

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

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

**Council Members Absent:** None.

**Staff Present:** Town Manager Kaj Dentler, Deputy Town Manager Keith Markel, Town Attorney Barbara Notar, Assistant Town Manager Scott Parker, Director of Capital Projects and Public Works Renee Lafollette, Director of Plan Review Bill Ackman, Director of Planning and Zoning Susan Berry Hill, Director of Parks and Recreation Rich Williams, Director of Economic Development Marantha Edwards, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Michael Watkins, and Clerk of Council Lee Ann Green

## AGENDA

## ITEMS

### 1. **CALL TO ORDER**

### 2. **INVOCATION:** Council Member Butler

### 3. **SALUTE TO THE FLAG:** Staff Sgts. Smith and Diehl, USMC

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

### 5. **MINUTES**

#### a. Work Session Minutes of October 26, 2015

*On a motion by Council Member Martinez, seconded by Council Member Butler, the work session minutes of October 26, 2015 were approved by a vote of 7-0.*

#### b. Regular Session Minutes of October 27, 2015

*On a motion by Council Member Martinez, seconded by Vice Mayor Burk, the regular session minutes of October 27, 2015 were approved by a vote of 7-0.*

### 6. **ADOPTING THE MEETING AGENDA**

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

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

*Nay: None*

*Vote: 7-0*

### 7. **PRESENTATIONS**

#### a. Presentation – Webber Seavey Award for Quality in Law Enforcement

Chief Joseph Price introduced Jeremy Thomas, Motorola Corporation, and Vincent Talluci, Executive Director of the International Association of Chiefs of Police.

Mr. Talluci stated the Leesburg Police Department is one of three recipients of this prestigious international award for their Organized Retail Crime initiative.

b. Certificates of Appreciation – Renee Bricker

*On a motion by Vice Mayor Burk, seconded by Council Member Butler, a Certificate of Appreciation was approved for Renee Bricker for her assistance with the Police Department's Organized Retail Theft Prevention program.*

c. Certificate of Appreciation – USTMA Kick Cancer Out of this World

*On a motion by Vice Mayor Burk, seconded by Council Member Martinez, a Certificate of Appreciation was approved for Grand Master Choi and the USTMA for their long running Kick Cancer Out of this World campaign.*

d. Proclamation – Small Business Saturday

*On a motion by Council Member Fox, seconded by Council Member Hammler, the following was proclaimed:*

## ***PROCLAMATION***

### ***Small Business Saturday November 28, 2015***

**WHEREAS**, the first ever Small Business Saturday was launched by American Express on November 27, 2010 to encourage people across the country to support small, local businesses; and

**WHEREAS**, in 2011 across the country, mayors, governors, senators and the President of the United States voiced their support for Small Business Saturday; and

**WHEREAS**, in 2012, 73.9 million people were recorded shopping in local, independent, small business locations; and

**WHEREAS**, in 2013, 1,450 neighborhood champions rallied to boost the program in their community; and

**WHEREAS**, in 2014, an estimated 14.3 billion dollars were spent at small businesses across the country by nearly 88 million people including Leesburg, Virginia; and

**WHEREAS**, the Economic Development Commission supports Saturday, November 28, 2015 as Small Business Saturday in Leesburg.

**NOW, THEREFORE PROCLAIMED** by the Mayor and Council of the Town of Leesburg in Virginia that Leesburg encourages residents to patronize the

Town's small, independently owned and operated businesses on Saturday, November 28, 2015.

**PROCLAIMED** this 10<sup>th</sup> day of November, 2015.

- e. Proclamation – Diabetes Awareness Month  
*On a motion by Council Member Martinez, seconded by Council Member Butler, the following was proclaimed:*

## ***PROCLAMATION***

### ***Diabetes Awareness Month*** ***Eat Well, America!***

**WHEREAS**, diabetes affects nearly 30 million children and adults in the United States today – nearly 10 percent of the population; and

**WHEREAS**, another 86 million Americans have prediabetes and are at risk for developing type 2 diabetes; and

**WHEREAS**, recent estimates project that as many as 1 in 3 American adults will have diabetes by 2050 unless we take steps to Stop Diabetes ; and

**WHEREAS**, African Americans and Hispanics are almost twice as likely to have diabetes as non-Hispanic whites; and

**WHEREAS**, diabetes increases the risks of and mortality from heart disease and kidney disease, and is a leading cause of blindness and nerve damage in adults; and

**WHEREAS**, the American Diabetes Association supports eating well, which means more than just eating healthy – it means savoring food that is delicious, nutritious and simple to prepare.

**NOW, THEREFORE PROCLAIMED** by the Mayor and Council of the Town of Leesburg in Virginia that November 2015 is Diabetes Awareness Month and all citizens are encouraged to “eat well” to achieve health and wellness every day.

**PROCLAIMED** this 10<sup>th</sup> day of November, 2015.

- f. Proclamation – 240<sup>th</sup> Birthday of the United States Marine Corps

*On a motion by Council Member Dunn, seconded by Council Member Hammler, the following was proclaimed:*

**Proclamation**  
**in Honor of the 240<sup>th</sup> Birthday**  
**of the United States Marine Corps**  
**November 10, 1775-2015**

Whereas, on November 10, 1775, the Second Continental Congress, meeting in Philadelphia, passed a resolution stating that "two Battalions of Marines be raised" for service as landing forces with the fleet; and

Whereas, this resolution established the Continental Marines and marked the birth date of the United States Marine Corps. Serving on land and at sea, these first Marines distinguished themselves in a number of important operations, including their first amphibious raid into the Bahamas in March 1776, under the command of Captain (later Major) Samuel Nicholas; and

Whereas, the Treaty of Paris in April 1783 brought an end to the Revolutionary War and, as the last of the Navy's ships were sold, the Continental Navy and Marines went out of existence; and

Whereas, following the Revolutionary War, increasing conflict with Revolutionary France led to the formal re-establishment of the Marine Corps on 11 July 1798; and

Whereas, Marines have participated in all the wars of the United States, and in most cases were the first service members to fight, executing more than 300 landings on foreign shores; and

Whereas, today, there are more than 200,000 active-duty and reserve Marines, organized into three divisions stationed at Camp Lejeune, Camp Pendleton and Okinawa, Japan; and

Whereas, the motto of the service is Semper Fidelis, meaning "Always Faithful" in Latin;

Therefore, Be It Resolved that the Mayor and Council and the people of the Town of Leesburg in Virginia extend to the United States Marine Corps their heartfelt gratitude for the sacrifice that each Marine is willing to make in defense of his or her country; and

Be It Further Resolved, that the Mayor and Council and people of the Town of Leesburg in Virginia wish the United States Marine Corps a very happy 240<sup>th</sup> birthday. Semper Fidelis!

g. Presentation – Telecommunications Antennas

Ed Donohue with Donohue and Stearns, a small business in Leesburg. He gave a brief presentation regarding collocation of telecommunications antennas. He asked that Council consider allowing collocation of small cell facilities in several zoning districts in Leesburg.

**8. PETITIONERS**

The Petitioner's Section was opened at 8:10 p.m.

Andrew Borgquist: My name is Andrew Borgquist. Madam Mayor, and Members of the Council, I know you all know who I am. I am here to speak about the issue that I have been talking about on many numerous occasions and part of the reason I am here tonight because I have kind of decided that I am not going to continue coming to these meetings speaking on this, but it was roughly not quite to the day, but two years ago in this month when I had, actually it unfortunately involves the Town of Leesburg police. I had a negative interaction with the Town of Leesburg police in which I had voiced some disagreement with a town of Leesburg police officer. Although I believe we have a very good and wonderful Leesburg police, I think that there could be improvements and as then and as I still do now, I believe that what happened by the Town of Leesburg police wasn't right, but that being said, I did complain and I was vocal in my disagreement with them which although they are very good police, unfortunately being vocal on something you think isn't right didn't serve me very well because I happened to also work for the Town of Leesburg. Although I had been working for the Town of Leesburg for 14 ½ years, word got out that I had voiced disagreement with a Town of Leesburg police officer and without really any thought, whatsoever – any due process whatsoever, I was summarily fired and terminated from the Town of Leesburg. That all occurred roughly two years ago and I have been coming ever since and talking about it, hoping that there will be some change and that they will have a much more proactive policy or management in place that will prevent the kinds of things that [inaudible] Parks and Recreation Director, Rich Williams, who enacted a process that to me was neither unfair, not in the interest of the residents, or the employees or anybody that visits the town of Leesburg. I do want to emphasize that ultimately my complaint with the Leesburg police wasn't really that big of a deal, it was just the way it was handled was just extremely poor in my opinion. So, I had even gone as far as to suggest that maybe, you know, Mr. Dentler wasn't the appropriate town manager for the Town of Leesburg just because I don't feel that the reaction that I saw to make sure this kind of thing doesn't happen and these kinds of things are handled in an appropriate manner was – I don't know I'm just not sure that I saw that it was done, but anyways, I am just to continue to make sure that the council takes it seriously and addresses this concern and Mr. Dentler, that I hope that you will take this seriously and address this concern and ensure that we continue to have a Town of Leesburg police that wins awards, but that it truly is the best and it also is truly a good place for residents and employees that work in the Town of Leesburg and that we have a very fair, transparent, and ultimately not what this was kind of government.

Joseph Sanchez: My name is Joe Sanchez and I am speaking to you tonight as Chairman of the Leesburg Environmental Advisory Commission. Although the Crescent Parke town plan amendment and rezoning application currently under your review provided the impetus for these comments, the issue that I want to speak to you about is actually town wide. The Environmental Advisory Commission is concerned about the continued loss of forest cover within the town due to land development. Tree canopy losses negatively impact our local environment, our quality of life and the economic vitality of the town. The Crescent Parke proposal is the most recent example of this continued loss due to development. While tree loss is an inevitable result of urban expansion, the town provides

some level of assurance in the Town Plan and Urban Forestry Management Plan that efforts will be taken to preserve, protect and restore tree canopy. However, the continued net loss of canopy is a serious concern. The EAC urges the Council to consider how it may curb this disappearance of tree cover. In February 2006, Council adopted the Urban Forestry Management Plan for the town. One of its major objectives was to achieve an overall tree canopy cover of 40%. At the time the plan was adopted, an official assessment showed our tree canopy cover totaled about 8 percent, so we did have some catching up to do. To one day reach 40 percent, objectives in the Town Plan state the need to protect and restore tree canopy that we do have. The EAC recognizes the efforts of the tree commission and the town in planting trees towards meeting the 40 percent goal. The EAC encourages Council to continue to refine strategies to increase canopy cover and seek significant commitments from developers for tree preservation. The EAC understands that there will be a need to remove a large portion of forest for development of the Crescent Parke site and we acknowledge the current proposal is consistent with town Zoning ordinances for tree preservation. Nonetheless, this will result in a 90 percent net loss of trees. Therefore, the very significant challenge is to find ways to preserve what we have and replace what is lost as we develop Leesburg. We believe that preservation should be a priority on not only this site, but all sites, all development sites in town. We urge Council to ensure that applicants for development in Leesburg understand the Council's commitment to preserving tree cover and incorporate that objective in the design of their sites. Now, here is a thought. Perhaps permitting only 10 percent preservation is detrimental to our town goals in canopy restoration. Maybe the preservation requirement on new sites should be higher. A meaningful percentage that when combined with other tree planting strategies can help us build up our lost urban forest. Just a thought – something to explore, consider. Finally, I would like to thank you for your continued support in protecting and enhancing our natural resources here in Leesburg. Thank you for your attention tonight.

Tom Jewell: I am back again. I live in Chesterfield. I am here tonight on behalf of Mr. Steven Penoris, the owner of the Crescent Parke land. Mr. Penoris asked me to come and convey two things to you tonight. One is that he hopes that you act on the Crescent Parke application expeditiously. My second job is to define expeditiously to you. Mr. Penoris wanted you to know that he is 96 years old. He is in excellent health, but ladies and gentlemen, we are not talking perpetuity here.

Leah Kosin: 122 [inaudible] Way. I just came tonight to show my interest and support for the stage that is going to be discussed this evening as well as the water feature. I am the mother of three very young children, 8, 6 and 3. This past summer we utilized the new water feature at the Village at Leesburg quite often. In addition to using the water feature, we stayed there for live entertainment and utilized the restaurants, Rita's Italian Ice, so many of our dollars went to the Village when we would love to keep them here in the historic downtown. A lot of my clients here that I help with their marketing are looking for more foot traffic here in the downtown and I honestly feel that as a mother of three, that a water feature and a stage for live entertainment, the arts, would help keep us here in the downtown more often. We live five minutes down the road. I would prefer to support the downtown. I have nothing against village, but it would be a nice addition to the downtown, I feel. I know that there is a discussion about the pros and cons. Obviously safety is key. I know with the parking garage and Loudoun Street just next to Mervin Jackson Park where

the proposed fountain might be located, there was concern about children running into the garage, on the street, that sort of thing. I even have concern when we are at Village at Leesburg because there is only a small iron fence that kind of separates the road from the fountain area, but thankfully it has worked for a lot of families – always busy when we have been there. So, again, I just wanted to share my support for having something like that including the stage here in downtown Leesburg.

Jim Sisley: Mayor Umstatt, it is a pleasure to see you again. Hello to members of Council and Town staff. There is so much to be thankful for this evening, I am just floored. I would just like to start off with thank you for the time you have spent recognizing veterans. More specifically, the Marine Corps anniversary. My son was a Navy corpsman and the one consolation that I took away on Christmas eve the night he announced he was going to Afganistan was the fact that he was going there in support of and to be protected by some of the best trained, meanest, most capable military members of our country. He in fact did come back safe and I can only thank them from the bottom of my heart. I love my son. Also, thanks so much for taking your time to recognize small business and the people you gave awards to this evening. I will say it again. You've heard me say it before, but small business is where everything in America starts. These are people that are truly committed. When you think about breakfast, there are two animals generally involved – one is a pig, one is a chicken. The chicken is involved. The pig is committed. I am not calling small businesses pigs, but these people are truly committed. They sacrifice time away from their family. They spend all of their life savings trying to make their businesses successful and they are the backbone of the commercial tax base for our town. So, thank you very much for taking the time. I hope that doesn't take away from what I am about to talk to you about. Again, Jim Sisley, I have been in the town of Leesburg since 1995. This is my chosen home town. I wouldn't choose to leave it, although I have been coached to do that a few times. I now live in Tavistock and I have, probably over the last 45 days, more times now than I can count going up and down Sycolin Road between Market Street and the Leesburg airport. That is an urban boulevard. It is four laned. I will tell you from my experience in the 20 something years I have been in this town – nothing against town planning staff or the way that street has been executed, because I know that the plan of the future is that it will carry significantly more traffic than it does today – that street is out of character with our community. So, relative to Crescent parke – I really hope that you consider to keep the road, Davis Drive to two lane because I don't believe that it is going to serve the residents that bought and currently reside in the southeast quadrant as Davis Drive will connect to it. Four lanes blowing through that particular area will absolutely change the character. It will also probably drop property values, so sincerely, please. Do what you can to support the applicant's request to downgrade the street from four lanes to two lanes. I think it is a good move for the town and it will do considerable amounts to preserve the character of the community. Relative to the landbay portion of the application...I believe that the placement of residential where it has been requested and the associated changes in town plan are positive moves. Last time, I came to speak about Crescent parke, the one thing that I wanted to impart to you is what that new population of people would do in support of the businesses that are in downtown Leesburg. It is walkable. We have, as a town, we have a 98 percent walkability score. So, that says a lot to the ability of the people who will be residents in Crescent Parke to get from there to downtown and support those businesses. The one thing in the past 20 years that I have been deeply involved with has

been in discussions and activities with various different organizations. I have brought a number of businesses into downtown Leesburg and unfortunately, I have seen a number of those businesses go away. The common complaint from existing businesses and the lament of the businesses that failed, was that there were not enough feet on the street to support our downtown businesses. Our downtown has to compete with much larger, better equipped and better financed other retail environments. So, what I would ask you to do – is you are working with a great applicant and I am hoping you will support the request that they make and the changes to both the town plan and the zoning code and allow Crescent Parke to be delivered. It is in closing – it is my opinion that it is high density and that may be a little bit of a change for what we do as a town, but it is far, far better than the normal development of neighborhoods which have basically equaled or delivered urban sprawl to much of Northern Virginia. To kind of piggy back on the Environmental Advisory Commission – higher density residential does so much more to protect the tree canopy in our community.

Carl Eager: 644 Patrice Drive. I am president of Kincaid Forest Homeowners Association. I would like to talk about a reminder of history to the Leesburg Town Council. We have a barrier at the end of Kincaid Boulevard that was put up quite some time ago and the agreement that was previously established was we would not have to remove that barrier until Crosstrail got put through to mitigate cut through traffic to our neighborhood. I just chatted with Ken Reid and also Geary Higgins on the Loudoun County Board of Supervisors and they putting together a letter to send to you all requesting that they remove it. I would like to state my position that I would like to us to leave it in place with the previous agreement that we had with you all to do so because it doesn't seem to be any benefit of doing that. It still enables us to mitigate the rush hour traffic that would cut through our neighborhood, which I am sure is going to go faster than 45 miles an hour through that area. The other part of the deal is we need leverage to seal the deal with the Crosstrail developer to prevent them from only building a bunch of homes on a portion and leaving and not building the road all the way through. So, by putting down those barriers, which I believe you still have control over because they are within Leesburg property limits, that still leaves us with leverage and mitigates some of that issue. Some of the folks [inaudible] I would prefer at the time to be able to take a short cut, but for the long term benefit for leverage point as well as the safety of the community until we get Crosstrail built all the way through to highway seven, I request your consideration and survey the community and let us be part of that voice when it comes to you because we don't want – I don't know why Loudoun County would send it to you, but we would like to be able to give due consideration of. Thank you all for the great email response. You all work weekends and stuff too. I appreciate that dedication. It was very nice with the veterans here too.

Russell Yergin: Since we last spoke and came to the town about the Crescent Parke development, we have been in contact with our members as well as surrounding HOA board members, owners, and even management companies. We have had a lot of conversation, some with great urgency. We have had phone calls, emails, and many conversations in person. The town's Crescent Design plan requires as said, a four lane urban boulevard, because of the commercial destination on the south side of the creek – that's from Food Lion, King Street, Davis Drive, and going all through Crescent Parke to Gateway Drive. Gateway Drive is 38 feet wide all the way down to Sycolin Road. There is parking on both sides and it is indeed a residential community. People walk their dogs,

children walk to bus stops there going down Gateway and of course, we have a great deal of traffic going down Harrison as well. That road will connect to Gateway with Crescent Parke. In keeping with the surrounding communities, and they are completely in favor of it, they would like to have its width two lanes and have, of course, a residential community connected to that. The scenario of a 90 foot roadway, which is an urban boulevard going into 38 feet, just doesn't seem to work. I don't think we can move Gateway Drive to make it much wider. The Crescent Design plan calls for the entire parcel to be developed as primarily commercial with residential and mixed use. At this time, the developer is proposing a purely residential community on the south side of the creek. This residential community would seem to be a good fit for us because it is residential to residential. Going to the part of looking at commercial, there is four or five story buildings with office space and retail below it, which brings more commercial traffic up our streets, which is not in the best interest, we feel at all. The Town of Leesburg also seems opposed to the idea of residential to residential, citing that the plan originally called for something and it is immutable. We don't feel that would be the case. If the developer has to install office buildings over retail with some residential, traffic will increase and our property value won't be enhanced at all. Based on a design plan – a Crescent Design Plan, we understand that there is going to be something to do with 9000 vehicles entering and exiting just Crescent Parke alone. Before the overpass was built, a study was done and found out that just up and down Gateway Drive coming off Plaza/Sycolin Road, at that point, showed up to 6000 vehicles in a 24 hour period. This has increased markedly since the overpass has been built. That is our feeling. Often times, we have traffic backed up from Catoctin and Harrison all the way back to the bridge at the creek. We have also got a children's playground there. So, that has been increased quite a bit. We do, in fact, like to see the developer, and we have permission from you to go ahead with his residential to residential on the south side. We have not seen any traffic plans changed. We have not seen any left turn or right turn lanes on Harrison – denying the ability to do that, increasing our traffic. We know that there is going to be a cut through. We know that people are going to go from King Street, via Gateway down to Sycolin through Harrison. They are already doing this and right now, we see no stop signs. Sycolin Road and Gateway are going to have to add at least a stop light system at very minimum. The other thing that people are very concerned about, which seemed not to be a concern for many years – it was kind of a pipe dream, is the Dulles Greenway extension. As of late, I have seen several maps and they showed it in dots. It is going to happen – or maybe not, but the Virginia Department is not about to let it go. We wish that would be pursued by Council. The 90 foot right of way has been in place there and has to be accommodated as reserved area. It is mandated. Now the construction of a two or four lane exit or entrance ramp, we have been told it could be either. This right of way has a zero set back from our property, in Virginia Knolls. It was mentioned last night in the work session that along Route 15, against the new building in Crescent parke, that sound walls would not be a good idea, they would not be preferred and they would be ugly. Well imagine behind your house, at your property level, you get to look at a raised, elevated highway and maybe a 15 foot piece of concrete. You could paint it white and show movies maybe, but that's not the kind of thing that will enhance the value of our homes and attract people to our neighborhood at all and the several surrounding. We ask you to consider granting the change and the text amendment as well. I thank you.

Victoria Yergin: I am the secretary treasurer with the Virginia Knolls Community Association and I am here to speak about Crescent Parke as well. With respect to the Crescent Design District, there is confusion in the community in terms of the application of zoning. Catoctin Circle is wholly a commercial environment from South King Street to East Market Street, therefore a commercial zoning was anticipated and expected for that area. Currently a residential development is underway on Harrison Street, clearly in the commercial corridor of the CDD at the site of the former Barber and Ross window factory. The rezoning request for this body this evening is for the purpose of residential land development directly adjacent to long-established residential communities on the south side of Harrison Street all the way to Route 7 and 15. Since the Crescent Design District clearly has a CD-RH land use designation, the community wishes that designation to be applied appropriately. The marriage of residential to residential is the logical and most responsible choice this body can make for almost 1000 long standing residences in the area south of Tuscarora Creek adjacent to the east side of Crescent Parke. Rezoning to residential would also be extraordinarily appropriate for a two lane road in Crescent Parke connecting up with the two lane Gateway Drive which is 38 feet wide. We were talking about traffic and signaling. We are going to need to see something that stops traffic from coming down Gateway Drive to Harrison Street and the concept of a 60 percent increase on South King Street – that was discussed at the work session last night. There didn't seem to be a start and an end point for the 60 percent increase – it would be 60 percent from what? That seems to be a very vague and elusive number. But, right now on S. King Street at the intersection of South King and Gateway Drive, just beyond Food Lion, you can sit there for quite some time in the evening before you can get across. The preponderance of traffic takes a right turn on Catoctin Circle. If they can't do that because there is a 60 percent traffic increase, we need to have the Dulles Greenway extension in order to relieve that or we have a whole lot of people cutting through the Crescent Parke Development going out Gateway Drive to Sycolin Road. They are going to quickly realize they don't have to sit at the traffic signal at Catoctin and South King Street. What they are also going to do is move away from the historic district and the commercial corridor that already exists on Catoctin Circle. This cut through in effect just moves traffic away from all of the areas that everybody is trying to develop, maintain and enhance. I am not quite sure how this works. If we make this four lanes and we make it fast moving and we make it very efficient, moving through this development, it gets all that more enticing for people to use. So, we would like to see no through truck traffic there. We would like to see some restriction on right turns and left turns at Harrison Street and we would certainly like to see the transportation proffer by the applicant used for signaling at the intersection at Gateway Drive and Sycolin Road. It is already getting dangerous there and it is quite fast moving traffic up and down Sycolin Road. The community would like to believe the issue before this body isn't a matter of whether the Crescent Design Plan is flexible, but rather this body never intended a developer to install a large commercial application adjacent next to a residential community. We are all hoping this was taken into consideration when the Crescent Design District was formulated and implemented. Density, residential building heights, townhomes versus two over twos, greenspace, recreational space, can always be addressed as the process continues. For now, the community has an expectation the adjacent use will be logically rezoned to residential this evening. We stand ready to engage in enormous community outreach by this developer in concert with Council and the Planning Commission to address some of the following areas, just to name a few. Adequate reserve

space for the Dulles Greenway extension, the highest standards for stormwater management, appropriate and long overdue stream restoration over there, great sensitivity to areas that can and should remain forested. Going beyond minimum standards for the installation of trees to improve the canopy, sensitivity to the types of retail, restaurant and service businesses courted to that development for the proposed commercial section north of the stream. There is a general sense that the town expansion means the loss of many of the park like settings in Leesburg and Loudoun County. Some people call it progress. Some people call it destruction. Some just pack up and leave for higher ground and greener pastures. We feel that expansion and responsibility can co-exist, if expansion isn't always about money and responsibility isn't always thrust upon a person or group by beating them over the head. All of this can be done if expectations are realistic and peripheral vision is not only clear, but permitted to be part of the process and prerequisite to decision making. I thank you for this time and I ask that my comments be part of the record this evening.

Sarah Richardson: I live at 349 Shenandoah Street, SE, and my home backs to the project under question. I would, as a resident of Virginia Knolls, I would like to say that rezoning the area for residential and allowing only a two lane road seems not only reasonable, but preferable given the reduced amount of traffic residential development will bring. I would like to briefly recap the concerns I and my neighbors have. Concerns about how any development on that steep hill could promote flooding. Among the myriad adverse effects of climate change are increased rainfall as well as more severe and more frequent storms and flooding. Those new threats will compound the problems that already exist from building on a flood plain. For those of us who live near the Tuscarora Creek, managing stormwater effectively is not just a desirable environmental goal, it is a necessity to protect our homes. My second concern – other people have spoken to already is about retaining existing tree canopy and habitat, which supports for example, the deer, rabbits, birds, bats, fireflies to name only the most prominent of the species. The developer, Hobie Mitchell, has said he is committed to retaining as much tree canopy in the proposed Greenway extension area as site engineering on a flood plain allows, which is great. I would like to add that no matter what kind of development ultimately appears on that site, I urge all parties to work towards creating a suitable buffer, particularly critical given the uncertainty regarding the Greenway extension and I would also like to advocate for maintaining green space that will retain some of the site's existing forested character and create value, both aesthetic and ecological for existing and future residents.

Gem Bingol: I live at 1508 Shields Terrace and work for the Piedmont Environmental Council. I was pleased to learn that you recently decided to change the Town Plan amendment process. It should function to add more clarity or simplicity to your decision making process. I think that the Crescent Parke development discussions highlight the difficulty of trying to consider a proposal to change the Town Plan at the same time you are looking at a rezoning application. There is another issue wrapped up in this question that you are going to address tonight and it has been mentioned more than once. Does the Council think that the Crescent District guidelines have a value and what value do they have. Perhaps your answer is no. You have not really adhered to the Crescent District Plan in your previous decision, small. It appears that you may not tonight so I would suggest that with your decision tonight, you will be sending a clear message to developers that come to Leesburg that you don't expect adherence to the plan. Again, if that is what you choose,

okay. I do want to point out that every decision that you make that does not match your plan weakens your position at the time that you want to rely on your plan to justify a denial, but I think that perhaps you already know that. So, one thing that does occur to me as well this evening is, you know, there is always discussion of is this community business friendly. Are you making it easy to develop in Leesburg – I would say when you have the opportunity to develop by right or choose a rezoning, maybe it's not so hard to go through our rezoning process if that is what is being considered as the alternative of choice. I don't know. For your consideration, I do think that before you do decide on this decision this evening, it would behoove you to get the answers to the questions that your professional staff has said are the conditions in the zoning ordinance, so how the plan amendment better realizes the plan goal or objective to provide a more compatible land use and I appreciate that for many residential next to residential appears to be preferable. I guess there are many other factors that go into whether it's preferable depending upon set backs, preservation of the natural environment etc. But, how the amendment clarifies the intent of a plan goal or objective, how the amendment may provide more specific plan guidance, how it might adjust the plan as a result of a significant change in circumstance, unforeseen by the plan at the time of adoption. I could argue that this proposal doesn't meet those standards. In addition, I think that a fiscal analysis that compares general fund revenues, costs of services, and required capital facilities improvements generated by the development would be a good thing to do. Right now, it is kind of like you are making an assumption based on the feel of it – that it is going to be good for the town, but have you taken everything into consideration? Have you really looked all of the numbers? I think perhaps not. And, I don't know honestly that there is going to be any – or I think that there probably will be a change to the town plan this evening just judging from the way that the conversation has been going. So, if that is the case, I would hope that you would take a further step back from the plan and consider how the rezoning can better protect the neighbors and the access on the property that will happen in a couple of specific ways. Reduce the residential density here. This is not downtown and so go ahead, if you are going to change the plan, change the plan. Make it so that there is enough set backs, enough buffers, enough preservation of the site assets, conditions, that it really does something. Don't cram it all in there. Another condition would be the entire stretch of the stream corridor receive stream restoration. Why not? If we are going to do some of it, let's do all of it – the whole thing and build in commercial phasing so you know that you are going to get it at some point.

Hobie Mitchell: I have various properties around here. In fact, one of the pieces of property was up for discussion earlier, but I am actually up here to talk about something a little different. The first speaker was from the Tree Commission, spoke about working on tree preservation and other matters like that – the canopies and one of the things I have always not understood is why some of these places don't come to the people in my business. I will give you an example. I was an eagle scout. My son was an eagle scout. I was a scout master and we taught our children and adults about how we look at things and how we plan for things. In my current business, we kind of take those things into effect. In fact, in many cases we try to transplant trees – big trees. In fact, on Harrison Street, we are in the process of locating about – hopefully up to 20 – 10 inch caliper trees that were formerly in an interchange. So instead of bulldozing them, we are going to try to utilize those trees. The permit process to do that is amazing – just to move a few trees, especially when they are going to get bulldozed. Some other matters are looking at some of our own

facilities standards. I was a speaker at the National Arbor Foundation up in Montana, which is kind of interesting, because they don't have many trees. But that is the whole point. They are trying to look at that whole program, but you look at different alternatives for design for BMPs. I know in Lansdowne along Goose Creek we had to put some water protection programs in there so we went to some alternative designs using different railroad ties and those kinds of designs that slowed velocity and protected the waters and we didn't have to clear all the trees. It was sort of an experiment but it worked. I think it is imperative that people in the tree commission, PEC or others try to work together to see what is reasonable to try to do some of these things and try to find areas where we can move big trees. If we are going to go in and clear a big area and it doesn't have a lot of rock. That is one of the problems in Loudoun County and Leesburg so it is hard to pick these things up because you need a six foot depth, but you look at programs that you can utilize these things and move and make it an expeditious process and come up with those designs. In some areas where you've got open space, look at other alternatives like meadows. I think those things are important when you put in the designs in a community. So, we are going to work through the process, but I feel it is important that there are guys like me out there that would like to do things, but we are restricted sometimes by our own laws and our ordinances and the permit process to do that thing because we want to do some good stuff because it is the right thing to do. Moving trees down here on Harrison Street wasn't required by a proffer, but we want to do that because it looks good, helps market things and it is better- just feels better. That's my only comments. Sorry, I got off subject. In fact, I went out there and I volunteered my time to the Tree Commission to talk about some of these things so I think we are going to follow-up later. But I think it is an important aspect. Everybody has got to work together to figure out these alternatives and try to implement them.

The Petitioners Section was closed at 8:52 p.m.

## 9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Art Exhibit by the Mason Dixon Quilt Professional Network*

### **RESOLUTION 2015-130**

*Approval of a Public Art Exhibit at Town Hall by the Mason Dixon Quilt Professional Network*

- b. *Route 15 (South King Street) Widening Phase II Project – Construction Management Contract*

### **RESOLUTION 2015-131**

*Awarding a Construction Management Contract to Volkert, Inc., in an Amount Not to Exceed \$495,634.02 for the Route 15 (South King Street) Widening Phase II Project*

- c. *Local Fixed Route Transit Service for Fiscal Year 2017*

### **RESOLUTION 2015-134**

*Local Fixed Route Transit Service for Fiscal Year 2017*

*The Consent Agenda was approved by the following vote:*

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

*Nay: None*

*Vote: 7-0*

**10. PUBLIC HEARINGS****a. TLZM 2014-0004 Potomac Station Marketplace**

The public hearing was opened at 9:13 p.m.

Michael Watkins gave a brief presentation on the application.

**Key Points:**

- Property is currently undeveloped.
- Currently zoned PRC.
- Property was initially part of ZM-137, a planned mixed use development.
- ZM-154 separated the mixed use component from the residential component.
- Applicant proposes to eliminate 110,000 square feet of office which results in noncompliance with PRC office/residential ratio requirements.
- Plan includes a service station with convenience store, retail and/or restaurants, a child care facility, and a large residential land bay including multi-family units, two over twos, and single family attached townhouse units.
- Total proffer contributions of \$1.8 million – approximately \$560,000 available for use by the Town of Leesburg.
- Staff recommends denial because approval criteria for the Planned Development District were not met.
- Planning Commission recommended approval with a 6-1 vote.

**Council Comments/Questions:**

- Fox: I do have a couple of questions. One has to do with coming after the planning commission recommended PRN – and it came back to staff. Was the staff in favor of it at some point and then stopped being in favor of it at another point?

Staff answer: When the initial application was made for the PRC, we had the constraint of the mixed use ratio. We still have concerns with overall design, but as we have worked through discussions at Planning Commission, the sticking point was the retail to office ratio. We went back and looked at the zoning ordinance. We found that the PRN could be a viable work around for removal of the office and that is why the decision to go with PRN was made.

- Fox: Did staff lead the applicant to believe that PRN was good enough for approval.

Staff answer: There is a recommendation of staff to go to the PRN primarily as a work around for the office ratio to eliminate the [inaudible] office to retail ratio.

- Fox: Okay. And is it still staff's recommendation to deny this application?  
Staff answer: it is, but it is primarily based on the approval criteria of the planned development district. The three things that we mentioned were major obstacles. One – the design character isn't there. Again, we are grounded with the ordinance requirements – you all aren't. The third is the justification for modification and the third was the lack of proffered building elevations.
- Fox: Is this considered a downzoning – were there more residences at one point and they decided to downzone and make it less dense.  
Staff answer: That's a fair statement, yes Ma'am.
- Hammler: Just a couple of clarifications for the public. Are the units anticipated to be rentals or sold as private buildings?  
Staff answer: The multi-family – the applicant will have to address whether they will be for market or rental.
- Hammler: I'll have to ask the applicant that. Can you address the traffic impacts.  
Staff answer: The applicant's traffic study justifies that the levels of service of all the adjacent intersections and the roadway capacity are adequate to handle the traffic generation by itself.
- Hammler: Alright and just as we have learned recently given that Council was sort of forced into lowering our capital intensity factors for schools because of the methodology the county has employed, I am assuming that the proffers that align to the new capital intensity factors, because that difference was going to be \$2 million with Crescent Parke alone, but at least that applicant was willing to go back to the original offer of the original proffer amount, so I am assuming that this is significantly reduced based on the new proffer amount – excuse me, new CIF. So, as I told the applicant of the other – given the other situation, I'm like well the County for whatever forces were, you know, impacting the county to make that decision, they have essentially put me in a position that unless, I can't even imagine why I would justify additional residential development for that reason alone, but I am certainly open to what the public has to say, but I am also very disappointed about the reduction of 100,000 square feet of commercial office space that is critical given what our plans are for the Battlefield Corridor and essentially it is a question of balance in the town given the preponderance of residential and retail.
- Martinez: I only have one question – the planning commission recommended approval 6-1. Who was dissenting?  
Staff answer: There was dissent based on the inclusion of a proffer. I am glad you asked the question. One thing I failed to mention is when the planning commission got to its final resolution, there was the inclusion of an electronic charging vehicle station. So, that will be included in the commercial area. I think one of the commissioners objected to the fact that it was inserted as a requirement and I think that is the reason for the dissention.
- Martinez: So, your lack of including this – we can attribute to your vacation and trying to get back up to speed? I have no other questions for you.

- Burk: I have a couple. I thought the one vote against it was because there was not the assurance that the gas station – that there was a business willing to go into the gas station. I thought that was the one vote.  
Staff answer: The planning commissioner was concerned about the level of commitment to the design of the convenience store on the plan and felt like flexibility that is currently in the proffers for the developer allows him to kind of look at different users for that, but did not allow the same level of confidence for the town of what the architecture would look like.
- Burk: And has that changed at all? No. This particular plot of land is pretty barren right now. Do we have any idea what the landscaping – is it going to include trees?  
Staff answer: Currently, there is a vegetative buffer off site for the apartments located here and it is hard to see, but it extends down this property line as well. Then on the applicant's illustrative, you can kind of get a feel or sense of the proposed landscaping again. Again, there were modifications that were granted for buffer yards here, but it was primarily due to the width. They are going to come back and supplement the planting that is there for year round screening. The other modification was to decrease the planting material that I have just outlined in red. The reason why the staff supported that was based on the amenity space that is planned adjacent to it. Adjacent to which can either be garage spaces or surface spaces, there are existing trees that will be supplemented at the time they prepare their site plan and then the buffer yards continue down what I just highlighted in red as well. Then obviously along Battlefield Parkway, we have got street trees that complement the residential units.
- Burk: And that's all in the proffers?  
Staff answer: Yes, Ma'am.
- Burk: The building elevations you said they would not proffer – are they willing to proffer the illustratives?  
Staff answer: They are proffering to design guidelines and that was it. The illustratives – there was a conversation we had with the applicant. Staff's suggestion was to – based on the appearance that a lot of detail has gone into these elevations, that there was sufficient room for us to be able to work with them after approval. They were nervous. So, their main goal is to continue with the design guidelines that are proffered.
- Burk: So, these are lovely pictures but that doesn't necessarily mean it will look anything like this.  
Staff answer: No, Ma'am.
- Burk: So, you show the pictures, but you can't control what is on there if they are not willing to proffer it. What could be the highest height there? How tall could the tallest building be?  
Staff answer: In terms of the residential buildings. I believe it is 55 feet. The commercial buildings, they are two story buildings.
- Burk: That's as far as they can go, but we don't have any guarantee what the architecture will look like.

Staff answer: I will say that the design guidelines include an amount of detail, but it is comparing the design guidelines to the detail that are shown in these buildings – staff was able to find deficiencies. I am sure when the applicant comes forward, he is going to articulate the types of details that are included in the design guidelines, but again it is not the same as the picture you are looking at.

- Burk: I had a question on the school proffers. The cash contribution proffered. At the end of it you said total use by the Town of Leesburg is \$560,900. Why is it?

Staff answer: What is retained by the town? If you look at the list that I put back up here – the school capital facilities will actually be transferred over to county schools. The recreation contribution would stay with us – that's \$158,000. The off-site transportation fund, that would remain with the town – that's \$402,900. The fire and rescue – again the town serves as a pass through, so that leaves \$560,900 for our use.

- Burk: And then the last question I had was, there was supposed to be a commercial building on the site. An office building. Why is that not being built?

Staff answer: The applicant is claiming that the office market is not viable for 110,000 square feet of office uses on that property.

- Burk: Are there any other office uses on that property?

Staff answer: They could potentially put office uses in the retail building.

- Butler: Just compared to – this is in a lot of ways similar to what is already approved. We do lose some of the office space which we all know that buildings like that – it's hard to market them and sell those at this point. The height – is the height any higher than what is currently approved?

Staff answer: No, sir.

- Butler: Okay and the number of residential units compared to what is currently approved?

Staff answer: Actually lower.

- Butler: Okay, so things are just taking up a little bit more space.

- Dunn: I have a few things and I did get a call from Mr. Banzhaf today and he asked me if I had anything on this and I told him no, and I forgot something. It does have to do with the proffering of the design guidelines. I would really like to see that and frankly I'd like to see something better than what we are seeing here. This is good, but I have met with Dewberry in the past and I know that there are some projects that I have referenced for you that you all have done in Maryland that I think are outstanding. When I go to them, I ask why can't we have this in Leesburg. Well, you have not because you ask not. And I'm asking. So, I'd like to see and be happy to work with you – proffered design guidelines that can really deliver for us a great looking project, which I think just helps to sell better. You have to make the building elevations look like something. Why not make them look like the best? So, I'd like to see the guidelines proffered. Sorry, Mike, I forgot to mention that to you today. The other thing is – can you bring up the site map? Much like we have on the cover of the – here? That's good. One of the things that we seem to always

do in town is we seem to ask for the maximum parking that we are only going to use this on Black Friday. We only max out our parking one day per year when everyone is headed over to the outlet malls. Otherwise, for the most part we have all this surface that is concrete, cement, whatever and it often is not used to its maximum and it is all over town that way. I am curious why we have so many parking spaces at the service station. I know that service stations are popular. I love paying \$3.85 for a Snickers bar, but I just don't think that many people are going to be parking around the service station, for example. There is a lot of space that gets used by the service station. I know we have the shops and the restaurants nearby but it seems like we really are asking for a lot of parking here. It may be to our guidelines, but frankly I think our guidelines are excessive on that. Very often, we will hear people who want to see more green space – also want to see that we maximize parking. It almost seems like it is a way of saying, this is a way we found a catch so we can actually stop development from happening. We want more parking and we want some more greenspace. I also mentioned too that I believe that prior to this, the previous application actually had where the service station was where the office building was. I believe when this was approved last, that was more like a placeholder and we really didn't get into any issues about that office building at the time. We were just dealing with other landbays. You already mentioned that office space could go into the retail locations. How about the childcare? Could that be changed to office? Staff answer: Right now, it's on the concept plan – the concept plan is proffered to include day care uses in that location. So, no.

- Dunn: So, you can't take commercial day care and turn it into commercial office?

Staff answer: If the applicant agreed to modify the concept plan to allow a different use on the property, we could, but based on the concept plan that is before council this evening, it is proffered as a day care use and a day care use only.

- Dunn: Okay. How about the service station – could that be switched to...they get building and...no.

Staff answer: They would have to amend the concept plan to allow a different use in that location.

- Dunn: And it definitely is going to be no left turn out from Center Street?

Staff answer: Correct.

- Dunn: Do you have what our current vacancy factor is in town for office and/or commercial?

Staff answer: I don't know of the top of my head, but we can probably get that information to you after this evening.

- Dunn: Last I knew it was about 14%, but I didn't know if that was just office or that was commercial over all. Does anyone from staff know that one? No? Okay. It may be lower than that now. I'm not sure it would be higher. That's what I am asking. Total retail square footage, plus or minus from the previous plan?

Staff answer: It is significantly less.

- Dunn: Okay. I know commercial overall is, but the retail is also less and that is inclusive of restaurants because the previous plan had two restaurants right at the corner from what my memory serves. How about on the open space? – it looks like it is more than on the previous plan. Is that the case?  
Staff answer: I don't think we made an open space – because of the change in unit types on this property versus the other, I don't think we did an apples to oranges comparison just because of the change in the unit style, but the previous application had multifamily units and I think there are different perceptions in the residents that will occupy the multifamily versus the townhouse type attached unit styles, so we did not make that comparison.
- Dunn: Okay, and the previous application or rezoning – it wasn't an application any more – there was no adult active in that, correct? So the impact to schools is less then. Okay, I think those are all the questions I have. I will look forward to the applicant's presentation.  
Staff answer: I just want to response to the comment about the parking. Your observation about the parking and proximity of the gas station is good. I will say that the applicant has utilized the provision for the shared time of day for the retail building that is centrally located, so there has been a reduction in the number of required parking spaces, so we are taking advantage of the ordinance opportunities.
- Dunn: Do we know a number or percentage?  
Staff answer: I believe it was a 23% reduction.
- Dunn: I figured that the retail would be using some of those spaces around the gas station, but still there is a lot there and the retail would really have to be doing very, very well for folks to decide to walk across from the far end of the gas station to go over to that retail.
- Burk: I had one question I forgot to ask you. We have gotten a number of emails from residents that really want the gas station. That is what they really are most interested in. Do we have any phasing in regard to the gas station – like 50 percent of the residential is built? Had we had any discussion about perhaps phasing?  
Staff answer: A lot of discussion at the planning commission level regarding phasing and I think at the conclusion, the applicant was able to articulate that it is to their advantage to get a gas station on site as soon as possible. It works out financially better for them, so I think there was acceptance of that statement, but nothing has been put in the proffers regarding phasing of residential and commercial uses.
- Burk: That is something I would be very interested in since I have had so many people contact me in regard to that – that they really want the gas station before anything else even. That is what they are looking for. I don't have as much distress with this particular application because there is commercial still within it. But I am concerned about that phasing in regard to the gas station intent.
- Fox: I would like to ask one more question about phasing. I was wondering – and this is something that I just heard through the grapevine – that the

applicant had planned on building this out at one time – that there would be absolutely no phasing. Is that the case?

Staff answer: The phasing that is propose by the applicant, is construction continuation off of Bank Street, which is called Center Street – that is the applicant’s phasing. It was an infrastructure phasing and not necessarily ratio of uses.

- Fox: So, they will build that in two phases then?

Staff answer: You’ll construction of Center Street and then development would spur off of that spine road.

- Dunn: [inaudible]

Staff answer: That stipulation is not in the proffers. Again, the only commitment was to construct Center Street, so in terms of the timing of whether or not this group of units was delivered before this group of units, that was not discussed.

Jay Sotos, CRC, gave a presentation on the Potomac Station Marketplace application.

#### Key Points:

- Clark and Kettler purchased Potomac Station in 1994.
- Last property in the planned community to be developed.
- Project was designed with the community’s needs in mind.
- Illustratives are not proffered to give the applicant more flexibility in tenant choices without having to come back to Town Council for approval.
- Active adult residential creates more tax income for the town than office.
- No rental units in the project.
- Proposal reduces the number of school age children by approximately 40.
- Proposal reduces trip generation.

#### Council Comments:

- Dunn: On the parking that is on Main Street, just two suggestions. One is possibly having that store fronts look like they can enter from there, but they actually would enter from the gas station side or if you could put parallel parking on that street, mainly because of the child care center and the dropping off for the kids. My concern is people having to back out of those parking spaces. Backing out is always a challenge and kids not seeing them. I spend a lot of time in my travels in various shopping centers and as late as it was probably still morning, I am seeing people who are going through shopping centers and literally not looking at other cars coming never mind small kids who might get loose and head one direction or hey, look at that great market square and interactive fountains over there. We want to head over there versus going to day care. Obviously the morning drop off time wouldn’t be that major unless you have like a Subway serving breakfast, most of the stores aren’t going to have any patrons or even employees probably until 9:30 or so and most kids are going to be dropped off by then. But I see the midday pick up and drop off around lunch time and especially those in the

evening time. Is that something that you all might consider doing is looking at more parallel parking on that street versus backing in and out? And I don't know if that was discussed at the planning commission level.

Applicant answer: I would like to answer your first question briefly first, which is about the rear access and this kind of touches on design guidelines also, which again go back to quality, which we are very stringent on. This is a picture of Lansdowne. In our design guidelines, we proffer building rears to look like fronts. They will have – most rears have metal doors, which are unsightly. We will have all brick. We will have canvas awnings. We will have signage and in Lansdowne you will see some of the rear doors function as front doors depending on the user layout, so we have a four sided architecture that is proffered to allow for – this asset is a 50 year asset to allow that space to change and maybe you do access it from the gas station, but will predominantly access it from Main Street, but we have built in that.

- Dunn: And Jay, the only reason I mentioned that was if then you would have no parking on Main to the backs. In other words, if you switch the direction then there would be no parking basically or very limited for staff versus the parking that is there. My concern is the cars backing in and out right where kids are going to be getting dropped off.

Applicant answer: Right. We, at Planning Commission, just to give you guys the process there. It was a great process, but democracy moves slowly. We had a parking reduction put in where we took 30 spaces off because we think it is over parked. It was a very controversial – each modification, each buffer modification – planning commission conducted a straw vote. So, on every sub issue, they had a vote. We lost the shared parking vote initially. We won because we convinced folks, but there was parking between too much parking, too much asphalt, not enough parking, all that. The answer is there is no tolerance, I think at Planning Commission to reduce spaces. Those head in spaces – if we go to parallel we would have a degradation of parking. Secondly, with Bill Ackman, this interchange right here, we studied that very issue – the backing out, the stacking. In our traffic study, again given this road that we extended, the reduction of parking here, normally we have head in, we worked on this for about eight months to make sure it was a safe condition for that very reason. Thankfully, we have no environmental issues with staff. No traffic issues with staff. We are planting – this is a denuded site. We are planting 450 trees that don't exist there, so we are TLZM 2014-0001. We submitted January 14 and we are working hard to address those issues.

- Dunn: So, you are saying that you would not want to do parallel parking on the left side of Main Street? Would you consider angled parking then, and maybe making that where it is one way in and then...

Applicant answer: We studied that, Councilman Dunn, and we just thought that head in gives us maximum flexibility if you are coming from Fort Evans, you are coming from Potomac Station, coming from Battlefield. Head in gives you every movement, from every direction for maximum flexibility. Because this is a suburban location, we want it to feel semi-urban, so that's why we have the parking in the rear, but it still has to have that suburban

convenience. We really tried to balance that and ultimately, if this was really suburban, we would have a big parking field like in Oaklawn and the day care would be at the end. We didn't want that, so we were kind of in the mix – thought this was the right balance.

- Dunn: And I would just mention too that many shopping centers that want to try and control the flow of traffic will do versus parallel or in and out parking, they will have angled parking. Of course, there is no signs that say to people go the other way, but they will get going down that lane and realize I can't park if I am heading this direction. Again, if Council doesn't see there is a need – my concern is I wouldn't want to have an accident with a child and knowing that – now is the time that we could do some things to try to correct it rather than finding out later that we didn't do that. I don't think that angled parking would probably reduce that parking by much and I would be willing to accept a few less parking spaces for a lot more safety. I don't know from staff or the applicant whether or not you feel that is safe or having angled parking – I think it would be because the line of sight would be better and yes it would limit your traffic flow to primarily one direction, but I think it would be a safer situation. What is the distance between...is that about 30 feet wide between the parking spaces?

Applicant answer: 25. One other factor to consider – just put in the mix is these spaces are reserved for drop offs and like I said it will take care of the peak morning and evening. Again, if we do angled here, that would force moms or dads to really kind of come up from Battlefield, but by having it head in, you allow that.

- Dunn: Or they would have to go around through the other side of the shops and come around.

Applicant answer: Yeah, they would have to come around here or something so, we are just trying to simplify this process. We actually had an option to put retail/office here but it created conflicts with another access point, so this has been simplified to provide convenience and safety.

- Dunn: and you mentioned the not being able to do proffered design because that would limit you to having to come in with basically new designs and new pictures based on a different vendor. Why couldn't a – just taking – you mentioned Sheetz. You showed a picture of Sheetz. The one thing I don't want to see is the circus tent operation we already have with our existing Sheetz. Why couldn't you do design features that are used and then plug in any vendor in there. We don't have to see the sign today.

Applicant: That's what design guidelines are. It says you will have this amount of fenestration, this much articulation. I have a few slides that just summarize the design – to demystify the whole thing and tell you what we have committed to and hopefully we can get to the heart of the matter.

- Dunn: let me ask staff real quick. So, is that correct that if an applicant shows pictures of designs that they are committed to those and any change in the vendor would require a change in the designs? Somehow I can't see that being the case. Being a Gulf gas station versus a Sheetz. I can do that as long as the design stays the same.

Staff answer: Right. [inaudible] I will admit that maybe I made a mistake to say that the multifamily units were proffered elevations, but I will correct the applicant to say that the way design guidelines are proffered it says he will be in general conformance with what is shown on that picture. Does that mean he can change the elevation? Yes. And that is the same thing that we were suggesting with the gas station, that he submit three different vendors and come in to work with staff to modify the pictures to represent the unique requirements of each individual vendor. But, you would have a baseline as to what that architecture would look like. I can't say the same thing for design guidelines. Some of the detailing in the brick work isn't proffered. It is not in the design guidelines. He has materials there and there are some guidelines regarding articulation, but again there are holes and it doesn't represent what we normally get from a proffered picture. I think if they want to proffer substantial conformance with three different vendors, I think we can work with them on that – or I should say general conformance, but at least there will be a baseline that we can work on and that is what we recommended. The planning commission is satisfied with their proffered design guidelines.

- Dunn: I'll let folks – it sounds like they want to get involved in this conversation because they are talking down at the other end, so I'll let them. I will put out real quick that projects that are in Montgomery County, such as Georgetown Square, right at the L-shaped shopping center is Chuck E. Cheese and you would never know it other than there is a sign that says Chuck E. Cheese, but the building does not look anything like a Chuck E. Cheese, so there are creative ways to do this – not to say that these pictures aren't creative, but I think that it does give it a strip center look with brick covering and I think there are some other options out there we could use. It looks better than a lot of strip centers that we see.
- Fox: The one question I have, because the presentation answered a lot of my questions, so I was really happy about that. This has been such a help. I tried to download all this stuff and my computer yelled at me. I am so happy to have this to refer to. The only thing I am still very unclear on is the phasing. The one question I have about the phasing – is any component of this applicant dependent on anything else.  
Applicant answer: No.
- Burk: I am stuck on the phasing – especially as I look at your design. In the past, we have had situations where the residential gets built and the commercial never gets built and the developer comes back in and says there is no market for it now – we need residential. I have no assurance because you are not willing to phase in at least the gas station – I mean that's what the people want the most there is the gas station. That is my hang up at this point. If I could get like 50 percent residential you have to have the gas station by then.

Applicant answer: You were asking about who dissented and Commissioner Robinson dissented and her dissent was this issue. She initially was against the gas station, then she said we want the gas station and her point was I want it up front. I call that linkage, not phasing on her cross defaulting uses and I just said to her can you imagine the conversation I had with Mr. Sheetz once

he found out my whole project was incumbent on him? We debated this for at least an hour. The point that I had made and would respectfully like you to consider is we were asked by staff to say hey give us one of these buildings – give us x amount of retail for the third one. We then thought to ourselves, okay, the age restricted generates a lot of real estate taxes, yet retail does not. There is not that much retail here – 3,000-7,000 gas station. It is not going to move this [inaudible] but then it put me in a position is it better for the town for me to try to get my strip center up and get those users – we have been approached by Dunkin Donuts, by Subway. Those folks – chain guys that are ahead of it – it creates this weird incentive, where I don't want to do the chain deal, but I have this incentive that because of these unintended consequences, it puts a user in there that might not be the best for the community.

- Burk: What you are saying right now is what I am concerned about. So, you are telling me that you may not put a gas station in there because it may not be a user that you intended.

Applicant answer: We are desperately trying to put a gas station in there. We have been working with Sheetz for two years. We have a signed letter of intent with them. Every time Staff would say eliminate the left turn out on Fort Evans Road, I would call up Pennsylvania and say we want to take the left turn out and they would raise their hands up and say that's terrible. You know, on the Pennsylvania turnpike, we have every access. We have our sign and we are walking from this deal. I said I've got to do it anyway. A couple of months later they called me back and said well maybe, I don't know, maybe I'll reconsider. They are very, very flaky and every time I said we need to do something and I have done, they waffle. A real commitment from them can't be achieved until after zoning approval and until we have go [inaudible].

- Burk: But you are defeating your argument with me. Because you are saying exactly what I am concerned about – in the end we could end up without a service station there and that is what I have heard from the residents that they want more than anything else. So, if I don't have an assurance from you that it is going to end up happening, I am going to have a hard time. I am not asking you to do it up front. That's not what I am asking.

Applicant answer: We heard this concern. We did try to – we are proffering to put Center Street up front, so the investment is there so we can build off that investment.

- Burk: I am sorry, but it is something I am very concerned about. I am sorry.
- Hammler: Thank you Jay. You obviously put a tremendous amount of work into the entire presentation as did your whole team, so thank you very much as well as all of your time and effort over the years. I guess my question, because you have clearly done a lot of research and modeled a lot on Lansdowne, as an example, it looks like. In your research what did you uncover about integrating commercial, because certainly based on what I know about that, and I do appreciate this community that you are creating that has the potential to sort of be a really great mixed use attraction, if you will, relative to by contrast what you mentioned earlier – sort of this – I'll see if you have an answer to the question and then I will comment.

Applicant Answer: We looked at all uses and we spent a year before our submission surveying both the community – what uses they wanted and what the most viable uses are. With our building B, which is the building that is modeled after the [inaudible] building, we can do commercial. We can do restaurant. We can do retail. That building will be flexible over time to accommodate whatever the community wants – whatever is the highest demand at that time.

- Hammler: And that is included in the 33,000 square feet total of commercial – that is what you are pointing to?

Applicant answer: What we heard from the community is not to have professional office or dentists. They want services. They want to be able to get take out. They want to pick up a meal. They come in from commuting and they want to be able to feed their kids and take them out to soccer practice. It is getting that – again streamlined uses.

- Hammler: Again, I am not disagreeing obviously what you are hearing. It is just that we have also seen very successful mixed use centers that have in fact very successfully integrated the commercial. So the big issue here is in fact the 110,000 square feet that was really meant to figure out how we could integrate that as did Villages at Leesburg. As did Lansdowne. It is this type of environment that makes it viable. Unlike what you referenced earlier which was this island of a building because ultimately what was built was a bunch of big box retail with no kind of pedestrian orientation, so to me you had so much potential here that is the big issue. It's 110,000 that wasn't really kind of integrated and kind of the key point from the get go was you are sort of looking at the reality of the demographics of Leesburg – 88 percent commute, so as a council we have to look at that and say how do we you know look at that relative to something that clearly we need to address. That those same families would prefer not to commute as far, but I do appreciate all the incredible energy that went into ultimately what became a decision for you to concentrate on the residential.
- Butler: Just one question and then a couple of comments. These street names, Main Street and Center Street – have they actually been decided by the Planning Commission yet? Okay, good. I would encourage staff to ensure that any new street names have south east or north east or north west after them. I think we messed up a little bit with Village at Leesburg and as far as I know they are the only streets in town that don't have a directional designation after them. I just want to make sure that happens. I just wanted to say that the Village at Leesburg has struggled mightily to fill their office space. It is still not filled and they are competing against the rest of Loudoun County and failing miserably at it, frankly. So, the idea of putting in a 110,000 square foot office building – it's just not viable. It's just simply not viable. I mean we could force them to put it in, but the building is going to stand empty. It just doesn't work. We might like it to work. We might want it to work. It's just not going to work. There is nothing we can do to make it work – only prevent all these things from going in because we want an empty building. As far as retail and restaurants and gas stations, it is not necessarily to phase those, because the market conditions will cause them to follow the

residential as the market allows. The market doesn't allow forcing them to put in businesses that won't be viable. It doesn't make sense for the businesses or the town or anybody else. So, if a gas station is going to be viable on that corner and is going to make money, it will go in. Period. Whether we ask for phasing or not, but without the residential there, the gas station isn't going to be viable. The restaurants will not be viable. The retail will not be viable. They follow the residential. It can't be the other way around. So, I'll just leave that for Council to chew on.

- Mayor: You know, Kelly, the Vice Mayor made some good points about the desirability of a gas station, but I can understand your concerns because we got an email from Alan Stevens, with Sheetz today and it is very non-committal as to whether they are thinking about going in at this location or not. They are very interested in developing a new store in Leesburg and remodeling our existing store. He likes your project but he doesn't commit that he is going to locate there. So, I can see your hesitation on committing to a gas station at that location. I do like the significant reduction in residential over what had been approved before. I want to make sure that I understand what is going on with the design guidelines. I can understand you don't want to proffer anything with the design of a gas station, because you are not sure which gas station might go in there, if any. And you did agree, as I recall from planning commission to go with Hardiplank as they requested. Beyond that though, the design guidelines are not proffered, Mike?

Staff answer: [inaudible]

- Mayor: Are proffered. Okay, so were you only concerned about the gas station – the look of the gas station, or are you concerned about the look of the whole project?

Applicant answer: I think the applicant has established a rapport based on the feelings in the town of Leesburg. As staff, we deal with the standard. The standard is we can communicate to Council that we have assurances that the buildings will look like this. The way the design guidelines are written – I won't disagree that there is fenestration, that there is articulation of building facades, the rear and front facades of building B have elements that decorate the facades but if you look at the amount of detail that you spent on just the illustrations and the articulation and the details are included in those illustratives, it just made sense to staff that you have already done the work to illustrate what you are going to do. Proffer to elevation. We can work with them if there is a tweak that is necessary, but again it establishes a threshold. It needs to be built like this. I think what we tried to articulate in our staff memo to planning commission and council – while there is a rapport and relationship with the town, while we do have illustratives that aren't proffered, and while we do have design guidelines that include specific architectural details, there are still holes. It doesn't illustrate the whole picture and that was what we were trying to communicate is that are design guidelines appropriate and I think in some instances they are. It is Council's discretion whether they want to proceed with or without them. I hope I answered your question.

- Mayor: Mike, give me an example of another development where we had more specific proffering of elevations.  
Staff answer: There are a couple of instances I can point to. I can point to Village at Leesburg. Village at Leesburg is special because it was proffered into one of our historic overlay districts, the H-2. So, we have proffers that established the requirement to create design guidelines. There were schematic illustrations used in those elevations, but the designs were advanced with specific elevations. We can go back and pull those and show those to you, but there was an evolution that gave a picture of which at the time the construction of buildings took place, it was administrative in nature. Do they look the same? Do they meet the design guidelines – check to approve. Lowe’s is another example. Lowe’s is probably one of the examples where we still are cautioned – staff has caution with regard to the remainder parcel. Again, there were very loose guidelines. There are still opportunities to, you know, if we find difficulties in implementing those design guidelines, we can obviously bring them back to you. But in my opinion, those are probably the two examples I can pull from where we have accepted design guidelines in lieu of building elevations.
- Mayor: Thanks.

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

The public hearing was closed at 10:52 p.m.

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

**ORDINANCE 2015-O-018**

*Approving TLZM 2014-0001, Potomac Station Marketplace, Rezoning a Portion of Mixed-Use Parcel A from PRC to PRN*

Council Comments:

- Butler: I would just like to say this is not a real big development but I think it really fills a hole where it is. I am not worried so much about the elevations, because as long as they have guidelines, I don’t think it is not likely to get too far out of hand. I hate to super-regulate exactly what everything looks like, so I am fine with it.
- Fox: Just a couple of things. I found this to be a pretty tight application. I like the downzoning with the less dense scheme. I took a look at the by-right plan. I think this is much better. I agree with him about the office space. Look kitty corner to this project, there is office space just sitting there and it has been for as long as I can remember. They have been willing to take the planning commission’s recommendations and make the wanted changes and the biggest thing to me is the surrounding communities – they took what they wanted and they took their guidance and responded to it and I respect that, so I will be supporting this application.

- Hammler: I look at the tremendous success of Lansdowne being very effective in terms of filling office – the kind of office that would allow our residents not to commute as far. I never mentioned a standalone building, but there are ways to integrate quality commercial that could have happened in the way that they spent so much time and effort creating a more pedestrian oriented type of community that also businesses – business folks are working for start, grow and expand in Leesburg and we keep hearing about the fact that businesses can't stay in Leesburg because we don't have the office to sustain them. So, I will keep chipping away at it and I do certainly appreciate the point that the residential has been reduced slightly. That is still more kids that are going to the schools. We are getting fewer capital intensity factor dollars from a proffer perspective. All of these trends point to ultimately for me, the wrong direction relative to where we need to toe the line to create the kind of balanced community we need overall.
- Burk: I agree with Katie in regard to the office could have been integrated better. I am concerned, that as I stated, we have got commercial over on one side. We have seen in the past that if we don't make sure this happens – it gets transferred into residential. But, I am going to threaten you, that if there is no gas station in there by the time this is finished, you are going to hear from me in not very pleasant terms. If I have got to trust you on this, this makes me very uncomfortable, but I want to see a gas station in there. That is what the people have said to me repeatedly and I want to see that happen.
- Dunn: Take it from somebody who knows – you don't want to hear from Kelly. I couldn't resist that one. For me, I am going to vote for this, so anything else is going to sound negative, but you are going to get my vote, but it is not your fault. It is our fault. The reason why is because as a town, we had an opportunity to give you the ability to create a project and put in there what you would like to put in if you followed more of a form based code. But, we didn't do it here. So, I can't really require you to put in the form of the building. I can only suggest use these pile of materials and that is what you are doing. That is what most people can do other than in our H-2, which has been a failed policy and in our historic district and now we have a crescent district that is kind of iffy as far as the whole form based goes. Here would be another example and I am not saying it is going to look bad, but here is another example of a development in town that we have let pass by us that we as a community get to decide what the forms of these buildings would take and it will be decided by the developer and we have to hope that it looks acceptable. Like I said, I don't want to see another Sheetz circus tent like we have over here. That intersection, that is not far from this one if probably some of the worst examples of zoning and planning – not just in Leesburg, but on this planet. Okay? Try negotiating it. Mentioning the kids – try to negotiate walking through that area. Okay? Our fingerprints are all over it. Okay? So, when I am pointing the finger at you all, there are three of them pointing back at us. I, Jay, to give you an idea we talk about the need for more commercial and more offices. We can't force everyone else out there to do what we want them to do. So, if we are a restaurant and retail community, I have to accept that and make the most out of it. So, if I have

got 78 percent of my population with kids, why do I want to create a community that is full of office buildings? Jay, if you recall way back when I told you what I would like to see here. And you know what, it is because my kids say hey can we go to Winchester to Sonics? We can't go to Potomac Station kids – we have to hop in the car and go to Winchester to enjoy Sonics because it is not what we want here in town. I call that bull. I know my kids and probably other kids would love to go to Sonic. I thought it would be a nice feature here, but we are afraid of too much driving. We have to protect them against themselves and there is going to be too much traffic and people don't know how to get out of the way of an oncoming car. So, anyway I am on my soapbox. I really would like to see if you can try to – and I would love to talk to you more about the design features and I can't tell you more if you look at Georgetown Square in Montgomery County and look at what they have done with that project. It just is really unique and as I said earlier, we don't have it and we may not get it here because we are not asking for it. We are not requiring it. We could have done it again with form based code, but we decided that we couldn't handle that either. So, I am going to vote for this, and I hope that everything turns out well.

- Mayor: The persuasive element of this is the significant reduction in residential that had been approved previously so I will be supporting it.
- Martinez: I am glad we are here – finally getting it through. I have been supportive because of the mix and demographics of the neighborhood and Jay has been working real hard with the residents. I have seen that personally and so I can really appreciate the work he has done to get them involved and try to address their needs along with being competitive in this kind of marketplace that we now have.

*The motion was approved by the following vote:*

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

*Nay: Hammler*

*Vote: 6-1*

## 11. RESOLUTIONS AND MOTIONS

### a. Regional Greenhouse Gas Initiative

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

#### ***RESOLUTION 2015-132***

*Supporting Legislation for Virginia to Participate in the Regional Greenhouse Gas Initiative*

Council Comments:

- Butler: This is a very good thing for Leesburg and the state. Other states that are participating in this – there is a focus on conservation of energy and all of the states, at least the last data that I saw, all have lower average electric bills than Virginia. While Virginia has a lower cost per kilowatt hour, the conservation is so poor that average electric bills across Virginia are

somewhat highest in the Country. So, I am looking to go a long ways to change that so we can all save money.

- Burk: I would like to add that VML has also supported this realizing that it is a regional issue that we need to participate in.
- Dunn: I wish the first question that I had is how did this get on our agenda to begin with. I remember a gentleman came and spoke to us about it, but I don't remember us having a discussion about it or a work session or any other follow-up information so I am wondering how it gets onto our agenda, especially when it goes on as a Consent Agenda?  
Staff answer: I believe Council Member Martinez requested it to be on your agenda for action after the gentleman spoke. Since there was no opposition addressed at any time either when the speaker was here, or when Mr. Martinez – I believe it was Mr. Martinez, I would have to check the minutes to verify that I am correct – I am following your head nod, sir – since there was no opposition at either time, I placed it on Consent.
- Dunn: My concern with it is that this and also a position statement that we have in the legislative agenda related to it talks about how this is going to be funded through additional taxes. Taxes are a hard, real fact, but some of the positions by this legislation are still up for debate. In looking over some of the issues that are trying to be accomplished through this action, you will see that most scientists use words as could or may happen but not that it will happen or that scientists believe that it may happen in the form of global warming or the tides rising. Even looking it up this afternoon talking about how polar icecaps will melt and increase the sea levels. I am a simple guy. I know that if I put an ice cube in a glass of water and it melts, the water level goes down. It doesn't go up. So, I am not sure how we are justifying water always going up by ice melting. Again, the global warming is again up for conjecture, but taxes are not and this is going to be funded by taxes or it also results in government's good and generous nature to send down to localities unfunded mandates, which we are kind of dealing with in Exeter right now. So, VML as much as they are good natured, VML does not govern the Town of Leesburg. Last time I checked, we do. So, I can't support this.
- Martinez: [inaudible] I apologize. But, I understand if Virginia embraces this, they sell CO2 allowances into the state fund and that is how it takes care of the investment. I have been looking throughout the material and I didn't see where it was going to be raising taxes. This is more of just asking the state to embrace the Greenhouse Gas initiative. No matter how much we deny it, it has been proven that there are issues with the greenhouse gases and it is impacting our environment.
- Hammler: I just want to echo what Kelly said about VML supporting it. There is no stronger organization that directly supports ensuring that we are represented in terms of unfunded mandates at all levels of government, but certainly general assembly and they do incredible research work and a lot goes into the processes before anything is approved, so I feel very comfortable with this resolution.

- Fox: I have a question. As I read through the executive summary, the RGGI would develop a system to regulate carbon emissions through taxes or carbon credit options. So, my question, I suppose for staff, is if any action whereby a new tax might be likely, shouldn't that be met with public input. I don't understand why it is on consent and why we are not asking the public about this. This is a tax issue.  
Staff answer: The details are not known. This was something that was picked up from the VML legislative agenda and asked to put a draft resolution, which was presented. As far as whether it would be an auction of carbon credits or a tax imposed on businesses that wanted to exceed certain carbon discharge limits and then those funds going into the account that goes towards mitigation processes, all [inaudible].
- Fox: I, for one, firmly believe that if we are looking at a new tax, then public input is necessary and preferred. I don't have an interest in supporting a new tax for a general state fund and creating the possibility of another unfunded mandate. We are dealing with that now and I just can't support that.
- Mayor: Reading through the proposed resolution, what it appears to be doing is requesting that the state start providing financial support for some of the programs that potentially are being imposed on our localities and on our homeowners. One of the provisions in the resolution talks about requesting that the state provide assistance to low and middle income Virginians who are facing problems with flooding so it is not clear to me that this is imposing any kind of local tax increase. In fact, it seems to be doing a bit of the opposite, requesting that the state step up to the plate and begin to cover some of the costs that are currently being borne by the localities and by individual homeowners. Given that, I can support this because I think one of our big problems at the local level is that the state keeps imposing mandates on us and not providing funding. This appears to be requesting that the state do more to provide funding. So, based on that and my interpretation of it, I will support it.
- Butler: Just a couple of quick things. I am on the committee for VML – that developed this recommendation – this position paper. RGGI, as it is popularly called. Kind of dumb, in my opinion, but that's okay. RGGI is not a tax. What it does is it does a cap and trade system for the utilities which generates money, so the utilities end up paying money into a program and then the program is used for conservation around the state. So, what happens in most of these states is that the electricity rate goes up, but conservation more than makes up for that so the average electric bill goes down across the state. California has done this to tremendous effect. Their average electric bill, even though it is a lot hotter, is about 30 percent less on average than it is in Virginia. Virginia has the eighth highest bill in the country, but there is going to be no tax. I can't imagine that our legislature in Richmond would end up creating a tax. So, it is not a tax. I want to make that clear. The other thing is while Council Member Dunn is correct that merely having a melting iceberg in the water does not make the water level rise, most of the ice is actually on land and when that ice melts or calves off and falls into the ocean,

that causes the rise in sea level. Anyway, I just wanted to make that clear, but thank you.

*The motion was approved by the following vote:*

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

*Nay: Dunn and Fox*

*Vote: 5-2*

b. 2016 Legislative Agenda

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

**RESOLUTION 2015-133**

*Adoption of the Legislative Agenda and Positions Statement for the 2016 Virginia General Assembly Legislative Session*

Council Member Comments:

- Dunn: I would be interested if – there is a couple of items I don't necessarily agree with as far as position statements for the town and would be interested in dividing the question, if Council would allow. The first item is we talked about before – item 9, the local authority to prohibit fire arms on public property. We already have regulations that would limit people firing weapons on public property. What my concern is that it is these types of good meaning legislation actually is a broadcasting to those who wish to do harm to look for those people who are – the predator looks for the most defenseless person. As we have seen from across our country, from coast to coast, north and south – those predators have shown up in movie cinemas, schools ranging from elementary through college, even in our own state, government buildings such as the Washington Naval Yard. As I said the predator looks for those places where they can attack and not be attacked back. So, my concern is – on the surface, it seems like this would help prevent crime, it just gives a venue for those that mean to do the most crime to those who cannot protect themselves. I don't know that there is any legislation planned in Richmond right now, but I would rather that not be our position statement. In fact, we had a situation a few years back where we had a major hostage crisis where a would-be robber was run off by an equally gun wielding merchant downtown. So, I would ask to either take this off of the legislative agenda or to – I also ask if not that, to be able to divide the question.
- Mayor: Is there any other issue you want to do that with?
- Dunn: Also, the item S, which is the nonpartisan redistricting. Again, I think that these efforts, while they seem to be well meaning sometimes, I think that partisanship exists and will always exist and when the public is presented with the idea that there is something that is nonpartisan, it really is a smoke screen by those that wish to practice the most partisan efforts out there, so I really think this is something that would never happen and in actuality is a way of presenting to the public that there is something that truly is not. The other item, as we just talked about, a position statement, which is item T, the

regional green gas initiative and commonwealth funding. As we heard from staff, we just passed a resolution on something we don't have all the details on and in fact, in this statement it says it could be credits or carbon gas emissions taxes. So, when we have something we are not sure about, I would say before we take positions, why don't we know what is going on first. What a novel concept? Before we actually start taking positions on that.

- Mayor: You would like to divide the question to divide out those three issues. Barbara – do we need a second to the motion to divide the question?

*Council Member Dunn offered a motion to divide out the three issues from the legislative agenda. The motion was seconded by Council Member Fox.*

*The motion to divide the question failed on the following vote:*

*Aye: Dunn, Fox, and Mayor Umstatted*

*Nay: Burk, Butler, Hammler and Martinez*

*Vote: 3-4*

Council Comments:

- Dunn: Rather than voting against some of the other positions that we have in the legislative agenda, I will go ahead and abstain from voting on this.
- Hammler: I am just really looking forward to meeting with our legislative delegation on the 16<sup>th</sup> here at Town Hall. Thank you very much to staff for all the support on this, especially Keith.
- Fox: I agree with a lot of what Tom said. I will abstain as well.

*The motion to approve the legislative agenda was approved by the following vote:*

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

*Nay: None.*

*Vote: 5-0-2 (Dunn and Fox abstaining)*

- Hammler: There was a significant amount of money that was allocated for the Route 15 widening, but that was from VDOT.

b. Construction of Permanent Stage on the Town Green and an Interactive Water Feature on Mervin Jackson Park

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

**RESOLUTION 2015-135**

*Approving the Construction of a Permanent Stage on Town Green and an Interactive Water Feature on Mervin Jackson Park*

Council Comments:

- Butler: These are two amenities that we have had just a whole bunch of residents come out and say that they enthusiastically support – Facebook, emails, coming to the mike and these are both together that we can pay for

them with the money that we saved on Hope Parkway, so there is no borrowing money, there is no increase in tax rate. There is none of that stuff. No increase in debt service. We saved \$3 million on Hope Parkway that is running through my neighborhood and that money can be used for these two well needed amenities to help downtown get more people on the street and downtown desperately needs amenities like this.

- Mayor: I don't have anything to add. Just remind Council that we have a Council member up here who is feeling very sick and so the shorter we can make the conversation, the better.
- Dunn: The only thing I would mention is that I will support this. In a way I am not thrilled about us taking funds that could have been used for other projects we have had on the books for a longer period of time versus things that have just come up before us as a nice idea. Time will tell whether it actually does have a draw. My concern is that the water feature is going to be buried so deep off the street in the rose garden, that you are really going to have to know it is there to actually come out. Folks are really going to have to make it an effort to go to that knowing that it is there. As I said, we had other projects and other needs in town for a much longer time that these funds could have gone towards rather than putting it towards these efforts on the fly, but I will go ahead and support it. We could have done better.
- Hammler: Just very quickly that we spent a lot of staff labor time creating the stage whenever we have events, so I actually think the stage itself will pay for itself. Do you have, Rich, on the maintenance that you anticipate with the water feature just so that we can anticipate the cost associated with maintaining it?

Staff answer: The water feature itself, is governed by Loudoun County Health Department regulations, as would a swimming pool under the same guidance. It would need to be set up with automatic chemical monitoring that would then be sent over to our staff at Ida Lee to monitor the actual chemicals. There is no additional cost in terms of the monitoring because that would be done in an automated fashion. You would be looking at a chlorine expenditure which would be minimal based on the amount of water you are dealing with that specific feature. I would strictly be making a guess on the actual chemical costs through the course of a year, but in my opinion it would not be significant.

- Hammler: I guess I am also anticipating repairs. I know Alexandria – they are incurring a great deal of cost because their fountain is just not working anymore. So, I guess we are probably taking a little bit of a leap of faith that we are not going to incur that, but if you had anything to add or knew about it, I would appreciate it. That would be my concern.
- Martinez: Rich, what did the planning commission say? And Kaj, what capital projects would we have to move around to make this work?

Staff answer: On the financial side, you don't have to move any projects around because the money is not assigned to any other use at this point.

Williams: This information was just shared with the Parks and Recreation Commission. They have not taken any action at this time.

- Hammler: I am thinking about whether it makes sense to divide the motion, but in the interest of how bad some people are feeling, I won't complicate anything.
- Fox: Just a few questions I had. I have talked to a lot of people – got a lot of positive feedback on this particular feature. On the fly, I feel like this is really, really fast and we haven't really looked into this very well. I have some safety concerns. I have got some concerns this is being overdone. We just looked at Potomac Marketplace tonight you know. We aren't going to draw people from there to downtown. This is to draw people to downtown and so that's a concern of mine. Businesses gave me the feedback that they actually suffer more in the winter than they do in the summer. So, actually we are looking for something to pull them down here in the winter, and this would not be a feature that would facilitate that. So, those are the kind of things that are on my mind and I wish we had a little more time to think about this and think it through because this is very, very fast and I think that you know, we could do this a little bit better – at least vet it a little bit better; however, I am a representative and the feedback I have gotten is that it is wanted, so I will support it.

*The motion was approved by the following vote:*

*Aye: Burk, Butler, Dunn, Fox, and Mayor Umstattd*

*Nay: Hammler and Martinez*

*Vote: 5-2*

## 12. ORDINANCES

- a. None.

## 13. UNFINISHED BUSINESS

- a. TLTA 2014-0001 Town Plan Amendment – Crescent District Uses  
*On a motion Council Member Martinez, seconded by Vice Mayor Burk, the following was proposed:*

### **MOTION**

*I move that Town Plan Amendment application TLTA 2014-0001 Crescent District Uses and Reclassification of Davis Avenue be denied based on the following findings:*

1. *The applicant has not provided sufficient justification as to how the proposed amendment better realizes a Plan goal or objective; and*
2. *The applicant has not provided sufficient justification as to how the amendments may rectify conflicting Plan goals and objectives; and*
3. *The applicant has not provided sufficient justification as to how the proposed amendments may clarify the intent of a Plan goal or objective; and*
4. *The applicant has not provided sufficient justification as to how the proposed amendments provide more specific Plan guidance; and*
5. *The applicant has not provide sufficient justification as to how the proposed amendments might adjust the Plan as a necessary result of a significant change in circumstances unforeseen by the Plan at the time of adoption; and*

6. *The land use pattern does not reflect the intent of the Crescent District to achieve a mixed-use development pattern; and*
7. *The proposed land use change reduces the amount of planned open space; and*
8. *The proposed land uses changes do not adequately buffer proposed and existing residential development adjacent to the proposed Dulles Greenway extension to Catoclin Circle.*

Council Comments:

- Martinez: It is not that I am totally against this application, I just think there needs to be more talk about the cost to the town in the long term – what is going to happen in the next 10-20 years when we talk about VDOT, the tree-save issue, the buffering along 15 and kind of buffering that they have and the fact that I am concerned about the traffic impacts, especially along Sycolin Road and King Street as this application is completed. There are just too many questions left on the table and I think it needs to go back and be discussed and vetted a little bit more clearly. Also, my other concern is this has not been seen – this current status has not been seen by the planning commission and that's what they are there for and I think they need to have their look at this before we vote on it.
- Burk: There are a number of issues with this application overall, but the most compelling reason I will not be voting to support this text amendment is simply because no one has convinced me that there is a significant reason to change the plan. It took us close to ten years to plan this area and it was planned commercial. It is located next to two very busy roads with great visibility. Many of us on Town Council have lamented about the need for commercial and about how wrong it is to move from commercial to total high density residential, yet here we are again considering it. This text amendment changes what took so many of us years to complete – the Crescent District Plan. If we vote for this change, then we should simply rescind the plan. The developer has said that commercial is not possible here. Maybe not now, but in the future it could be developed as a mixed use project. The only compelling reason I could see for the text amendment is to benefit the developer and that is not my role here. My role is to speak for the residents that will be impacted by the changing this from a mixed use to a dense residential. The other two issues – I will talk about it later, but that's the reason I won't be voting for this text amendment.
- Fox: I have one question – is that okay? Is this a spot zoning? It is not? Okay. Well, I took into account a lot of the emails that I got and I am convinced that the road needs to go to two lanes since commercial won't allow for two lanes and residential to residential makes sense, I will go ahead and support this. I am voting against the motion so I would support the text amendment. I don't know how to go from there. I am a little discombobulated.
- Hammler: I will not be voting in support of the motion on the table.
- Butler: First, to eliminate some confusion – what we are voting on is not the rezoning. We are not voting on whether to send it to the planning commission. We are not voting on a text amendment. What we are voting

on is a town plan amendment. If we vote no on the town plan amendment, then basically the project is dead. There is no more discussion. There is no sending it to planning commission. There is no none of that. If we vote against this, we are not going to change the town plan, then the whole thing is dead. Goodbye. So, we have to approve the town plan amendment in order to send it to the planning commission or nothing makes sense. So, I will be voting against this motion so that we can then change the town plan, amend it and send it to the planning commission, if needed.

- Dunn: Thank you, Dave, for mentioning that because that is exactly what I was going to say. If we deny this, we would be better served to defer it than deny it because if we deny it then we are done. So, there is no moving forward. I would also mention that in anything that we do, I would recommend that we look at putting discussions off to give all of staff and people involved time to look at this to probably the beginning of January and then during that time, or just after it, to have the applicant present all the new issues to the planning commission again. Not necessarily for a formal vote or review, but to allow them to at least see what we have worked on, but that is up for – I'll put that in another motion should this motion fail.
- Mayor: I am not in favor of the town plan amendment because of the increase of residential and would consider supporting it if there weren't so many other problems with it. The density, I think, is too high on this proposed change. I could see if the density were reduced enough so that there were significant buffers between the town houses and two over twos that are being proposed and the bypass, the Virginia Knolls community, the residences along Gateway Drive. I do think there is merit in keeping; however, the road a two lane road. I think the Yergins have made a very compelling argument for that, so I am not in favor of four laning the road coming into Gateway. But, in general I just do not like this significant increase in residential density, so I will support the motion.
- Martinez: I think the biggest comment or some of the comments that everyone might have to do with the Crescent District. We spent a lot of years trying to figure out what we were going to put there – how it was going to interact and again, you know, it is one of these things that we spent so much time trying to do. I also know that the Crescent District plan is like everything else in the town – it is a plan and things change. Dynamics and markets change and things have to be looked at. This is more of a guidance document to me than an actual written in stone. It is not that I am totally against the application – let me do something with it, but I have to agree with Kelly in that if we are going to scrap this plan on the first development that comes here completely, because this is what we are going to be doing, then why did we spend so much staff time and years trying to put this together to put the best fit there. Now, I do know that some feel residential to residential is a good thing, but what you have to realize is some of that commercial and retail is support the neighborhoods that are littering that area. Right now, there are other than Food Lion, there is really no other amenities nearby. You know, we need to have those kind of mixed use in that area. Not only that, again, there has been a couple of Council members who have mentioned

the fact that we don't want to give up our commercial and retail. We don't want to increase density, yet here we are doing that same thing. I do think that we need to go back and there are so many questions that are left unanswered. The planning commission hasn't even seen this. For those of you who don't know, our planning commission is there for a reason. It is there to go in detail on any of these different applications that are asking for rezonings or special exceptions because this council doesn't have time with all of our other business to go through and do this. And I depend on my planning commissioners to make sure that they keep me informed on the status of all of these applications. I want to make sure that I – it is not that I am totally against it, but again there are some questions that need to be answered and I don't think they have been answered fully which is why I made the motion. I would have no problem seeing it come back after it went through another iteration or two on what's going on, but the fact that I think you said it had gone through the review process how many times? Four or five times? Several? And at the last meeting two weeks ago, there were still 57 comments. In the planning process, you should only go two to three times at max for review and hopefully by the time you get to that third review, you've only got a few comments and that was one of the issues I had when I first came on Council is that a lot of times the developers skip planning commission and go directly to Council and do their best to convince Council to make the decisions and not vet it go the planning commission. You know, I still believe that the correct process that this should – with all the different major changes and all the different comments, it needs to go back to the planning commission. It needs to go back and be vetted again. The language and everything that is going on here needs to be looked at.

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

*Aye: Burk, Martinez, and Mayor Umstattd*

*Nay: Butler, Dunn, Fox, and Hammler*

*Vote: 3-4*

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

***RESOLUTION 2015-136***

*Adopting Town Plan Amendment TLTA 2014-0001, Crescent District Land Uses, Revising the Planned Land Uses and Reclassifying Davis Avenue as a Through Collector Road*

**Council Comments:**

- Butler: Just like to reiterate if we want the planning commission – the planning commission has seen the town plan amendment. We have to pass this town plan amendment in order to send the rezoning back to the planning commission. This is not directly related to the rezoning. It is not directly related to the 57 items. That is part of the rezoning. What this does is change the issues available in that area of the town. Now, just a couple of quick

comments on this. One, the Crescent Design District is based more on uses – or it is based more on design and not so much on uses. So, changing the uses is not a change of the spirit of the Crescent Design District. The other thing is we did not spend much time on this area of the district. We spent a lot of time in the interior and around Market Street and Catocin and a lot of discussions – this basically is more or less the same as it was before. The original intent was basically to take a Village at Leesburg and plop it into this area. I think that most of us realize that is just not going to happen any time soon. It is not the right development for this space. It would be, I think, devastating to Virginia Knolls if we took a Village at Leesburg and put it into this area, which is what we had originally discussed. If we did that, Gateway Drive would almost certainly end up being expanded to four lanes to handle the incredible amount of traffic that would go back and forth. So, this is much better suited to the neighborhood. It will put more feet on the street, as we heard earlier today and the retail and restaurants will again come along as the market allows, but regardless of what problems you might have with the rezoning, we have to pass this in order to get to the rezoning. Otherwise, it makes no sense to even discuss the 57 items.

- Dunn: And to point out that there are commercial elements to this. They are not quite how we had planned where it was going to be first floor commercial and residential on top. We have got a block of commercial and a block of residential, which actually fits in more with the district. We do talk about how long we worked on this, but just to remind you back when we first started working on this, the home values were significantly higher than they are now. You would have said uber what? And Barack was candy and not the president. So, a lot of things have changed since we started on this and we have got to recognize that – brach's candy – it is a hard candy. It is late – stay with me. But, things change and we need to be able to adapt to those changes that are coming our way. If we don't then we push them away and those changes go somewhere else and we have been doing that for decades and we have to recognize that we are planning. We are not obstructing. We are planning. If we go with an attitude that we are going to stop everything, then that's not called planning, folks. That's just stopping. You can't stop. Life is about growth or death. Pick one. I would rather pick the one that is moving towards growth and plan on that. Otherwise, you just get what you – as I said earlier – you just get what's coming to you. So, the most I would say, is if you have an issue with moving forward with this town plan amendment, then postpone this, but we are going to have to make this decision at some point. I would also point out that Council was very willing to work on – without a town plan amendment – very, very willing to work on Morven Park to come into the town and we worked on that for a year before finally Morven Park wrote a note saying okay we are not going to do it and it was only at that point that Council said okay we won't do this, but for a year without a town plan amendment, we worked on efforts to try to make Morven Park into town. Here we are trying to correct that and do the plan amendment first.

- Martinez: I really have to ask sometimes how we cry wolf hearing that the sky is falling, the sky is falling if we do a certain thing and that is not necessarily true. Tom, about Morven Park we did waste a lot of time on that, but if I remember right I am the one who put forward the resolution to stop the process because they weren't responding to the letters we sent to them. So, it wasn't a process – anyway, so on this the town plan amendment is what started all of this and the different changes and stuff are what is impacting our Crescent District plan. Yes, I do believe that it does talk about uses. If we want, we can look at what we think it should be and make our own changes – initiate it on our side of the fence. Again, I can't support this as it is right now. It is the top and everything else that is underneath it, we need to make a wholesale change. That's all.
- Hammler: I will be supporting the motion on the table and I do look forward and appreciate in advance everybody's hard work to work through the issues. The collaboration that was mentioned for stream restoration. We talked about the tree canopy, the commercial phasing. So, [inaudible] a lot of a hard work for everybody, but I look forward to moving this forward to get that done.
- Fox: The Crescent District, by right we have to have that four lane road in there. I don't think that is in the best interest of Virginia Knolls, so that was my main impetus for pushing this forward – for supporting this motion. I am not happy with the application as it is at all. I think there are major issues, concerns – traffic, density. I think having it go back to the planning commission would be extremely helpful and I think there is a lot to parse through; however, we are not going to get that two lane road if we don't change this as well. I am very supportive of the motion on the table and I'll just leave it at that.
- Mayor: Two comments, one of which is the way to guarantee that this land develops very quickly is to vote for this motion and allow the high density residential. That would build out immediately. If you don't want anything to happen to that land, you vote against this because as we have spent hours tonight listening, there is no office market. So, Virginia Knolls is not going to, any time soon, have any office built near it. That land would remain empty for years, if not decades. So, I think a vote tonight is a guarantee that we are going to be generating more traffic. We will have more cut through traffic through Virginia Knolls. We will have more traffic along Gateway. Then, I will just give the response I always have when someone says you have two choices, one you either grow or you die. Well, if you grow too fast, it is called cancer and it kills you. So, that's where I think lack of growth tends to do to this community. It destroys green space. It destroys habitat and I think that is what this is going to do in a truly dense environment that I just don't think the town and the nearby communities can handle.
- Hammler: I just think it is an important point – It is one thing to say it will never develop, but the fact remains that it is actually very prime real estate relative to its location. There are very attractive qualities to things that have been brought forward. Significantly, if we are just going to determine we are going to allow it to develop by-right by default, then we don't have access to

any of the proffers and those are certainly of significant benefit to the community as well.

*The motion was approved by the following vote:*

*Aye: Butler, Dunn, Fox, and Hammler*

*Nay: Burk, Martinez, and Mayor Umstatt*

*Vote: 4-3*

- c. TLOA 2015-0002 Davis Avenue Zoning Ordinance Text Amendment  
*On a motion by Vice Mayor Burk, seconded by Council Member Butler, the following was proposed:*

**ORDINANCE 2015-O-019**

*Approving TLOA 2015-0002 Removing Davis Avenue as an Urban Boulevard*

Council Comments:

- Burk: Well, this is one of the ones that I have some misgivings about, but if this is going to end up being a residential development as opposed to commercial – Council Member Hammler pointed out this is an attractive location. It is attractive because it was supposed to be commercial, but if it is not going to be commercial, most certainly it doesn't belong as a four lane road.
- Butler: This is a minor text amendment. If we had it to do over again, we might not have any of these listed in the zoning ordinance be that as it may.
- Mayor: I will be supporting this.

*The motion was approved by the following vote:*

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

*Nay: None.*

*Vote: 7-0*

- d. TLZM 2013-0006 Crescent Parke Rezoning  
*On a motion by Council Member Butler, seconded by Council Member Fox, the following was proposed:*

**MOTION 2015-017**

*I move that rezoning application TLZM 2013-0006, Crescent Parke, be remanded back to the Planning Commission for purposes of resolving rezoning and proffer related issues. Further the Planning Commission will report back to the Town Council prior to the Town Council's second meeting in January.*

Council Comments:

- Butler: I think it is clear I personally would prefer it would stay with Council, but we clearly don't have the votes. So, it going back to the planning commission with the text amendment change is completely appropriate and reasonable. I think they will do a good job.

- Burk: Well, I don't know what the planning commission is going to end up doing with this, but we have now changed the Crescent District Plan so it is a new day. We will see what they end up coming back with.
- Dunn: I would have rather it come back to Council and have the planning commission review what we had done, but I would be interested to see what the planning commission does with this and again hoping that they definitely now that they have the town plan change, if they have, as I mentioned last night – the planning commission is the planning body for the town and why aren't they making these decisions. I think now with the town plan change, they should be making these decisions. So, I am hoping decisions that move towards planning and not just to saying there is no way we are going to do this. Because unlike what the Mayor said where she took life and death as both options equal death, I see a better future ahead.
- Burk: With this motion, Council Member Butler did not include any of the issues that we talked about and so didn't the planning commission ask us to make sure that we tell them what we...

Staff answer: I think that when the applications were transmitted to Council there were suggestions that the planning commission recommended to you all to consider. It was staff's recommendation for you to advise Planning Commission as they deliberate seeing what they had highlighted in terms of recommendations to you – giving them feedback would be beneficial, i.e. things on this piece of paper. Maybe it doesn't need to be verbatim. Maybe we can keep it generalized. If there is issue with what we put on paper, but I think remanding it back to planning commission, as the staff person that needs to work with them and the applicant, I am a little bit concerned that we are not capturing what the Council would like them to specifically target at they look at the layout of the zoning application.

- Butler: In the motion, I specifically left them off because I don't want Council debating these five things for the next 2 ½ hours, which I think we might and I think that these are good things for the Council to look at if it was not remanded back to the planning commission. I think my preference would be for the planning commission to look at these areas and make their recommendations as long as they are things that fall under the normal planning commission agenda. I don't want the planning commission to be opining on things that are not normally part of the direct health, safety and welfare, which is what the planning commission does. So, as long they stick to what they are legally required to do, have them tell us what they recommend and then move aside. I don't want to tell them what to do, I don't think, which is why I left them off.
- Burk: So, can you take that back? Do you feel comfortable being able to take that back to them – that they are going to know what to do?  
Staff answer: I think in listening to what Council Member Butler just said is that the planning commission has full discretion and that it is their duty to review the zoning part of the Crescent Design District and review the applicant's lay out and advise the Council as to what should or should not be changed in a revised concept plan.

*The motion was approved by the following vote:*

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

*Nay: None.*

*Vote: 7-0*

**14. NEW BUSINESS**

a. None.

**15. COUNCIL MEMBER COMMENTS:**

Council Member Fox: I spoke with Mike Banzhaf on Potomac Station Marketplace this week. Also on Crescent Parke, I spoke with – I forgot to put the name – that would be Hobie Mitchell. I had a conversation with him yesterday. I also spoke with Gem Bingol from the Piedmont Environmental Council both yesterday and today and also today, I spoke with Randy Minchew about Crescent Parke from Walsh Colucci. I have one item of new business, if it is okay...I liked the presentation we saw on the telecommunications and I would like to pursue that.

Council Member Hammler: I also spoke to Gem Bingol with Piedmont Environmental Council on the 5<sup>th</sup> and I had three phone calls from Hobie Mitchell on the 8<sup>th</sup>, the 9<sup>th</sup> and the 10<sup>th</sup>. Just wanted to congratulate all our small business award nominees and winners. I appreciated seeing Kristen and Marty at the awards dinner and Keith and several others. I can't remember everyone else who was there. The history awards were lovely Sunday. I did want to thank Stilson for the awesome idea about the permanent stage on the town green. I just thought it was getting too late to divide the question, but I certainly supported that. I was very disappointed to see that Leesburg Today was being sold. I think that is very, very sad relative how important they were for the community and our little corner of democracy but I am very optimistic that creative minds will prevail. Two last things, I wanted to congratulate everyone over at Makersmith. They made the ornament that is going to be hanging at the Governor's Mansion on their official Christmas tree representing Leesburg. In keeping with our innovation here in town, it is an ornament that you can turn on and off with your smartphone. So, we should send pictures of that, Kaj – it was pretty cool. Finally congratulations, Madam Mayor on your big election.

Council Member Martinez: I would like to thank Russell, Victoria, Sarah and Jim for staying with us. You guys are amazing. I know that it probably didn't go the way you guys were hoping, but hopefully in the future we can get something that is a better product out there and I am hoping we can work with Hobie because he has done a heck of a job on Harrison Street and Catocin and I hope to see something like that there too. But, you know, I just had too many questions and hopefully we can move forward on it. Thank you guys for coming and hanging with us. You get to see we are still smiling. I do want to say Happy Veteran's day to everyone being a nine year vet. It is always nice to have a day of [inaudible]. I want to congratulate them. They won another award for the Potomac Crossing park. That was really great. I want to mention a couple of things. The NAACP is having a meeting and membership drive on Sunday, December 6. Everybody who is interested – they can go to the website. Talking about stuff going on – the Jingle Jam. I don't know if I can get up at 5 a.m. to go buy a ticket, but I know they are going to probably going to be sold out by 5:30, but I am going to hope that somebody buys me a ticket. I do

have three disclosures. I met with Mike Banzhaf on the Potomac Station. Gem Bingol from Piedmont on Crescent Parke. I also met with with Phil, Barbara, and Christine Gleckner on the Montfaire – I think that is the application. I am looking forward to seeing that. I did have – Mary Haberl is resigning from my EAC. She has been there forever and [inaudible] but apparently her business is growing and she needs to take time off to devote to that. I am kind of sad, but happy for her. I will be looking for an EAC person. I don't know if any of you went to the Leesburg downtown business association social, but they had a great social hour. I enjoyed meeting some new people that came out and a few of the other businesses that came over. I want to say they are going to have another one on December 3, so I am excited about that too. The Halloween parade was phenomenal. I wrote a whole bunch of stuff up here. The small business awards, it was great having been with you guys there. Katie, the mayor and Kelly. That's right. Kelly was there and she booked, but it was nice seeing you there. That's about it. One last thing, all veterans, I would look in the paper and listen to the radio. There are a heck of a lot of freebies for us. I think TGIF gives you a free something. A lot of other businesses in the area give you some nice bennies. I'll have to do that. It has been a joy.

Vice Mayor Burk: I have just two disclosures. Spoke with Mr. Banzhaf concerning Potomac Station and Christine Gleckner concerning Sycolin Commons. I just want to take a minute to give some background on that Kincaid forest opening – that road. When the county decided that they wanted to use that area for a lot of their buildings and the developer came in and wanted to build the houses there, one of the agreements – the one agreement that I insisted on as the supervisor at the time, was that Kincaid could not be open until Crosstrails was open otherwise it ends up being – talk about a cut through. It would make a dramatic difference to them. That was negotiated with the homeowners association and the residents there. If that letter does come to us asking us to open it up, I hope that we will not do that to those residents because that promise was made to them and I would hate to see it rescinded until that road is built and completed, Kincaid forest should not be opened, in my opinion.

Council Member Butler: Just a couple of things. I had some disclosures. I also talked to Mike Banzhaf on the application tonight and I spoke with Chris Gleckner and Hobie Mitchell three times regarding....Veteran's day tomorrow....

Mayor: Veteran's Day, 6:45 a.m. if you want to do the Balls Bluff dawn ceremony for Veteran's Day and then people are being asked to show up 10 o'clock at Dodona Manor at the Marshall House. Then at noon is the unveiling of the Patriot Project Revolutionary War monument on the Courthouse grounds, then I believe at 1 o'clock is the VFW's Volksmarch. I think that may be it for tomorrow.

Butler: The last thing is – speaking about gas stations. The gas station is open on Miller Drive and I think everyone of my family members has been there four times in the last three days just because it is so cool. It is convenient and it is great. I am so happy it finally opened. I am sure the folks who are on Potomac Station would be equally happy when that gas station opens and then Kelly will be happy.

Council Member Dunn: Disclosure – I had conversations with Hobie Mitchell about his project. Unfortunately, I have to work tomorrow so I can't take part in the activities, but in deference to the late hour and my normal comments, I will not bloviate.

**16. MAYOR'S COMMENTS**

As Council knows, everyone should congratulate Mike Carroll of the Leesburg Vintner and Doug Fabboli of Fabboli Cellars for a wonderful coverage on [inaudible] television – the official government TV station in Moldova, which used to be part of Romania, did a wonderful and charming series of interviews and footage of downtown Leesburg from Mike's store, the Leesburg Vintner with a good interview and then followed Doug Fabboli around his vineyard and it was charming. You've got English interviews with Moldovan subtitles. You'll understand what is being said, maybe not what is being printed. It was a very charming international coverage of Leesburg and as Mike Carroll said, it made the downtown look very good.

**17. MANAGER'S COMMENTS**

Monday night is your legislative dinner. It is at 6 o'clock. I did change the location this year. It is at Lightfoot, so we will start at 6 o'clock. Tara will be contacting you for your selection of choice – there will be three choices. I don't remember at this hour what they are. She will contact you so everything is ready.

**18. ADJOURNMENT**

*On a motion by Council Member Martinez, seconded by Council Member Butler, the meeting was adjourned at 12:01 a.m. Wednesday, November 11, 2015.*

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2015\_tcm1110

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:** Deputy Town Manager Keith Markel, Town Attorney Barbara Notar, Director of Planning and Zoning Susan Berry Hill and Clerk of Council Lee Ann Green

AGENDA ITEMS

1. **CALL TO ORDER**
2. **INVOCATION:** Candace Brinkley
3. **SALUTE TO THE FLAG:** Mayor Umstatted
4. **ROLL CALL:** Showing all members present.
5. **MINUTES**
  - a. Work Session Minutes of November 9, 2015  
*On a motion by Vice Mayor Burk, seconded by Council Member Butler, the work session minutes of November 9, 2015 were approved by a vote of 7-0.*
6. **ADOPTING THE MEETING AGENDA**  
*On the motion of Vice Mayor Burk, seconded by Council Member Martinez, the meeting agenda was approved after adding Items 11a and 14a to the Consent Agenda, by the following vote:*  
*Aye: Burk, Butler, Dunn, Fox, Hammler, Martinez, and Mayor Umstatted*  
*Nay: None*  
*Vote: 7-0*
7. **PRESENTATIONS**
  - a. Proclamation - American Indian Heritage Month

# ***PROCLAMATION***

## **NATIONAL AMERICAN INDIAN HERITAGE MONTH** NOVEMBER 2015

**WHEREAS**, in 1991, Congress passes Senate Joint Resolution 172 which “authorized the President to proclaim the month of November 1991, and the month of each November thereafter, as ‘American Indian Heritage Month.’”; and

**WHEREAS**, American Indians, the first Americans, have made enormous contributions to the life of our Country, and the earliest beginnings of its history; and

**WHEREAS**, American Indians have greatly enhanced the culture, prosperity, and greatness of our Commonwealth and nation; and

**WHEREAS**, local organizations such as the Loudoun Museum and the Thomas Balch Library both offer a variety of information for individuals who wish to discover the contributions that American Indians have made to Loudoun County and nationwide; and

**WHEREAS**, it is fitting to recognize the many accomplishments and contributions of American Indians to our shared culture, and to the preservation of our lands, and of the tradition of America's first inhabitants.

**THEREFORE PROCLAIMED**, by the Council of the Town of Leesburg in Virginia the month of November of the Year 2015 as National American Indian Heritage Month in the Town of Leesburg, and urge the citizens of Leesburg, as well as all community organizations, to preserve and remember the accomplishments of Native Americans throughout the history of our nation.

**PROCLAIMED** this 23<sup>th</sup> day of November 2015.

b. Presentation – Volunteers of America (Chesapeake) and Loudoun Homeless Services – Beth Hodge

Ms. Hodge gave a brief presentation on the services provided by the Volunteers of America and the Loudoun Homeless Services to the Loudoun community.

## 8. **PETITIONERS**

The Petitioner's Section was opened at 7:52 p.m.

Christine Gleckner, land use planner with Walsh Colucci: I wanted to clarify for the record our understanding of this motion in that I represent the applicant for the Crescent Parke application, I should clarify, that we will be scheduled for a town council public hearing in February to the extent – we've got a schedule mapped out to the extent that can be adhered to and that the March 8 date was put in the motion kind of as a back stop date. We went one date out beyond what we were expecting to be scheduled for just so we don't have to come back in February for a similar motion again. Our expectation and the schedule is for us to be at a Town Council public hearing in February.

Dunn: I just didn't want to have concern from the planning commission that you are going to work together, come up with something – hopefully agreement, but then their concern is often they come up with a plan, the applicant goes away and comes back to Council with a different plan. The extra time that you are looking for is just to pull together, is that your expectation or is it to – I would not want to see that you came back with a whole lot of changes from what the planning commission had discussed with you.

Gleckner: Based on the schedule that we have, we are meeting with the planning commission at their first meeting in December to have a discussion with them and to the extent that we can accommodate their comments, I can't guarantee that we are all going to be in agreement, but we will listen and do what we can. Then we will prepare a revised application package that can be advertised for the planning commission public hearing. Then between that public hearing and the town council public hearing, there isn't going to be enough time for a major redo. So, I don't think that will come to pass. We are going to make our best shot to revise and submit an application package in December for both Planning Commission and Town Council consideration.

The Petitioners Section was closed at 7:55 p.m.

**9. APPROVAL OF THE CONSENT AGENDA**

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

a. *Easement for Washington Gas Light Company*

**RESOLUTION 2015-137**

*Authorizing the Conveyance of an Easement to Washington Gas Light Company for a Gas Line on Town Property to Serve the Utilities Waste Water Treatment Facilities Property*

b. *Public Improvements at Spring Arbor of Leesburg (TLPF 2009-0007)*

**RESOLUTION 2015-138**

*Accepting the Public Improvements, Releasing the Performance Guarantee, and Approving a Maintenance Guarantee for Spring Arbor of Leesburg (TLPF 2009-0007)*

c. *Support for the Toys for Tots Campaign*

**RESOLUTION 2015-139**

*Town Council Recognizes and Supports the Loudoun County Detachment of the Marine Corps League on the National Toys for Tots Campaign*

d. *Easements for Virginia Electric and Power Company & Northern Virginia Electric Cooperative*

**RESOLUTION 2015-140**

*Authorizing the Conveyance of an Easement to Virginia Electric and Power Company to Northern Virginia Electric Cooperative for a Utility Easement on Town Property Located Along Sycolin Road*

e. *Initiating Resolution to Amend the Town's Sign Ordinance (Article 15 of the Zoning Ordinance)*

**RESOLUTION 2015-141**

*Initiating Amendments to the Sign Ordinance (Article 15 of the Zoning Ordinance) after the U.S. Supreme Court Decision of Reed v. Town of Gilbert, Arizona, 135 S.Ct.2218 (2015)*

*f. Motion to Amend the Previously Adopted Crescent Parke Motion*

***MOTION 2015-018***

*I move that staff and the Planning Commission be directed to forward TLZM 2013-0006 Crescent Parke back to the Town Council such that the application may be advertised for new Town Council public hearing on or before March 8, 2016*

*The Consent Agenda was approved by the following vote:*

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

*Nay: None*

*Vote: 7-0*

**10. PUBLIC HEARINGS**

a. None.

**11. RESOLUTIONS AND MOTIONS**

a. None.

**12. ORDINANCES**

a. None.

**13. UNFINISHED BUSINESS**

a. None.

**14. NEW BUSINESS**

a. Additions to Future Council Meetings

Council Member Dunn: There is a couple of things. I guess it could have gone under new business, but I don't think I would have gotten the requisite votes to put a motion to reconsider Zoning Ordinance 2015-135, which we passed last week for the stage and the water park. So, I will just ask that we can put that on for our next meeting. A motion to reconsider.

Mayor: It will have to be a motion to rescind.

This item will be added to the next Council meeting.

Dunn: We need to have a discussion about the process for interim or new mayor. I know that there is a process out there, but we got to actually act on it at some point.

It was decided to put this on the January 11 work session agenda.

Dunn: The other thing I wanted to bring up was either a zoning ordinance change or text amendment that would allow for seating – tables and chairs, restaurant type seating at convenience type gas stations. Much like you would have a Sheetz or Wawa. I am under the understanding that we don't currently allow that. It is one of those things like why not. So, if we could have a discussion about that, I think that would help in some of our recruitment of businesses and allow some of the developers or land owners to recruit a higher or better quality business or tenant than those that are just strictly gas stations.

It was decided to put this on the December work session agenda.

Council Member Fox: On November 10 we were presented with a nice presentation about the telecommunication cells. I would like to have a discussion. I think there were some very valid points made. I know the school system would like to expand – get some expansion for the students. I know there are people who can't use cell phones in their homes, and I would like to have a discussion on this. I am hoping to get that on a future agenda.

It was decided to put this on the January 11 work session agenda.

**15. COUNCIL MEMBER COMMENTS:**

Council Member Fox: I just wanted to say Happy Thanksgiving to everybody and I am glad we are going to be out of here by 8:20.

Council Member Hammler: I just wanted to let the public know that we apologize if some of the leaves on the curb have been sitting there for a while. There was one truck that was out of commission, but we expect that will be moving at a faster clip, but that did come to Council as a concern. I, too, wanted to wish you all a very Happy Thanksgiving and safe travels if you are going out of town.

Council Member Martinez: Happy Thanksgiving to all.

Vice Mayor Burk: I would like to thank the person that returned my scarf that fell off at the Halloween Parade. They were kind enough to send it back to me, but I could not read the return address and I would like to thank them personally for doing that, so if they are within hearing distance and they could give me a call or send me an email, I would really appreciate it. I want to welcome some new businesses to town – the Bank of Clarke County, Spokes in the Villages at Leesburg, the DSW Shoe place, and the Joint Chiropractic Services. Congratulations to the Bluemont Concert Series. They were recognized by Dominion Power and Middleburg Bank for their education series and they received a check for \$5,000, which most certainly was well deserved. I would like to thank the George Marshall International Center for their Veteran's Day celebration. They do such a good job honoring vets. The following Sunday, they had lunch with Etta Dennis. She is a local person who was born in Norway and lived through the Holocaust. She is absolutely one of the most interesting people you will ever meet and we are lucky to have her here in Leesburg and it was a fascinating afternoon. If you have not had a chance, go see the American Revolution Statute. Many, many people of very diverse backgrounds worked to

raise money for this and it was a great partnership and they were able to reach their goal and it is quite impressive. I am going to congratulate Stilson Greene and Don Chapman for organizing the Songs, Stories and Gas Money series, kind of like an indoor Acoustics on the Green. I wanted to thank Stacy at the Villages of Leesburg for allowing me to stand in for the Mayor at the tree lighting at the villages. My grandson was very excited to see all the lights although he did not like the man on stilts. I want to wish everybody a very, very happy Thanksgiving.

Council Member Butler: I would like to say that the Veteran's Day stuff was really nice. It was nice seeing everybody and everybody giving praise and stories about veterans from a number of different wars. The Village at Leesburg was really hopping on Saturday afternoon and also evening. It was amazing how many people were out there having dinner. There were lines out the door at just about every restaurant on that strip there. Other than that, I hope everybody has a Happy Thanksgiving.

Council Member Dunn: I just wanted to wish everyone a Happy Thanksgiving and encourage you to get together with family, because if it is like mine, if you don't show up you are the one they are going to be talking about.

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

I would like to thank the Chamber of Commerce for putting on the Nonprofit's Legislative Reception last week. It was very worthwhile. I got to talk with a lot of really top notch nonprofits. Interfaith Relief, as you might anticipate, is extremely busy at this time of the year putting together thanksgiving meals for people who need help feeding their families. I would like to make one disclosure. I met with Molly Novotny and representatives of one our Lutheran Churches in town who are proposing to build a day care center and eventually a church on the 15 acres adjacent to the back yards of the Jacob Court residences in Woodlea Manor. So, that is underway. That would require potentially a boundary line adjustment to bring it into the town. I expect that other council members will be contacted both by folks in Woodlea who are monitoring this and by Molly Novotny, who is representing the church. I had a really amazing experience as an educator for the day at Tuscarora High School on the 19<sup>th</sup>. I got to teach three civics classes there with Wendy [inaudible] who is a wonderful teacher. It was really eye opening. First and foremost because the students were all so very polite and attentive. So, a lot of credit goes to them, but Ms. [Yakov] is just excellent at monitoring her students, how much they are learning, what the best way is for them to learn, but I learned that there are certainly challenges for good teachers when it comes to the resources they are being given to do the best job they can. But, she is wonderful and so are her students.

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

First off, I want to wish Kaj a speedy recovery and hope he is back to 100 percent real soon. Also, thank you for the leaf comment. The crews are working extremely hard. So, I want to thank the public works team out there. We have got four trucks working six days a week. Just to give you an idea – the magnitude, it is a blessing to have so many great trees in this town, but that also means a lot of leaves and a lot of clean up. Each day we are collecting over 20 tons of leaf debris throughout the town and recycling that, so it is a huge task and they are working very hard. Over the next few weeks, they will be making a

serious dent in all the accumulating leaves. So, we are working on that. Also, I wanted to let you know that Hope Parkway is getting the finishing touches put on it so I sent out a note to you all looking for a ribbon cutting hopefully late next week if that works for your schedules. So, let me know if that works and we will get that scheduled. [inaudible]. All that is in and will be delivered next Monday. Installation Tuesday/Wednesday, if mother nature cooperates and the weather holds out. Everything is in place. Other than that, a very Happy Thanksgiving.

**18. ADJOURNMENT**

*On a motion by Council Member Martinez, seconded by Council Member Fox, the meeting was adjourned at 8:21 p.m.*

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2015\_tcm1123