, what it creates is a curtain by which those who want to be most partisan can hide behind. So, to have people go out there and think that we now have redistricting that is non-partisan, happy, happy day. Let's all sing songs. It doesn't exist. As long as there is parties and political influence, there will always be partisanship. So, any attempts to claim that there is not partisanship is really a way of hiding the truth from the public, so I definitely can't support that. Thank you.

- Mayor: I look at the language and it doesn't really say anything. It doesn't say set up a nonpartisan body to redistrict. I am not sure that the way it is drafted, it does anything at all, but I don't know how the rest of Council feels about it.
- Hammler: Last year, we inserted it because it was exactly the language the VML Executive Committee adopted based on the Virginia 2020 initiative, which is gaining a tremendous amount of traction. If it would be helpful, I could go back and see if there is any updated language, but there is growing momentum behind this initiative, so I would certainly support keeping it in and if needed we can make a stronger language.
- Mayor: Anybody else on this one? Alright, I guess keep it in for the time being. Katie, if they have come up with stronger language – or Keith, if you can try to track that down, it might be helpful. Anybody else have anything they want changed? Alright, is sounds like we are good.

2. **Additions to Future Council Meetings**

Council Member Fox: Had no additions.

Council Member Hammler: Had no additions.

Council Member Martinez: First I wanted to go ahead and bring up the VFW to make sure that we have a chance to put that on the agenda for tomorrow night.

Mayor: And what sum are you asking?

Dentler: I believe it was \$770.

There was consensus to add the fee waiver for the VFW Volksmarch to the agenda for Tuesday night.

Council Member Martinez: I got an email from a resident on predatory towing companies that are out there doing predatory towing without any – it was in the email – it caught my eye – when my son was at Radford, he had parked the car and came back and it was being towed. They hadn't even hooked up. It was within three or four minutes, but they had not even hooked up. They actually tried to collect

cash from him at the parking thing. He called me and we worked it out, but that kind of thing – I don't know what we can do about it, but I guess if there is a memo or we want to discuss it. However, we approach it, I think it is probably good discussion to see if there are this kind of issues in the town and if there are, what we can do to help.

Notar: Yes, I read the email as well and I don't know that – I have not heard of those issues in this town, but we can certainly...

Martinez: I don't know who we get the complaints from – people that it has happened to, but I know a lot of times when that happens, instead of paying a \$300 towing bill, they would much rather give \$50-75 cash and the guy walks away and that happens a lot. That happens a lot in Radford and Blacksburg in some instances. A lot of it is around people who cannot afford to go out there and take time off so just some information. I would like to know if we have had these kind of issues before in town.

Burk: We could also – when I was on the Board of Supervisors, I actually got all the towing companies together and the Sheriff's Department and we met on a regular basis to go over the issues and they were pretty substantial issues in the county. I know that John Sandy probably still has all that information. It got right down to the end and we were ready to sign the agreement and we had the election. So, they may have already done – I know they did a lot of the research and it was very difficult. It was really a difficult process getting all those tow guys in, but in the end they were ready to sign an agreement. I don't know if that would help.

Mayor: So, Marty at this point you are looking for information from staff?

Martinez: Right.

Mayor: How extensive a memo do you want?

Martinez: A quick phone call saying Marty there is not an issue would be enough for me.

Butler: I am sure if you polled the town, there has been complaints from a number of HOAs. They would consider it predatory towing, whether it stoops to the low level that Marty mentioned in Radford, I don't know. But, I would be interested in knowing – I know it is all on private property, but is there things that we could do? Could we require, I don't know, a certain amount of notice before somebody gets towed? Could we require, you know, before a towing company tows a car within town that they have some authorization – maybe it is written or electronic confirmation from the owner of the property or something like that, because I have heard that a lot of times people go and they park somewhere and they get towed and they had no idea it was a tow zone and it becomes very hazy who called the towing company and got permission and sometimes its just a neighbor calling up and getting towed out of a parking spot that they don't actually have authority over, but the

towing company comes and takes the car and then they have the car so what else can the guy do? So those kinds of things, it's just not good. So yeah, some information memo on what we could require towing companies to do might be helpful and if we can't do anything, maybe it is something we want to add to our legislative agenda.

There was Council consensus for a complete informational memo.

Council Member Martinez: I would like for us to put together a resolution supporting legislation for Virginia to participate in the Regional Greenhouse Gas Initiative. Just so you know, I got a note that said that VML passed a supportive resolution a couple of weeks ago –this was September 29. It has been since mid-September, but VML voted for a resolution supporting.

There was Council consensus to add this to the agenda in two weeks.

Vice Mayor Burk: Had no additions.

Council Member Butler: I would like to nominate Daphne McQuarter for the EDC. Sorry, I didn't tell you before, but my reminder emails were apparently going to her spam.

It was clarified that she no longer serves on the Commission on Public Art.

There was Council consensus to add this to Tuesday night's agenda.

Council Member Butler: I wouldn't mind if staff researched some of the concerns, and issues and possibilities might be for alcohol on a portion of the widened sidewalk on King Street. I know that's a little more complex of an issue than what we did with La Lou Bistro, but I am sure there is going to be restaurants and the Vintner that will ask so at least we should have the answer or at least we should have information from staff.

Notar: We started that research a couple of years ago. It is complex so I'll ask for a little time.

There was Council consensus to add this to a future agenda.

Council Member Dunn: I would like to have a discussion in the near future on our annexation goals. We have an annexation committee. Haven't done much with it. Haven't met with the county on it. Really find out from Council what our desires are for annexation within our JLMA or within other areas that may be around the town.

Hammler: I have disclosed a couple of times different phone calls about specifically the O'Connor property. I was just waiting to get an update on that because I didn't think there was an answer yet. I certainly would support the

discussion. I just would want it timed when we have the relevant information for Council.

There was Council consensus to add this to a future agenda.

3. Closed Session

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

Pursuant to Section 2.2-3711(a)(1) and (7) of the Code of Virginia, I move that the Leesburg Town Council convene in a closed meeting for the purpose of discussion and receiving information regarding:

- a) Personnel Matters*
- b) Consultation with legal staff and staff members pertaining to probable litigation*

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

The Council convened in closed session at 9:13 p.m.

The Council reconvened in open session at 10:56 p.m. Council Member Dunn left the meeting prior to reconvening.

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

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

The motion was approved by the following roll call vote:

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

Nay: None.

Vote: 6-0-1 (Dunn absent)

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

Clerk of Council

2015_tcwsmin1027

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

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

Council Members Absent: None.

Staff Present: Town Manager Kaj Dentler, Deputy Town Manager Keith Markel, Town Attorney Barbara Notar, Deputy Director of Capital Projects Tom Brandon, Senior Management Analyst Jason Cournoyer, Police Captain Vanessa Grigsby, and Executive Assistant Tara Belote.

AGENDA ITEMS

1. **CALL TO ORDER**
2. **INVOCATION:** Council Member Fox
3. **SALUTE TO THE FLAG:** Vice Mayor Burk
4. **ROLL CALL:** Showing all members present.
5. **MINUTES**
 - a. Regular Session Minutes of October 13, 2015
On a motion by Council Member Butler, seconded by Vice Mayor Burk, the regular session minutes of October 13, 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:

<i>Aye:</i>	<i>Burk, Butler, Dunn, Fox, Hammler, Martinez, and Mayor Umstatted</i>
<i>Nay:</i>	<i>None</i>
<i>Vote:</i>	<i>7-0</i>
7. **PRESENTATIONS**
 - a. Proclamation – Belmont Slave Cemetery
On a motion by Council Member Martinez, seconded by Vice Mayor Burk, the following was proclaimed:

PROCLAMATION

Belmont Slave Cemetery

WHEREAS, Belmont Plantation was built by Ludwell Lee, son of Richard Henry Lee, signer of the Declaration of Independence; and

WHEREAS, Belmont Plantation was home to many slaves who contributed to the history of Loudoun County and were buried on the property; and

WHEREAS, through the work of Pastor Michelle Thomas of the Holy and Whole Life Changing Ministries International Church, the history of the slave cemetery was discovered; and

WHEREAS, A.D. Carter, an active member of the Leesburg posts of the VFW and American Legion, is the great-great-great grandson of "Ned", one of those buried in the cemetery; and

WHEREAS, A.D. Carter, as a young boy, used to visit the cemetery with his mother to lay a flower at the gravesite; and

WHEREAS, the current owner of the Belmont property, Toll Brothers, has conveyed the property to Pastor Thomas and the Loudoun Freedom Foundation to be preserved; and

WHEREAS, the Loudoun Freedom Foundation will endeavor to tell the stories of those buried at the slave cemetery and to celebrate their contributions to the County.

NOW, THEREFORE PROCLAIMED that the Mayor and Council of the Town of Leesburg in Virginia congratulate Pastor Thomas and the Loudoun Freedom Foundation for their work in uncovering this important part of the history of Loudoun County and support their efforts to preserve the site and educate others about the important contributions of those who were buried there.

PROCLAIMED this 27th day of October, 2015.

b. Certificates of Recognition – Loudoun County Special Olympics Softball Team

On a motion by Council Member Martinez, seconded by Council Member Fox, Certificates of Recognition were approved for the following members of the Special Olympics Softball team for their participation in the National Invitational in Wichita, KS:

- | | |
|-----------------------|------------------------------------|
| Randy Brawley – Coach | Scott Brawley |
| Chau Pham – Coach | Ian Pham |
| Emily Nalls – Coach | Tracey Savage – Coach/Team Manager |
| Ryan Savage | Sam Krogh |
| Jenna Vandenburg | Christa Bleull |
| Phillip Coe | Matt Sixma |
| Bob Heslin | Joey Barnett |
| Steven Bagot | David Knight |

- c. Certificate of Appreciation – Sandra Kane
On a motion by Vice Mayor Burk, seconded by Council Member Butler, a Certificate of Appreciation was approved for Sandra Kane for her dedicated service to the Town of Leesburg on various Boards and Commissions.
- d. Certificate of Appreciation – John Marshall Bank
On a motion by Council Member Dunn, seconded by Council Member Hammler, a Certificate of Appreciation was approved for John Marshall Bank for their Corporate Sponsorship of Leesburg Police Appreciation Day.

8. **PETITIONERS**

The Petitioner's Section was opened at 8:03 p.m.

Gwen Armstrong: "I would like to pray and bless you all. Holy God, Lord Jesus, Holy Spirit, I invite you here. I thank you for your presence here with us and in our town. I will start with the reading of the word, Psalm 23. The Lord is my shepherd, I shall not want. He maketh me to lie down in green pastures. He leadth me beside the still waters. He restoreth my soul. He leadth me in the paths of righteousness for his name sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil for though art with me. Thy rod and thy staff, they comfort me. Thou preparest a table before me in the presence of my enemies. Thou anointest my head with oil. My cup runneth over. Surely goodness and mercy shall follow me all the days of my life and I will dwell in the house of the Lord forever. In Matthew 6:9-13, which many of us, I believe know. Our Father, which art in heaven, hallowed be thy name. Thy kingdom come, thy will be done in Earth as it is in Heaven. Give us this day our daily bread as we forgive our debts. As we forgive our debtors and lead us not into temptation, but deliver us from evil. For thine is the kingdom and the power and the glory forever and ever, Amen. Lord, I just come before you and I lift up our Town Council up to you. I lift our police force up to you. I lift our teachers up to you, our school system. I lift up to you our hospital, our doctors, our lawyers. I lift up to you our business owners. I lift up to each and every individual here in our town of Leesburg. I love this town so much, Lord, and I ask that you pour out your spirit and bless those who live here. I ask, Lord, that we would be kind to one another and treat one another as we would like to be treated. I ask that you bless our Town Council with wisdom. That they would live lives in honor and integrity and distribute justice where applicable, Lord. I just ask, Lord, that you bless our town. I ask that you bless Leesburg, Lord. I ask that you move upon people's hearts and just renew them and fill them with your joy. I thank you, Lord, for our Town Council and their faithfulness to serve. I know that it takes many hours and I thank you, Lord, that they are the voice of the people and that they lay their lives down to serve the people of Leesburg. I just thank you for them, Lord. I ask that you bless them, their spouses, their children and their households. I ask that you bless every person here in Leesburg. In Jesus' name. Amen".

The Petitioners Section was closed at 8:11 p.m.

9. **APPROVAL OF THE CONSENT AGENDA**

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

- a. Virginia Department of Transportation Fiscal Year 2017 Revenue Sharing Program Funding

RESOLUTION 2015-120

Authorizing the town Manager to Execute the Application for the Virginia Department of Transportation Fiscal Year 2017 Revenue Sharing Program Funding

- b. Supplemental Appropriation from the Virginia Department of Transportation Primary Route Paving Program

RESOLUTION 2015-121

Amending the Fiscal Year 2016 General Fund Budget and Making a Supplemental Appropriation in the Amount of \$407,000 from the Virginia Department of Transportation Primary Route Paving Program

- c. Virginia Department of Transportation Six Year Improvement Plan for FY 2017-2022

RESOLUTION 2015-122

Requesting Virginia Department of Transportation (VDOT) Funding for Highway Projects within the Town of Leesburg in the Virginia Department of Transportation Six-Year Improvement Plan for Fiscal Years 2017-2022.

- d. Airport Master Plan Update and Stormwater Management Plan/Drainage Study

RESOLUTION 2015-123

Approving a Task Order for the Airport Master Plan Update and Stormwater Management Plan/Drainage Study to Talbert & Bright, Inc., in the Amount of \$391,966.50

- e. Supplemental Appropriation of Virginia Municipal League Insurance Payments

RESOLUTION 2015-124

Amending the Fiscal Year 2016 General Fund Budget and Making a Supplemental Appropriation in the Amount of \$7,743.29 from Insurance Payments from the Virginia Municipal League (VML) for Repair of Town Vehicles

- f. Applicant-Initiated Town Plan Amendments

RESOLUTION 2015-125

To Update the Processing Procedures for Concurrent Submittal of Applicant-Initiated Town Plan Amendments and Rezoning Applications

- g. Fee Waiver for the First Annual VWF Volksmarch

RESOLUTION 2015-126

To Provide Veterans of Foreign Wars (VFW) Post #1177 a Fee Waiver in the Amount of \$720

h. Making an Appointment to the Economic Development Commission

RESOLUTION 2015-127

Making an Appointment to the Economic Development Commission (McQuarter)

i. King Street Downtown Improvement Project – Use of Parking Spaces

RESOLUTION 2015-128

Designating Two Parking Areas on King Street Between Loudoun and Market Streets as Short Term Parking and Loading

j. Town Manager’s Employment Contract

MOTION 2015-016

I move to Approve the Town Manager’s Employment Contract as presented.

The Consent Agenda was approved by the following vote:

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

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

a. Battlefield Parkway – Route 15 to Dulles Greenway Project – Right of Way Dedications and Easements

The public hearing was opened at 8:14 p.m.

Keith Wilson gave a brief presentation on this project.

Key Points:

- Fully funded capital project for the construction of Battlefield Parkway from Rt. 15 (South King Street) and the Dulles Greenway Toll Road.
- Four lane divided roadway.
- Connection will be constructed tying Masons Lane with the eastern end of Mason’s Lane, terminating in a cul-de-sac.
- Concrete sidewalk along the south side of Battlefield Parkway and a multi-use trail along the north side of the roadway for the entire length of the project.
- Concrete sidewalk will also be constructed along the west side of Evergreen Mill Road from Battlefield Parkway tying into the existing concrete sidewalk along the front of the Evergreen Mill Elementary School.
- This will complete the last remaining section of Battlefield Parkway.
- Town has been unable to reach an agreement with the landowners of three of the properties located on the project.

Richard Maylott: Together my wife, Elsie, I own a property. One of about just four or five properties that you are going to be working on this day and the

proposal desires to split in two our property for monstrous concrete drainage ditch across our entire rear yard. I say monstrous because they propose a flat base of 10 feet and then tapering sides upward from the edges. Despite assurance from Mr. Wilson that they have examined all options and this is the best one, I am not totally convinced. Since the terminus is a series of pipes under a roadway, this seems overkill. This property is used on occasion for horse grazing. Consequently after meeting with us, Mr. Wilson did propose a crossover access point at one end and fencing along the edge of the ditch on both sides. We would be willing to accept some [inaudible] or additional run off in cases of extreme wetness if this would enable some modification of the latest proposal. Ideally, a covered ditch would be the best, but some compromise might be workable. We would be glad to meet directly with the developer to discuss options if this would be possible. Certainly this proposal is now presented as a major obstacle for effective of our land and could impact the resale value. We understand that under such conditions, the amount tendered for these rights could be affected. Consequently, we are meeting with an attorney tomorrow and hope that an agreeable [inaudible] settlement will be forthcoming.

Council Comments/Questions:

- Mayor: So, it is storm drainage piping that's...
Staff answer: Across Mr. Maylott's property, the current [inaudible] natural drainage and it drains across this property generally in this location.
- Fox: You said you had three property owners who are okay?
Staff answer: That we have been unable to reach an agreement with, yes.
- Fox: That you have been able to?
Staff answer: No. That we have not. There is approximately 15 separate land owners with 20-25 individual parcels we have been able to reach an agreement with the remaining land owners.
- Burk: So, can – the gentleman who just spoke talked about the trench kind of thing going through his yard. Is there no consideration to making it something that is not quite so unattractive? Something that couldn't be covered?
Staff answer: We have looked at numerous options in that area. Right now, it is a very flat, natural drainage area where the water that comes across from adjoining properties and it spreads out. Because of the construction of the project, we will be constructing a stormwater management basis for the storage and collection and release of water through this same area. Because it is a natural drainer swale, the drainage tends to just spread, so we looked at channelizing this to get it to the pipes that go under the English [inaudible]. We looked at it being a grass lined channel. Again, it is about 350 to 380 feet across the property – being very flat, to channelize or to keep the water confined in a narrow area instead of it spreading across a wider swath of the property, doing a grass lined channel, being so flat, this tends to erode over time and become a maintenance issue and pooling of water. If we have any pooling of water, it tends to lead to health issues with mosquito breeding, so again it is another maintenance issue. So to keep the water from potentially eroding the property and pooling, the next option was to do a channelized

and in this case because it was so flat, a concrete lined channel. Mr. Maylott explained that this channel that is designed to be constructed on the property is 10 feet in width and slopes up in a 3:1 slope for the sides.

- Burk: And it is just concrete?

Staff answer: Yes, it is concrete. We looked at if we could pipe this. The pipe that comes into this area is a single pipe – the oval shape – again because there is no cover or because of it being so level, carrying this pipe onto his property, this pipe would extend three to four feet above the natural ground even after digging down this channel. Mr. Maylott has asked that we put multiple smaller pipes in this area. The difficulty of putting multiple smaller pipes is because of the long run, 350-380 feet, and they are very flat, any water that is carrying any sediments or debris, this tends to settle out inside the pipe. Trying to clean out a pipe for a distance of 350-380 feet, 18 inches in diameter is impossible. So, we would have to, if it got stopped up, we would have to go back on the property and dig the pipe up. It seems to be the less intrusive option is to use the concrete channel and to address his concerns about having livestock in there – getting into the channel. We agreed to fence it and create a small area along one end where he can cross the channel from one side to the other – have equipment, machinery, vehicles, livestock.

- Burk: Does that settle his problem?

Staff answer: No. It addresses the drainage flow by creating an adequate outflow or outfall from our project, which we are required by legislation to do to get it to the pipes that run underneath English [inaudible]. Mr. Maylott would like us to pipe the entire length and again, because it is so flat and it spreads out for a long area, any pipe that would be installed in there would have to have cover dirt over top of it and would be creating a large mound. If we do that, then the water that falls on to the property on either side of the pipe has no way to drain and would pool on the property.

- Burk: Gosh, this is kind of a...

Staff answer: It is a very difficult situation.

- Burk: And I can understand the gentleman's concern about having a big trench going through the middle of your property. It is not a problem that he caused, it is a problem that we are creating because of our project and that just doesn't seem like – it seems like it is kind of unfair to him. What would be the impact to him because of this big trench in the middle of his yard.

- Butler: Is there some way to cover the trench with some sort of pervious surface?

Staff answer: Again, any cover would require the mounding of material. Impervious asphalt or concrete – are you talking about lining the ditch with pervious material?

- Butler: I mean covering the ditch with something with holes in it so the rain will go into the ditch instead of pooling on the side.

Staff answer: The span on that would be quite long. I mean this is 10 feet, plus the side slopes. It would be 16 feet across the top. So, it would be quite a structure to do that.

- Butler: Okay, but you are saying right now, all he would have is one place for him and his livestock to cross the ditch?
Staff answer: Yes.
- Butler: How much does each bridge, if you will. I don't know if it is a bridge or whatever kind of a structure it is. How much does each one of these cost? Could we put in three or four?
Staff answer: We certainly could do something like that. We could put in several of those. I don't have a cost for that.
- Burk: Would that take care of his need?
Staff answer: It would still leave a majority – even providing additional – it would not cover the entire 380 feet.
- Butler: But at least – I mean if he wants to get to one end, he would have to walk all the way up and then 380 feet down. I mean that seems to be a burden. I would not be happy if he came onto my property. My property is nowhere near that big, but if it were, I would not be happy with that solution.
Staff answer: If that is something the property owner asked us, we would investigate that and that can be part of the investigations. Yes.
- Mayor: Mr. Maylott, would you like to ask that?
- Maylott: I would like some more negotiations. If we have some temporary flooding or ponding in heavy rain situation. I could accept that. [Inaudible]. The idea of a 20 foot ditch across my property [inaudible].
- Dunn: How much more creative can we be to get what we need to get done and have the property owner satisfied with what he feels his needs would be met?
Staff answer: It has to be engineering feasible. Again, trying to span a 20 foot distance would require probably some type of beams – it can't be a flat pipe which are typically placed [inaudible] in the street for temporary work during trenching waterlines or something – spans no more than six to eight feet, so we are talking almost triple that distance and those are $\frac{3}{4}$ to 1 inch plates. Again, if you are talking about a pervious type of material, again spanning 20 feet would require probably three large beams. These beams then become obstacles or obstructions as the water flows. Then it tends to back up water and force it around. It could potentially float up any cover that is there because this channel is to catch what is considered a normal flow. If we were to have a very large event, then the water is going to come out of this channel. It seems something that is ten feet wide with a top of 16 – saying it is minimal doesn't sound very reasonable, but this channel is to carry a normal storm event.
- Dunn: And is it possible to have a larger pipe that allows for drainage to come into it from the top along the length of it that has multiple areas where water can drain into it? Holes in essence. It could be deep underground but still have the drainage you are looking for?
Staff answer: Certainly it could be potentially – it may be easier to channelize it along both sides – a smaller channel. But again, you are talking about a pipe that is about four feet tall, so it would require a minimal cover over top of that is a foot, so we are talking about mounding material about four feet

high. If you do a minimal slope of 4:1, then you are talking about a mound that gets in a width of about 24 feet.

- Dunn: But you don't necessarily have to have a mound. If you put it underground or just below the surface, then there is just a thin layer of turf or whatever pervious surface you want.
Staff answer: We are limited to putting anything deeper in this area. Our control point is the three pipes that go underneath English Yew Way – the existing ground in that area, we cannot go any deeper than one foot in depth or the water could not get out of this channel and cross that road.
- Dunn: Okay and again you said that we are required to manage the water flow.
Staff answer: We are required to provide adequate outfall to a natural drain as a part of the project.
- Dunn: And we are required to whom for that?
Staff answer: The Department of Environmental Quality.
Brandon: This particular property is outside the town limits. It is being funded by VDOT and it is being administered by the Town. So, we are actually bound to follow the regulations of not only DEQ, which Keith mentioned, but also the county regulations, VDOT regulations and the town regulations. All three of those have comparable regulations about this.
- Dunn: You answered my next question which was is there a way that we can throw more money at it and since it is outside the town, we can get either the county or in this case, VDOT. Are there other solutions that may be more costly that we haven't addressed that we just may need to go to VDOT and ask for more funds.
Brandon: Geometrically and particularly the vertical geometry of this makes the situation extremely difficult. There may be solutions that are available, but they would be quite expensive. We aren't talking tens of thousands of dollars. We are talking hundreds of millions of dollars.
- Dunn: And I am sure the property owner doesn't want a bunch of standing water on your property, correct?
- Maylott: Well, if the standing water was only during extreme rain periods, that could be tolerated because [inaudible]. Some standing water, I could [inaudible].
- Dunn: Unfortunately, we have got to get Mother Nature to agree to that one and I know where you are coming from because the builder in my neighborhood redirected a mound behind my house and then put in this big concrete slab. Fortunately, it is now behind my neighbor's house and his fence, but when they did that they changed the water flow, so nothing goes into it anyway, but it does sit in my yard and then flows in to my neighbor's yard. So, it...
- Maylott: [inaudible]
- Dunn: I guess the other question for staff is, and I know it sounds strange to even ask this, but if a property owner is willing to have some level of standing water, is there something – I have been asking if there is a maximum we could do – is there a minimum that we could do that may result in standing

water – I know this is crazy to ask, that would result in standing water, but would not be as intrusive upon his property.

- Butler: Just to add on to that, if there was “standing water”, how long would it stand? I mean would it be standing for permanently or would it be standing for a couple of days and then eventually soak into the ground, right?
- Maylott: [inaudible] because it is very flat. In a matter of two days, it dries off. [inaudible] additional run off from the project, I am sure it would dry off after a while. You could cut down the 16 feet.
- Dunn: is there is a minimum? Is there a minimum on this?
- Maylott: [inaudible].

Staff answer: The size of the ditch as designed now is based on the water that is coming from the north of his property. It currently comes from north of Mason’s Lane and will continue to come in that direction – thus coming from our project – from our stormwater management pond. The regulations require us to design the outfall from that project to meet that requirement so even if we were to eliminate any water that comes from his property, we would still have to design the ditch to be an adequate outfall for our project. Right now, generally the same amount of water coming across his property, but where it is coming now would not be considered an adequate outfall. It is not designed to carry that water any distance. It spreads it out and flows across his property. Because we have this project, we have to design it to meet current standards.

- Butler: So, we are required to fix something that is not really considered a problem today. I love government.
- Dunn: I’ll wrap up, but you mentioned a delay in the project without an affirmative vote today. What type of delay are we talking if Council were to ask you to drop back on this and punt and look for some other alternatives that may work for the property owner? How much of a delay are we really talking about?

Staff answer: It depends on how long that delay lasts. The urgency today is so that we can acquire the land rights we need and begin the utility work so that we can begin construction next spring. The more we delay, the less utility work will be done and we will delay the beginning of our project from spring, when we want to begin the project because it starts the construction season. We start eating into the construction season at that point.

- Dunn: For me, I would – I don’t know where the rest of the Council is, but for me I would ask that staff work with these property owners to try to find another solution, if there is one because I am always hesitant to vote for condemnation. I would much rather have win/win situations when it comes to acquiring easements, but if it is outright condemnation, especially when folks are not happy with it, I would find it difficult to vote in favor of this. So, if we could find another solution, that is where my position would be.
- Martinez: I kind of agree with the general consensus. I think there could be some creative solutions [inaudible] across driveways [inaudible]. I am not going to make any real suggestions, I am just going to say. I would like to think that I don’t like the condemnation procedure, even though if that is the

last resort, that is the last resort. I would rather see staff work and try to come up creatively with something that can help – hopefully both are willing to work together and compromise.

- Hammler: If we have the time, I agree with that. Work towards something that is perhaps not an over engineered solution. There may be some creative way that you could find how other municipalities may have solved this problem. You know, clearly for the record, I think it is remarkable that we are actually at the point where we are finally completing the last section of Battlefield. That is a huge accomplishment, so we look forward to getting cooperation and working really hard to try to resolve these last issues.
- Fox: I am a great property rights proponent so I agree with Tom and with Katie and Marty as well. Over-engineering is a good term. I am not an engineer, but it seems like a ten foot concrete ditch through a property seems almost like over kill so I would like to see if there is any other way this can go about. I understand that if we figure out that it is not what is best, I understand, but I really think we should go back and take a look.
- Mayor: I think we are going to get that from most of the Council, so Keith and Tom, and Mr. Maylott, I don't know when you might anticipate whether you can come up with a solution that is more palatable for Mr. Maylott, whether it is additional bridged areas over this ditch. I don't know how many Mr. Maylott would be comfortable with – whether you'd want two, four, I don't know, but I don't think Council is going to vote for this tonight, so we need you to try to work with Mr. Maylott and would you like to speak at the mike?

Dawn Johnson: I am Mr. Maylott's neighbor and I spoke in front of Council probably eight or nine months ago about this project coming through my yard putting three lanes of traffic, utilities, a sidewalk and a green space in my yard under every bedroom window in my house. Nothing became of it. I have been talking to folks and I have listed my property and sold it – or I have a contract that settles very soon and I have sold my property way, way under the value that I pay taxes on this property. So, I feel that there should be a vote tonight. Those funds should be released and it would be my only way to make up for the lost equity in my property. No offense to Mr. Maylott, but I would hate to see this delay – you know I have lived in this house for 15 years. The project has ruined my property value. I have lost so much equity in my home, so if there is a delay of a month, it is going to be quite hurtful for me as a landowner all because of this Battlefield project. You know, I have been dealing with water issues ever since Freedom Park was built. The water runs out of the park. There is not enough adequate drainage. It goes down Mason's Lane, rolls into my back yard, floods my basement and then goes into Mr. Maylott's yard. Every single time, we get more than an inch of rain an hour. So, I really want to see this come to a vote and the funds released.

Butler: Could you using that map, point to your property?

Johnson: This right now, I think I am losing 30 some feet of a 60 foot side yard, so these lanes are going to come – having many trees cut down and all this

traffic is going to go right under the bedroom in my home. I am so fortunate that I have a contract on this house. The people that are moving in, basically they don't know what they are missing. They are aware of the project. They understand and are willing to accept this. I however, am not. With it coming so close in, I just really want this to stay the course, release the funds and let me move on.

- Butler: Question for staff. I can see that the two properties to the north, if we don't vote on them tonight. I can see how that would delay the project. The large property to the south, it is not clear to me how that would delay the project if we were to delay that a little bit. It would not.
Staff answer: It would give us the ability to begin the utility relocation while continuing to work with Mr. Maylott [inaudible]. That property is [inaudible].
- Butler: Madam Mayor, I would be enthusiastic to vote tonight on the two properties to the north and not the property on the south and I think that would not only give an opportunity for staff to negotiate a different solution and would also result in not delaying the project. It would also provide you the money that you are looking for, so when it comes to a vote, I will make that motion.
- Martinez: That was my same direction – can we split up the plots and – because I don't want to delay the project. I wasn't sure about the other residents, but since they have spoken – the one has, I am more than – that was the direction I was going in with Dave.
- Mayor: We might have others come forward.

Michael Hummel: As you can guess, we are the third property. I have several businesses here in the town at 204 Wirt Street, but I am speaking on behalf of my two relatives in the back, Sherry and Carol, that own this property. Sherry lives there. Thank you for the time tonight. Quite frankly, I am here speaking because they are so emotional and distraught about what is going on with this, that they are not comfortable addressing you. Sherry took a long time searching for a property in the Leesburg area that could accommodate her special needs son with bus access and a setting for perceived privacy, all of which will be gone with this project. We have been meeting with the town on this acquisition for almost a year now. Sherry and Carol completely understand the need to construct this road segment as well as the fact that the overall design line is correct and quite frankly the only way it can align in this area. It is just unfortunate these properties – and you see as you go further along everything gets away from the houses, but here it is right on top of the houses. We have found the town staff to have treated us very politely and very cordially this entire time. Their constant message has been they want to work with us; however, that does not ring true at all. Of all the various reasonable requests we have made, which I will explain, nothing has been accommodated. First, the design for the road requires the town to destroy a significant portion of our septic field, which is here in the front yard and for them to provide a new driveway access to the property. Obviously, a four lane road like Battlefield, you can't have driveways coming out of it – which we understand. The first encounter with the town was when the staff said they had to have a consultant enter the property with a backhoe to dig test pits which

we gave permission for. They tore up an area of the yard leaving several large holes and did not reseed the yard. I placed multiple calls to the town to try to get this fixed with minimal results finally ending in Sherry reseeding the yard herself. The town is proposing a completely unconventional reconstruction of her drainfield, having the drainfield lines at a right angle instead of normal straight lines. This would never be allowed by the state or the county in any new construction. The approval of this took the town a long time to force through the state approval process to the disagreement at first of the Loudoun County Health Department. This drainfield will make the resale of this property very detrimental at best. The town was forcing Sherry to find a contractor and to oversee the contractor, which she has no knowledge of how to do. She will have to take time off of her job, which is difficult and she is not compensated for that. The town is handing her the money to redo the drainfield, but making her do the work. I don't understand how that occurs. The town made insignificant attempts to find a sanitary sewer solution to protect her value, which would have been a much better thing than this unconventional drainfield. The design is revising her very simple circular drive access that she has to Mason's Lane now – currently has two entrances and now is going to be a very long, narrow driveway, which we have been told will be maintained by the town. There is no way that this is not devaluing this property but there is no compensation for that. It is hard to place a value on that. This substandard access places a daily bus access at the driveway that her son has now to go to his job in jeopardy due to the long driveway configuration. Additionally, our attorney is concerned how the town can maintain a road that is outside the town boundaries. The biggest issue though is due to the poor power utility design on the project, a large swath of 30 huge, mature trees are going to be wiped out solely for the purpose of placing overhead power lines on her property to serve only her neighbor's house. Those lines are now located in the right of way in front of the lot immediately adjacent to the property line. If this was a development application before this town, those trees would be untouchable. You really have to go see the trees or the report we provided to the town. You can see the pictures to know what I am saying about these trees. We asked the town to spend some time exploring with the power company how to serve this house in an alternative way. As an example, I expressed that the power be placed in a conduit along the front end of the property in the right of way. If that was done, all of the trees would be saved. It is pretty obvious the town is not going to force this issue. We were told the design was already done. In response to me asking this again recently, the only answer that came back a couple of days ago was that the power company said if they placed the lines underground on Sherry's property, they would still have to take the trees down. I could have predicted that answer. That wasn't the question about moving in the right of way between the curb and her property line in that slope right of way. We hired a registered landscape engineer to analyze the value of the trees using a nationwide recognized valuation system that VDOT uses in its road acquisitions. Fairfax County also uses this same system when someone wants an easement on county land, just like in this case. Almost predominantly what the town is asking from Sherry is a temporary construction easement and utility easements, a very tiny piece of dedication – 62 square feet, if you can appreciate – it is probably the size of this table. Most of it is this power line easement. Anyway, the study concluded the tree value of \$137,000 versus the town's \$2,000 offer for the

trees. At \$2,000 that's \$66 a tree. You can't buy any trees in a nursery for \$66 let alone a two-foot diameter one. The town has talked about placing some landscaping later, either on the slope of the road, or under the power lines; however, nothing that could be planted could ever provide the same sense of buffering that is there now, because the utility companies would not allow significant trees in the easement and also the road is now being built five to six feet higher than Mason's Lane, so it would take huge trees, where if you put trees there now, you buffer Mason's Lane, but when the road is six feet higher, you've got to have some pretty tall trees to have any value to them. We made multiple requests for things to be changed over the past year, all of which we were told can't be changed. I will give you a couple of quick examples. We asked that some of the language in the easement deed to be changed. One example, the town – it says in there that the town, despite it being an easement can go anywhere outside of the easement it wants to at the town's discretion. Now that didn't seem very fair. We asked for it to say that the town needs to stay in the easement they are requiring. We were told the town never alters its language. Then I asked for another provision that says anything in the temporary construction easement – a temporary easement, becomes the property of the town. That language is clearly intended to mean for the dedication area, but the way the deed was written, it covers both. I asked that to be changed and again I was told the town doesn't alter its language. In the original plan, the easement gave the right for the town to take down a three foot diameter tree right next to the house, which construction plans showed no need to even come close to and Keith Wilson agreed with that, that it didn't need to be cut and said the town would not touch that tree. I asked for the easement drawing to be changed to reflect, in case Keith isn't here or something, but that still isn't around the tree and I have asked for that for over six months now and continuously told that we can't change our drawings, so there is no confusion in what is advertised, you are offering to pay her \$42,000. Remember the \$26,000 of that is to pay her to force her to fix her drainfield, so for all the things I am talking about, you are offering \$16,000 for the various things that are affecting her property value. They are not here to profit from this at all. They would actually prefer you just leave them alone, but we know that is not the case that can happen so we are just asking for it to be a fair compensation for what is going to happen to the value of this lot. Finally, it is hard to understand how you conduct a public hearing by only giving notice of this meeting five days in advance in an email to Sherry and three days in advance by regular mail letter. We met with Mr. Wilson several weeks ago to talk about our counter to the offer that we did receive and he responded that he would get back to us. Well, that response only came three days before this meeting and we want to have a hearing to act on that. It just seems very short. That really sums up everything I have to say. I do appreciate your time and the job you have to do.

- Fox: I really don't have anything further than what I added. This brings – I thought maybe the two properties together, bringing that to the forefront, that might be a great resolution to all of this. I do have some concerns with some of the things that this gentleman has talked to us about tonight and I think we need to take that into consideration.

- Hammler: I just very much appreciate your coming out and sharing with Council all that you have been going through all these many months and this is the first time we are hearing these issues so as much as I too would have liked to have found a compromise tonight, unless anyone has any creative solutions, I think we need to get back to the drawing board and we need to get some answers. Certainly I do before I feel comfortable.
- Dunn: I guess I was a little confused because I thought I heard staff say when you first presented this to us tonight that you had not been in touch with the other two property owners. We talked about the drainage issue for the one property, but I thought I heard you say that this is a condemnation for all three properties, but it sounds like one you have a willing property owner that wants us to go forward, so I am really confused about what was said because it sounds like you've got multiple issues.

Staff answer: Each property is unique and each property has its unique feature [inaudible] trying to settle a property and Mrs. [inaudible] and Mrs. Butler have a utility easement issue and removal of 31 large, mature trees along the front, and then the remaining property is the drainage issue. The septic system has been a long, arduous task through our consultant for the major part of a year trying to get some type of a permit from the Health Department so that we do not have to relocate the landowners from the property. So, for each one has had its unique challenges which we have tried to work through, sometimes [inaudible] design options to come up with creative solutions.

- Dunn: So, the one, Ma'am I'm sorry – your name again? Ms. Johnson. Is it a condemnation because she would just rather not have obviously the road going through her front window, but she would actually rather go forward, so I'm kind of confused of why that isn't just an easement agreement versus a condemnation or is it that ultimately she would rather not have it go through her front yard?

Staff answer: I think it is a condemnation – it is going through a property settlement and maybe not all parties are in agreement or did not come to a compromise so –

Notar: Yes, I got a phone call from her attorney, if I may jump in here. He did not get into all the details, but it is part of the settlement agreement. I assume that they – as part of their agreement to sell their home, there is an agreement that the condemnation matter go forward. What this is, is an approval to file a certificate of take. Once the certificate of take is filed, that allows the town to go onto the property and build the project; however, that doesn't mean negotiations stop. Keep that in mind. This is the second step in a condemnation matter. You have already approved the offers. Negotiations continue after you approve the offers. They continue even after we file the certificate of take. So, I would ask at the end of this, that you do split up the public hearing and motion. We could always have a second public hearing for the property owners who are dissatisfied. We could continue to negotiate with them. But, you could approve Ms. Johnson's.

- Dunn: Well, that was my next question too. The – and I have to go back in my title memory banks. But, am I under the understanding then that the

condemnation, not being satisfied is basically not allowing you to have clear title to be able to sell?

Johnson: Well, I don't follow you. I am not worried about the title. I don't know how to

- Dunn: There is an action pending on the house, so it would be much like – almost like an additional lien that wasn't cleared in order to sell your property. So, I was wondering if that was something that you felt was keeping you from being able to sell when you'd like to.

Johnson: Yes, I have lost over \$50,000 in property value to get this house sold so the money that has been offered is no where near that, but I understand that negotiations continue, as Ms. Notar said. The attorneys need to work on this. I am never going to recoup all of my property value and I have lost my somewhat quiet, private home [inaudible] and the home that I have known and loved for 15 years is never going to be the same, so I am out. I am ready to go. It is not a condition for the sale of this property. The new owners are well aware of what is going on, and they accept it. I just feel that the equity I have lost, I can recoup some of it. It is not a condition of the sale.

- Dunn: I would like to know more about staff's communication to the other property owners – if the language was correct that the gentleman mentioned that you are asking them to create a run off pond or storm management pond and they have to manage that, can you explain that a little bit better?

Staff answer: The difficulty on Mrs. Dow and Mrs. Butler's property is the existing private septic system – sanitary sewer system. The roadway crosses a portion of the existing drainfield. To do that, it was needed to come up with a design to create a new septic system that could serve the property. The septic systems are regulated by the Loudoun County Health Department. A permit was finally, after approximately a year of having to look at various sites on the property the additional field could be located. Soils are not very conducive to drainage, again as the condition with Mr. Maylott's property, it is a relatively flat area – an area getting a lot of surface water draining across and standing so those soils don't make it very conducive to have a [inaudible] so the county was able to finally do an exhaustive search with their consultant, Soil Scientists, soils engineer to come up with a system that the County did review and ultimately they are going to [inaudible] on that because it is my understanding that this is a unique system for this county. The question was, again, to get a contractor to prepare an estimate that the construction work would be done – repair work or replacement work for the septic system. My thought on this was to give an advantage – instead of the town picking out a contractor, having the contractor go on their property and do the work and we did have some difficulty with the contractor that we got to do the soils evaluation. They did go out there and dig holes. They did a very poor job of backfilling. We contacted their design consultant on numerous occasions requesting that they go back out there and do the repair work. It took them a long time and that was unacceptable. It was unacceptable to me and it should be unacceptable to the town. But again, we tried to contact the design consultant to go out there and make these repairs. It took a lot of work to do that. With the land owner being able to choose her

contractor, know when the contractor is going to come onto the site and do the work and be able to have the greatest control over the requirements of her septic system, I felt that it would be best that she have – with Mike who is kind of into this work is very familiar and for me with the two contractors that provided us estimates that they could get the best job instead of us having a consultant to come in there and act as a third party. So, that is why we have asked them to see if they would be willing to – if they are unwilling to hire the contractor, then that is something the town could do. Again, as working with any contractors, we are subject to their going on there and following through with what they promised to do – with backfilling everything, seeding everything. I mean it was difficult when they did the excavation and part of the excavation left [inaudible] laying on the ground and it was my understanding when I got the call from the land owner that contractor walked away and wouldn't even rake the grass. That was a contractor that we would pay and we will get to it and follow-up another week. We don't have anybody to get out there. Again, if we do the septic system, we are kind of subject to follow that same path. We could have a contractor that we hire that just doesn't come out there and just doesn't do a very good job and that's why I think it is best for the landowner to be able to have more control over what is happening to their property.

- Dunn: It sounds like they need help.
- Mayor: Keith, as the gentleman said, I think it is unfair of us to throw a citizen into that role. You know, because if we are not hiring good contractors and we are not staying on top of them, how is she expected to do it. She doesn't have as much knowledge as you do.
Staff answer: You are absolutely right. In this particular situation, and Mike can address that – that is a field of expertise in my understanding that he is in. He is very familiar – he is much more familiar with these gentlemen that do the work than I and I felt that Mike – Mike can also – we have got an estimate from them and again, this is a [inaudible] – it costs more because of unforeseen circumstances, then we will obviously reimburse the landowner for the additional costs. If he can negotiate with these contractors for a better price, then that's to their benefit, but again I think that Mike has a much better working, almost daily relationship with these people than I and to get a much better product.
- Mayor: Mike, do you feel that way?
- Burk: That's not what I heard.
- Hummel: [inaudible], but I do have three businesses to run and I would prefer not to be spending the hours that I have spent on this for the last year and having that continue. No disrespect to my loved ones, but I would rather be working at my job than overseeing a septic contractor. But, he is right. I am in the home building/land development business. I do have a knowledge of it, but I just don't understand and I never got the sense that it was our choice. I was always –maybe I misperceived – this is how we do it and this is how it has to be done. Maybe I misread that, but we would prefer to have the town oversee this but also there is a level of knowing that it is going to be done right. They are not going to respect one homeowner asking them to do

a job. But, that's the smallest of the issues – who does that compared to all of our other issues, mainly the power lines.

- Dunn: I know this is probably – I'll throw this out as an idea. Don't jump all over me when I say this because it is up to the homeowner and I have no idea what the cost would be because that's why I am asking – if we provided public sewer.
- Butler: That was on my list to ask.
- Dunn: I don't know if that is an option for them. I don't know what the cost analysis would be.

Staff answer: We have briefly looked at that. One thing is that is outside of our service area, so it would require you all's action for us to serve the property. I am trying to remember, I think the closest point, is there is a small force main line that was constructed in approximately 2000 to serve the five homes along Evergreen Mill, so it is approximately 800 feet of line and this would be a force main system.

- Dunn: Isn't it across the street at Heritage?
Staff answer: Yes, but we can't tie into the Heritage line because this is a private line until it gets to Simpson Middle School for the high school because they maintain the line from the pump station. But, along these properties here, we do have a small force main that goes and ties into the same [inaudible] so we would have to extend the line.
- Dunn: What about at Freedom? Is that the one that goes to Freedom also? Freedom Park.
Staff answer: It goes past Freedom Park also. Everything ties in at the intersection at Tolbert Lane and Evergreen Mill [inaudible].
- Dunn: Maybe we can look into what that cost is.
Staff answer: I can't remember. It has been several months ago since we...
- Dunn: And if that is even something the homeowners want to consider. If they don't then there is no use doing it? That would be something you would like us to look into?
- Mayor: Keith, on the issue of the tree and the statement that you were able to reassure them the three foot diameter tree would not come down, but we weren't going to be able to clarify that on the plans. Could you clear that up for me?

Staff answer: Yes, we typically do – on all projects we do a tree preservation plan. It is a separate plan – trees are identified 3 inches or greater in diameter that are within the project area. They are identified and then done the calculation for. We had a no net tree loss policy, so what would that take to replace the same tree canopy there. [inaudible] was an issue with all the landowners, no matter [inaudible] and this tree was identified in our tree preservation plan and it was initially identified as to be removed and we went through the plans and indicated that this tree is not to be removed. The list – we removed the tree; however, making a small change to adjust a temporary construction easement not only impacts the plan sheet that shows the property, but it impacts dozens of sheets throughout the plan. Typically it also impacts the plat. So, the plat would have to be redrawn, so instead of

doing that since this is a temporary construction easement, all throughout the plans we note that tree should be saved; but we do not change the easement because again, each person that we negotiated each tree [inaudible] not only do you change it on the project plan sheet, specifically [inaudible] but it is everywhere that property is shown – the lines are shown throughout the plans. [inaudible] which sheet is the official sheet. It got changed on five sheets, but it didn't get changed on 12 sheets, so which one is correct.

- Mayor: So, what I am hearing is it would be a lot of staff work to redo all those sheets and that is what our objection is.

Staff answer: It would be a lot of work for our designer, but we have taken care of the situation on the Tree Protection Plan, which is an [inaudible] sheet and on that is based what the contractor – which trees are removed and which trees are saved and on this particular sheet, this tree has been noted to be saved.

- Butler: Could you do something else like commit to putting a sign around the tree that says do not cut down this tree under any circumstances unless you call Keith?

Staff answer: Yes, there is. On the erosion and sediment control plans, there is a part of not only the silt fence that is put up to contain the run off, even tree protection plans. There is a tree protection plan that is put up before any trees are removed and this tree is outside the tree protection fence and so I have agreed to the landowners that we will adjust this fence once we get out there so it not only creates a physical barrier so the contractor knows not to remove this tree, but it also creates a physical barrier so contract employees do not pass this area. Do not pass this area to get onto the other property.

- Butler: Right. Now, is there no way to underground these power lines to save the 31 mature trees?

Staff answer: Unfortunately, in talking to the utility company, the concrete sidewalk – the five foot concrete sidewalk that runs along the entire length of Battlefield Parkway, is located approximately 1-2 feet from their property line. It did extend to get this barrier down to the corner of their property adjacent to Ms. Johnson's property, but we did have to acquire a small triangle and it is approximately 61 or 62 feet. It begins at a point, runs about 50 feet or so and then [inaudible] about a foot and a half. The power line – there is no space between the sidewalk other than approximately 1-2 feet to bury this underground line. So, the utility company and the town – typically because of maintenance issues and then if they have an issue with the line, then they would have to go out there and tear the sidewalk up. It is very difficult to go and find if they have an issue – so to not bury this line beneath the sidewalk, it has to be moved back and that puts it on unfortunately the landowner's property. The other issue is getting to the corner if it is buried, it will go through kind of the area where the existing septic system fill bed is located that is going to be abandoned for the new system. The utility company does not like to for health concerns to trench through a septic field bed even though it is no longer active, it has been used as such for a period of a number of years.

- Butler: Are they concerned about the health of the workers that trench through it?
Staff answer: Not only the workers, but as you are digging the trench up and the material that comes out of it is spread on the ground.
- Mayor: Keith, since it seems like Ms. Johnson is the only person here tonight that wants a vote tonight, which PIN is hers? Of the three you have got in your chart, is hers the first?
Staff answer: 233-16-1536.
- Mayor: Seeing that Ms. Johnson has requested that we vote on hers and a couple of Council members have indicated an interest in doing that, so we might want to separate that one out. I am not sure I would be willing to go forward with the other two tonight, but if she is comfortable with us going forward on hers, I don't have a problem with that. Is there anyone else from the public, because we have not closed the public hearing, so anyone else from the public who hasn't spoke and who wants to speak on this before we do close this public hearing?

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

The public hearing was closed at 9:18 p.m.

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

RESOLUTION 2015-129

Declaring that a Public Necessity and Use Exists and Authorizing an Offer to Acquire Right of Way Dedication and Easements from PIN 233-16-1536-000 for the Battlefield Parkway – Route 15 to Dulles Greenway Project and to Authorize Condemnation

Council Comments:

- Burk: I know this is a hard situation. It is difficult for everybody, but since it has just come to our attention, it is important for us to take a little time and see if there are some other solutions. So, for that reason, I do want to do this.
- Fox: I agree. I would be willing to go ahead with the vote the way it has been moved.
- Hammler: I just wanted to add an apology to Ms. Johnson for all of the trauma you have been through as someone who has loved your home for 15 years that it has come to this point. Quite frankly, on behalf of all of the citizens of Leesburg, thank you because that extension – the final segment of Battlefield is important for the whole region, but obviously it is affecting you very personally and for that I do apologize on behalf of the town.
- Butler: I just want to make sure that staff is comfortable with how we would modify the resolution in order to get just that one property.
Staff answer: Yes.

- Dunn: And along those lines, I just want to make sure that we are modifying that we are acquiring this by purchase and not eminent domain.
Staff answer: No, that is not the case. So, once again this is a Certificate of Take is filed. The nickname is a Quick Take. It allows the feasible title to the town, meaning it allows us to get on the property and then to continue to negotiate with the landowner. It is important to know that the landowner, once that certificate of take is filed, can motion the court to withdraw the funds. So, while negotiations are continuing, they can get the funds – the fair market value that we have determined and have put on deposit with the court. They are allowed to obtain that through a court order, which doesn't take long. I assume, and I don't know all the specifics. As I said before, I assume in this case that the settlement agreement with the buyer of her property they have some arrangement where probably the buyer will continue to negotiate and Ms. Johnson will sell the property. That is what I think is happening. I can only assume that. I don't know for sure. But, that allows Ms. Johnson to sell her property and it allows the buyer to negotiate with the town for the property rights. So, no. Not yet. Could the new buyer settle with the town on payment for the land rights? By deed, yes, that could happen. That won't happen right away.
- Dunn: I guess I am just a little concerned that we are taking property that the homeowner wants us to take. I mean normally it is not – once there is an agreement there is not a need for eminent domain – we come to an agreement. Unless there is some reason you want us to condemn the property.
Johnson: As stated earlier, we just would rather see it go away. There is a vacant lot on the other side of Mason's Lane. If the project had been designed differently, I would have been untouched. They would have as well. The town already owns that lot. We are trying to make the best of a bad situation and I came here eight months ago. Maybe it was a year ago. I am not sure and I stood up and I was kind of disappointed that people are saying this is the first they have heard of it. I came here. This project has been on the books for years. This is not new. Five, ten years in the making. I am just trying to make the best of a bad situation.
- Dunn: And I agree – at the time that the land acquisition or the agreement with the developer was made, I know that I brought up the idea of rather than going through the center of that property, why don't we go to I guess it would be the west side of Mason's Lane and the developer of that side felt that it would be too much land that he would have to give up, so I was not thrilled with this layout either, but I don't know what is involved with changing that. I am sure a lot more than before you can sell your property, but if I understand correctly, just so that – because I am uneasy voting for condemnation even though you want that. I just don't like the idea of voting condemning somebody's property. I may abstain for that reason, but I just want to understand that is what we are voting on. This is a condemnation of this one parcel.
Staff answer: It is the first step in a condemnation action. Well, it is the second step in a condemnation action. The first was when you approved the

making of the offers. This is the second step. There is a third step, if it can't be settled when the town files a petition in condemnation. That is the third step after the certificate of take. That third step is when the court, either a jury or the commissioners determine the value that is paid to the property owner.

- Dunn: Well having heard that, I am going to abstain. I feel – if I was the deciding vote that you needed to do this, I would reluctantly vote for the condemnation, I just don't like the idea of voting for condemnation. It sounds like you have enough votes to allow what you are looking for to go forward.
- Johnson: It is going to happen inevitably.
- Fox: May I ask a question? It is more toward Barbara. As we talk about these, we have the landowner that wants to sell. The buyer is supposedly okay with what is going on. What if the buyer comes back and later on is not okay with what is going on? Will we be back here doing this same – going through another process?

Staff answer: No, I don't think. I mean, the property – I am just trying to think through the answer. The property is still owned by Ms. Johnson. She has the right to accept or reject our offer. Once the certificate of take is filed, it is a somewhat – it is not the correct legal word, but let's call it a lien on the property. That certificate of take will be on the property. She can still sell her home – if it is recorded, that is public notice to the world that there is an action going on with the town. So, the buyer – that's legal public notice. Once again, I did get a phone call from an attorney in town that I know so I believe all parties are aware of this action.

The motion was approved by the following vote:

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

Nay: None.

Vote: 6-0-1 (Dunn abstaining)

Staff was directed to continue negotiations with the other two property owners.

11. RESOLUTIONS AND MOTIONS

a. School Resource Officer for Douglass School

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

RESOLUTION

Amending the Fiscal Year 2016 General Fund Budget in Order to Authorize a Full Time Equivalent Position and to Make a Supplemental Appropriation in the Amount of \$92,500 for a New School Resource Officer at the Douglass School During Fiscal Year 2016

Council Comments/Questions:

- Burk: This is just a correction that we are moving forward with – getting a resource officer at the Douglass School and the county has already agreed to their share so let's move on.
- Hammler: Yes, I am strongly opposed. I think this is clearly the county needs to pay 100%. We are being asked to pay for \$48,500 and this gets right back into we keep trying to make progress in terms of double taxation. This is a school issue and I know that we have certainly communicated to the County that there is value in our police officers being involved, but that we would work with them to provide the funding. Douglass is a school that pulls from kids all over the county. Ultimately the town is always accommodating for the school system. Just look at the sheer number of schools that we continually accept. Look at Clarke County – they have one in the entire county. Obviously we have growth issues here. But that means we accept not for profit language. I think we have to take a stand here and go back and negotiate for the full amount.
- Fox: There is one question I have. I am wondering if there is some legal bar to having the sheriff's department or sheriff's deputy to be an SRO within the town limits. That would be the only thing I can think of that would make it necessary for the town to take care of this. So, I have some of the same issues that Katie has. I don't understand the principle by which some of the county services that we get like school teachers, school buses, are provided to the residents and paid for entirely by county tax, but SROs are not. Particularly with this school, you know, we have the bulk of the kids are probably not even Leesburg residents, so I kind of agree that this should be a county expenditure.
- Butler: I would just like to clarify that this \$48,500 is a one-time cost, right? And we would be paying \$13,200 a year for the personnel cost and the county would be paying \$30,800 for the personnel cost. So, we would be paying 30 percent of the ongoing cost and the county is paying 70% of the ongoing cost. While in theory I agree that it would be nice if the county was paying for the SROs, you know 30%, I think this has come up before that having Leesburg officers in those positions is worth something and I think \$13,200 a year is not such a bad thing. I do wonder though out of the \$48,500 we are paying the entire shot of that and why the county isn't paying – couldn't they pay 70% of the \$48,500 as a one-time cost?
Staff answer: Jason, correct me if I am wrong, the agreement that we have is for the county to pay 70% of the personnel and we cover the equipment that is associated with that? Am I correct?
- Fox: Why do we have this agreement? Why is this agreement in place? I don't understand.
Staff answer: The agreement that we have with the county at this time and have had for years is that the town and the county split the personnel cost. The county is 70%. We are 30% because during the summer the SROs become regular officers, so to speak, on the street, but the town provides all the equipment and resources associated with that officer being on duty. Am I correct?

- Butler: Okay, so we have got to buy a tricked out car and the cool uniforms and all that stuff which is the \$48,500 and we actually have a written signed agreement with the county on that, or is just kind of a nudge, nudge kind of agreement.
Staff answer: We actually request a contribution from the county. For the past three years, this has been the traditional. There is no official funding agreement. I don't think there is because it is based on the annual appropriation from the Board of Supervisors. It is not an agreement – would make us obligated. It is a request for contribution every year.
- Burk: I think there is an MOU on it.
Staff answer: My assumption is there is, but I can't honestly tell you that there is. I would have to go back and verify that for you.
- Butler: Alright, because I know we had it to do with the Board a couple of years ago about all of this.
- Burk: Because previously, we were paying for the whole thing.
Staff answer: That is correct.
- Dunn: Just some clarification. In the paragraph on the first page under Tab 14, Fiscal Impact. I am not sure why it is written this way, but it says the position of 92,500 of which 30,800 or 70% of the personnel costs – that isn't 30% of the personnel costs though. Oh, I'm sorry, 70% of the personnel costs unless I am mistaken.
- Butler: It is for a partial year.
- Dunn: Oh, it is partial year. Oh, okay. This is an agreement we did have. I think that what we have to remember, if the town weren't doing this, the County would be paying 100% of that position. There would be no deciding what that person did during the summer. My understanding, unless the Captain can correct me, my understanding is that the SROs are still doing some school related activities even during the summer time and not just going full time covering beats.
Staff answer: Correct. We also have summer camps and we have summer schools. Generally, the SRO assigned to whatever school the summer school is at and then other....
- Dunn: So, they are really SROs year round.
Staff answer: Yes.
- Dunn: So, in reality the county should be covering it 100% because if we weren't, they would be and once again here is Leesburg paying more than our fair share for a function that is a county function, okay? And we talk about trying to get more interdepartment communication going and I know the explanation for this is that we feel the communication would be that the SROs is more straight line when they are wearing a blue uniform versus a brown uniform but I really think that if the person is in a brown uniform and there is an issue, they are going to come to you. They are not just going to say hey we got something on Leesburg, let's bring in the Sheriff's department. If there is, we got bigger issues, but I would like to know if we did not pass this tonight, what would happen? Would it mean that we are going to provide an

SRO at 100% or does it mean that the County is going to have to provide the SRO at 100% or no SRO in the school, I guess.

Staff answer: At this point, there would be no SRO in the school unless the county decided to pick that up.

- Dunn: And that decision is the county's decision, you know. You do not have any say over where SROs and what school they are in.
- Fox: So you are saying, an SRO even though it is shared between right now Heritage and Douglass, that agreement wouldn't continue? There would be no SRO at Douglass?

Staff answer: The SRO from Heritage comes over as needed, but is not there on a regular basis, is my understanding. Is that correct, Captain?

Grigsby: That is correct. The number of calls that we have been experiencing at Douglass does pull that SRO from Heritage, so basically you have that school without an SRO at times.

- Burk: Well, the history on this – the chief of police came and spoke to the council and asked us to allow the Leesburg police to be in the schools – that it was a benefit to the police officers to have relationships in the schools and if it was the Sheriff's department doing it, it would be a disadvantage for the Leesburg police to be able to develop these relationships and find out situations and solve situations.

Grigsby: Yes, Ma'am, our preference would be having the Leesburg officer there.

- Burk: And so the county said then if you the town – you have different requirements for your officers, so it was a compromise for the county to put 70% of the money into it and as you said the police officers are used elsewhere, so it was an agreement that was set up so we could get some coverage, we could get some of our tax money back and we would still be serving our population through our local police. I remember very distinctly the chairman saying, if you want, we can provide SROs for all of the schools, we will pay for it, but they will be our officers in your town. If that is what you want, we will do that. The town was very adamant that no they didn't want that. They wanted their own officers there. They felt it was important and that they were willing to pay some of it but not all of it. So, we are recouping some of our tax money on this situation. Douglass most certainly does need to have an officer there. Not all of the students there are Leesburg students, but they spend a great deal of time in Leesburg, so I would think that it would benefit Leesburg police to know who these kids are, but that is the history of why it came to that. If we don't want to pay for it, and we want to have Sheriff's officers in the schools, then that's fine. The county most certainly recognizes that they can do that but this was negotiated years ago to try to make sure that we could keep our Leesburg police in the schools.
- Mayor: Another note to what Kelly just said – and the Captain will correct me if I misstate anything, but it was my understanding that the reason the chief expressed a strong preference to have Leesburg officers in schools that are located in Leesburg is because things that start out in the schools often spill over into the town and our officers are much closer to our community than the Sheriff's Deputies could be. They would be better able to investigate

say acts of juvenile crime in a neighborhood that often gets discussed at school. They just have an easier time solving crimes in town or dangerous activity by kids if they were in the schools.

Grigsby: That is correct, Madam Mayor.

- Hammler: Douglass is a unique situation, though. I understand that that presents a discussion that the chief has brought forward in the past relative to schools that are predominantly populated by Leesburg students. In the case of Douglass and even referencing the other email from Heritage with the current officer, it references that there are a lot of family issues that he intervenes so by definition, it sounds like this is a really good place to start to have the sheriff increasingly get sheriff's support for our taxpayer's money that we pay towards our taxes that go to the county. In this case, it would make sense for the sheriff to be the SRO given the population that is not based in Leesburg. I certainly understand the point relative to you know the risk that there is afterschool activities in and around Leesburg, but it is just as a compelling argument that they need to have those relationships based on the fact that they are dealing with family issues out in the county, so I would ask Council to really make a stand here because we know we are going to be working hard after the election. We have chosen from a timing perspective to be able to look at this issue strategically after November and I think it is important that we start now.
- Butler: How many – Douglass is an elementary school. How many elementary schools are there in the county that have SROs.
- Mayor: This is the alternative school.
- Butler: And all the high schools have SROs in the County?
- Burk: So do most of the...
Grigsby: The middle schools and the high schools have SROs.
- Butler: Okay. Thanks.
- Dunn: I just wanted to also remind us when we had this discussion with the county, I believe Chairman York's comment was it is actually less expensive for us to run the SROs than it was for the county, so it means that basically they not only have the savings here, because we are paying for a third of the full time officer in the schools all year round, but we are doing it at less cost, so in reality, they are not paying a percentage of our costs, but that represents an even greater savings to them so really if they were paying 100% of this, it may not even represent an increased cost to them and we could still have our officers doing it and just let the county pay it so they are getting a savings – now they are getting a double savings by doing it this way.
- Martinez: I don't disagree with a lot of the sentiment about the county double taxation and all of that. I don't disagree with some of that sentiment, but I think what we have to look at is if we don't do this what are we going to miss with our kids at Douglass. I don't want to put those children at risk. If we end up not supporting this and the county says well you know you had an opportunity to do it. We have a memo of understanding that you were going to provide this. They may chose not to do this. We have a need. We have children. We have them at risk at that school and you know what? I don't

care if they are not in Leesburg. They need to be taken care of and public safety is a big issue here. So, I would say that if we are going to continue to push the county, let's do it at budget time. Let's set up a discussion then about how we are going to address the SRO problem and I think right now, we need to put the kid's safety first before we put anything else out there.

- Hammler: Marty makes a good point, but the only thing I would disagree with is the timing and so for that reason I will make a motion to postpone this so that we can immediately send a letter and express the sentiment that this is a unique situation from the current understanding and that we would request 100% funding for the SRO, or in this case if they desire, sheriff given the Douglass school population.

Council Member Hammler offered a motion, seconded by Council Member Dunn to postpone this item until the second meeting in November and send a letter to the County requesting 100% contribution for the Douglass School SRO.

Council Comments:

- Dunn: It isn't our decision for those kids to have their needs met or for protection. It is the county's. This is a county function. In fact, the county is taking from our school at Heritage to send over there but that is their decision and it is not one that I feel a responsibility for other than I need to petition my representative at the Board of Supervisors to get with the Sheriff's Department to make sure that need is met.
- Butler: First of all, I question how many children attend the Douglass School, approximately. Is it around the same size as a regular high school or is it significantly smaller.
Staff answer: It is much smaller.
- Butler: This is difficult because I am not normally in favor of throwing police at problems and this is a small school which I am not sure needs a full time officer but I am not – I am happy with the town paying 30% of the ongoing costs. I would ask maybe a friendly amendment could we delay this for the purpose of asking the county if they could kick in 70% of the fixed costs?
- Mayor: Katie is kind of doing that with her motion to delay it until the end of November.
- Butler: She is asking for the county to pay 100% and maybe put a sheriff there.
- Mayor: I don't think that was part of her motion. I thought this was a motion to postpone so we can send a letter and hear back until the second meeting in November.
- Butler: If it is going to be kind of a generic letter to say, hey look – this is a special case. How much more can you do for us, I am okay with that because I don't prefer having a sheriff's deputy in there. I prefer having a Leesburg officer. I don't mind paying the 30% but kicking in to close to \$50,000 for stuff that just bothers me. I think the county could pick up 70% of that, at least.

The motion to postpone was approved by the following vote:

Aye: Butler, Dunn, Fox, and Hammler

Nay: Burk, Martinez, and Mayor Umstadt

Vote: 4-3

12. ORDINANCES

a. None.

13. UNFINISHED BUSINESS

a. None.

14. NEW BUSINESS

a. None.

15. COUNCIL MEMBER COMMENTS:

Council Member Dunn: I don't like to use Council Member Comments for carrying on the last item, but I will this time. The other thing I would recommend is it also may be considered drawing an officer from some other school than one here in Leesburg, might be nearby. I think that the point was made pretty well, but just to reiterate that if the main reason is because the information that is gathered in the school pours out onto the streets, that those streets are in the county and that it would make more sense that an officer who would be able to handle county issues, which we can't, that it be a county officer. Having said that, I did want to point this out – I didn't get a chance to talk to Kaj about this and I don't want to make this seem like it is a jab in any way, but I am grateful for the efforts by primarily Kaj and the Chief for putting together the appreciation day. The only things that I would – it came off as it was Council saying thank you. It was meant for the town to say thank you. I think we missed it on the announcements of that. I don't think another person other than 80 something officers – 90 officers and a few staff and Council knew that it was Officer Appreciation Day. It was a little discouraging that I saw Betsy send out a press release about a new high tower going in town, but no press release in time to get into the paper to let citizens know that it was the town saying thanks to our officers. So, something we can work to next year. I know that Kaj was trying to move this a little further down for planning purposes and the chief was too. I appreciate the short time frame that you all worked on and that was greatly appreciated and the officers seemed to definitely enjoy it and hopefully next year we can plan on getting more corporate sponsors and make it a bigger deal and really have the community know about it, because I think they would be behind it if they knew and when every day you wake up and you hear about another officer who's live was taken, it really brings it home, the need to show that appreciation. So, but I am grateful for everyone involved and hopefully next year with some extra planning we can really let the whole community know.

Council Member Butler: Just one disclosure. I met with the folks from Crescent Parke again. I enjoyed the Police Appreciation Day. I was able to make all three meals. It was great seeing everybody and I don't remember which one it was – maybe it was lunch, maybe it was dinner where a number of officers were sitting down and had to have some conversations and it was enjoyable so I know that the entire town appreciates the police. When I go out and talk that is some good feedback that I almost always get. I also had fun

at the airport seeing the virtual tower. That is really slick and I think it is really great thinking that we could have a tower and the controllers could be in Oshkosh or anywhere and it would work pretty much the same, so that's great stuff. I want to make sure that we do everything that we can from a Council and staff standpoint to keep that thing here because I think it would be great for the airport and allow it to grow and do great things. Last, but not least, I just hope that regardless of your political affiliation, I hope everybody votes on Tuesday. Next Tuesday. One week left. This is the year where we have by far the most candidates on the ballot so I know there is a whole lot of candidates that are thinking okay one week from 7 p.m. yay.

Vice Mayor Burk: I can't wait to get rid of the signs in my yard. Geez. I want to congratulate the Economic Development Department for their virtual realty tour and panel discussion. It was a very interesting event and the panel discussion was on arts in the town and it was very useful and very interesting. The thing that really struck me was how many of the people in the audience were really enthralled with the panel discussion. I really believe that arts do make a difference in the Community. I want to thank Marshall Bank for the sponsoring of the Police Appreciation day. That was really nice. The virtual tower thing is just amazing. It is a unique opportunity. Correct me if I am wrong, but we are the only airport that has it in all of the United States and Canada?

Mayor: It is the western hemisphere. We are the first and only in the entire western hemisphere. The first one was set up in Sweden about a year ago. There is one in Australia and there is one in Ireland.

Burk: So, what an opportunity and it will be great to see how that develops. Just go out and vote!

Council Member Martinez: I really want to thank [inaudible]. Like I said, I even volunteered to coach next year. I would love to do that. I really want to thank Gwen for her prayer. I thought that was very moving and I really appreciate her caring about community and our council. I think that was really touching. I missed the virtual tower. I know that is my bailiwick, but unfortunately it wasn't on my calendar and I don't know how it didn't get there, so I am sorry I missed it. I want to say yay for Dick's Sporting Goods.

Council Member Hammler: I just want to say thanks to Tom for the great idea about the Police Appreciation. It was a great idea and also Bruce Gemmill and John Marshall Bank for kind of a serendipitous way that all came together, but it was very, very generous of them and of course thanks to all of our police officers that work 24/7 to keep us safe and everything they do for our community. I wanted to quickly say congratulations to my tech commissioner, Eric Byrd, who was hired as the SBDC manager. Just going to be an added value to the Tech Commission because he is also liaison to the EDC. I think that will be great. I just wanted to also say congratulations to our Parks and Rec department because they have received many awards, but in this case it was the international events award. Finally, congratulations Kaj on the vote of confidence from this council. It slipped under the radar this evening, but I am looking forward to working with you for the next two years, at least.

Council Member Fox: I just wanted to say for the record on the whole SRO thing, I kind of disagree with the agreement the town has with the county. I am sorry about that. I think it is tantamount to what if the school board came to us and said we want to charge for transportation. I feel like it is about the same thing, so I just wanted to put that out there. As far as police appreciation day, I was really honored to be a part of that. Still working off the cookie that I ate from there, but it was one of the best things I have ever had. Carl looked at me like you are not going to eat that whole thing. Yeah, I ate that whole thing. The Virtual Tower – I have been a part of the airport commission for a while, so I have been privy to the equipment and everything over there. I just wanted to let everybody know out there that I appreciate – we have a great airport manager. We have a go-get'em airport commission and I think they do a great job.

16. MAYOR'S COMMENTS

Mayor Umstattd had no comments.

17. MANAGER'S COMMENTS

I want to thank you for your support and continued confidence in me. It has been a pleasure and honor to work with you as your manager for the first year and look forward to continuing to do so to serve our great community and residents over the next several months and years to come. So, thank you very much for your support.

18. ADJOURNMENT

On a motion by Council Member Martinez, seconded by Council Member Butler, the meeting was adjourned at 9:59 p.m.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2015_tcm1027