

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

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

**Council Members Absent:** None.

**Staff Present:** Town Manager Kaj Dentler, Deputy Town Manager Keith Markel, Town Attorney Barbara Notar, Assistant Town Manager Scott Parker, Director of Parks and Recreation Rich Williams, Director of Planning and Zoning Susan Berry Hill, Zoning Administrator Chris Murphy, Deputy Director of Capital Projects Tom Brandon, and Executive Associate I Tara Belote.

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**AGENDA****ITEMS****1. Items for Discussion****a. Outdoor Dining on Public Sidewalks**

Barbara Notar gave a presentation on allowing dining on public sidewalks.

**Key Points:**

- Widened sidewalks in the downtown provide the opportunity for dining, including the service and consumption of alcoholic beverages.
- The goal is to streamline the process for restaurants to apply for a permit for outdoor dining and the service of alcoholic beverages, if they so choose.
- The use of outdoor dining encroachments, such as tables, chairs, and umbrellas, will also be codified as part of this amendment.
- Permitting will be performed through the Public Works department, much the same as other encroachments into the public right of way are reviewed.
- There must be four feet of pedestrian access between the encroachments and the curb. There is a vertical clearance requirement of seven feet as well.
- There are a number of potential areas for service of food and/or alcoholic beverages on the public sidewalks.
- Consideration for an application fee. Insurance will be required.
- Alcoholic Beverage Control (ABC) regulations and requirements will be followed.
- Black-out dates will need to be considered for events such as Flower and Garden Festival.
- Americans with Disabilities Act (ADA) requirements will be followed.

Council Questions/Comments:

- Burk: In this particular picture, I am a little confused. The picture you showed before with [inaudible] – so where are you saying the furniture is going to go – next to the building?  
Staff answer: Next to the building in between those white lines. Sorry – no farther than the yellow line.
- Burk: Okay, go back to that other one you just passed because that says pedestrian traffic is in the middle.  
Staff answer: Because of the tree – it is not the trunk. If the tree extends, there has got to be four feet for access between the door – that could be a table and chairs – there has to be four feet. Instead of a tree, if that were a street pole, there has got to be four feet – you measure it from that. That is what that is trying to depict.
- Dunn: Can you bring up the list of your proposed points? I am not necessarily saying that I am for this, but to me it seems like there are a lot of issues on there. It almost looks like we are trying to dissuade people from applying because there are so many things they would have to comply with. Insurance policy, I would think that they already have and that should be something that is already handled by either zoning or building inspectors. What's the insurance policy for?  
Staff answer: They would just have to add the area and they would have to add the area and they would have to add the town as an additional insured to their policy and it might cost an additional – it's probably not that much.
- Dunn: What I would like to find out and through this process is that I doubt that is going to alleviate the town's responsibility and liability, even if they insure. So, I don't think that removes us from being liable if there is issues. A sketch must be provided by locality. To me, a sketch, a photo, guidelines. Those all seem to be something that is generally about the same. Can we pick one? I mean a photo and a description of the furnishings? What do I care what they look like? If I have gotten a sketch that shows that the furnishings are going to sit within that area, and how much guideline works do I really care what the furniture is, barriers? Do I have to have extra signage? I mean we have got enough signage as it is. Umbrellas? I guess you've already got other guidelines that says you've got to have 7 foot clearance anyway. In other words, I just want to see is a piling on of regulations that we already have. The ABC approval – is that required to be able to serve beverages outside? Okay. Is health department approval required?  
Staff answer: I think so – I know so. Yes.
- Dunn: Health Department approval is required. Okay? All BPOL and meals taxes – isn't that required already? Just to be in business?  
Staff answer: I thought it was a good idea. An additional way to make sure that they are complying with the taxes.
- Dunn: Okay, it seems to be a little piling on of the regulations to do it. Like I said, I am generally not in favor of this but if it should go forward, I don't see the reason for – in essence – if I am not for it, I

would love everything up there because it is way of making somebody not want to do it, but I don't play that game. So, you are either going to be for a regulation or not for it. If you are for it, go ahead and let people do it. If you are not for it, don't go and hide behind a ton of regulations to keep them from doing it. Sidewalk clean of debris? I think that is already in our ordinance that they have got to do that in front of their property anyway. Does that sound right, zoning folks? Don't know? They don't have to clean out in front of their properties currently?

Staff answer: [inaudible]

- Dunn: So, in order to do this, we are going to ask them to keep the town sidewalk clean because now they are using it? Okay. And when can they – and again I know this is all about initiating it, but when can they reapply? If it has been revoked?

Staff answer: That I don't know, but they all seem to be for a year and they would renew each year. It was an initial fee and there was no fee – that was over the range of ways to do that.

- Dunn: Okay, so right now, we are trying to get this sent to planning to pound out the regulations? I would not, me personally – again I can appreciate the need for an application to use public property. I am not necessarily for them having alcohol served on public property. I think if some folks want to have a drink they can have it inside, but if they want an application to be able to serve regular food and beverage outside, I can understand the application process, but I think this process that is up here is onerous and I would not want to send that message to the planning commission. They may come up with these or even more when they are done, but I don't want to send this to them saying that this is what Council wants you to work on.

Staff answer: It may not have to go to the planning commission. These are in the town code. These are not in the zoning ordinance. There might be a zoning ordinance regulation that we haven't thought of, but I don't think right now that it would have to go to the planning commission.

- Dunn: Okay, so this would be just to tell staff this is a policy that we would like to see and we want you to start working toward this. I will let the rest of Council chime in but I would not want staff to put this much effort towards this.
- Butler: While I am generally in favor of them being able to serve alcohol on the sidewalks, so one of the issues it sounds like you resolved is that each business would basically own their own frontage and I mean own with quotes. That they would decide what happens with that frontage. The other issue is – I have a little bit of an issue with the four feet. Because if you have trees and signs and things like that periodically down the sidewalk if we kept it at four feet strictly that would be kind of a serpentine stroll down the sidewalk for somebody – say if all the restaurants on King Street wanted to do that. And some of

the streets that you listed on your map that have the potential for this, in my opinion most of them are too skinny to have much outdoor dining at all. So, I would be more in favor of something like okay four feet plus whatever the widest obstruction at the curb is. So, like if there is a tree that is going to cause it to go back four additional feet, then you would make it eight feet the whole way down the sidewalk so somebody could at least walk straight down the sidewalk instead of having to go around these things.

Staff answer: Are you saying you would rather not have the outdoor dining if it is going to be a serpentine type of walk?

- Butler: Well, what I am saying is that I would take the four feet and make it four feet plus whatever the largest obstruction is at the curb so somebody could at least walk straight down the sidewalk without having to meander in and out and four feet is not a lot of room for people to pass.  
Staff answer: Four feet is the minimum.
- Butler: So, something like eight feet seems to make more sense to me.  
Staff answer: If it is eight feet, there is going to be very little room. You are going to have an ice cream table. The yellow line to the right to the building is all the space there is to allow for ADA four feet access.
- Butler: I understand that. The four feet – if you look here where the curb comes in, I wouldn't have any expectation of outdoor dining there even though in theory, I guess you could.  
Staff answer: So, you would like the town code to say you want more than four feet if possible.
- Butler: Yeah, because I could see all those restaurants, if they all come out to the four feet, then we have defeated the purpose of the wider sidewalks, so having some room for outdoor dining, like Shoes now has a couple of two person tables – now that makes the sidewalk a little crowded. They could loosen that up a little bit if their sidewalk were widened. I mean that's the kind of a thing I think might make a little bit more sense. So at least something so that the yellow stripe is straight all the way down the widened portion of the street, the whatever that distance is, that would make more sense. So you would have at least four feet without having to weave in and out.
- Dunn: I think we are confusing things a little bit here, Dave. Can I ask a question? The four feet is the distance from the curb to the yellow line. The distance from the frontage to the yellow line can vary as long as we are providing four feet of ADA from the curb to the yellow line. Okay, so it sounded like we were talking about making it more – like extending from the frontage – the yellow line pushing it out closer to the curb.
- Butler: No, I want to move it further away from the curb so that the yellow line is straight so you don't have to like –

- Dunn: Well in that picture then, if you are saying that straight line theoretically – let’s just say it comes straight down to the curb, you would have at that point no ADA accessibility.
- Butler: No, just on the widened portion. Something like that, like the red line there.  
Brandon: That pole, the bumps in the yellow line that you see are for the future light pole and the tree bed, so if you were going to have circumvent those with the red line –
- Butler: Right, if somebody is in a wheelchair, they can go straight down the sidewalk. They don’t have to be meandering around tree pits and signs and everything else just to keep an absolute minimum of four feet. Also, just general pedestrian traffic on the street, you know, like during First Friday, it has been great with the wide sidewalk, but I would hate to turn the sidewalk into a four foot sidewalk and then have people mashing tables up against it. So, give some room for tables, but that is not the main purpose of the whole thing.
- Burk: Then I don’t know why we are doing this. Why even bother? Let’s just forget about doing that and just let it be a sidewalk then and not have people – I don’t think that the different restaurants were expecting they would have little ice cream tables out there. I am sure they were expecting more. So, if that is what we are going to look at doing, I would suggest that we forget about having outdoor dining all together.  
Staff answer: I will say to that, when Mr. Michael – I can’t remember his last name – he was very excited about the four tables.
- Burk: Right – it has got to be worth their while.  
Staff answer: And he thought it was.
- Burk: Right – so to have two little ice cream tables is not worth their while to put it out and so now we are totally changing...I don’t know what to say I am so flabbergasted. I guess we just have to wait for the public hearing, but to me this makes no sense anymore if you are going to – and I understand the idea that you want to make it as handicapped accessible as possible, but I think moving it eight feet or whatever makes for a totally different environmental and I’m not sure it is going to be what the restaurants are looking for.  
Staff answer: And they will only get to have a few tables, as you can see – not a large area.
- Burk: Well, let me think about this.
- Martinez: Well, I am assuming you are hearing our concerns and are going to do your best to make sure you take that into consideration with these ordinances and the public hearing. I am very supportive of this. I think it is something that we need to do and I was hoping that we would be including Ida Lee. I know that in the past...  
Staff answer: This presentation did not include the service of alcohol at some of our town facilities, which we do already. You are allowed to

serve and consume alcohol at the rec center, if you have a permit. You are also allowed to serve and consume alcohol...

- Martinez: I thought that was just beer and wine?  
Staff answer: Right, beer and wine.
- Martinez: Well, I wanted to include – okay? One of the reasons I feel that way – I know I talked with John Wells and in my case, and this came to light when the owner of the Birkby House was wondering why we were doing it because we were losing a lot of business for wedding receptions. I know that we wanted to hold our wedding reception at Ida Lee, but that was something that stopped us from doing that. It is not that we are lushes, it is just that others wanted the opportunity to do that, so that's my only caveat.  
Staff answer: I could certainly add that to the initiating resolution tomorrow night. You can all think about it and decide whether you want to add that and we can take a look at serving alcohol at other town facilities.
- Martinez: By a permit basis.  
Staff answer: I will add that and you can add that to your consideration.
- Hammler: I would support moving forward to hear from as many people as possible so that we can revise accordingly. I would support a fee for the permit in line with a jurisdiction of our size.
- Fox: The presentation answered a lot of my questions. I was wondering about a couple of other questions. How is Parks and Rec involved in this?  
Staff answer: Parks and rec because we did talk a little bit about alcohol at the facility. Right now, under the standard operating procedure, they do serve alcohol at the Ida Lee Rec center, the Izaak Walton building, and the tennis facility. So, they were involved in that and they sometimes are involved in the clean-up of the streets after events so they were involved in talking about what happens and who should clean up.
- Fox: There is a few other things that I kind of – as you were talking I started wondering about. In our packet, in our summary from the staff it said some of the restaurants actually approached you and wanted this and you mentioned Wine Kitchen. Which other restaurants were interested in this?  
Staff answer: McDowell, they are widening their sidewalk in front – they are supposed to be widening their sidewalk in front to serve alcohol and food. That is all that I know. Marantha may know others.
- Fox: Anybody else on King Street? So, you don't know of anybody else along King Street who desires this? Because I was just wondering with the sidewalk, I see some opportunity for some businesses to have this opportunity, which I don't think is a bad thing, but other businesses don't. I didn't know if you had any feedback about that.  
Staff answer: I do not.

- Fox: You talked about moving alcohol from one location to another. How would that be enforced? Would it be enforced?  
Staff answer: It would be enforced by the ABC. We would not enforce that.
- Fox: Okay. I guess my last question would be if we did have some tables out on the sidewalk and we had pedestrians walk in between the tables, is that an issue? When the businesses put the tables out, that means that's the business' turf or is that still town sidewalk?  
Staff answer: It is still town sidewalk being used by town business under permit.
- Fox: Under permit – so they would have exclusive rights to that area?  
Staff answer: They would have a limited right to use our sidewalk. It is not a property right. A permit conveys no property right and that is why it can be easily revoked if they violate the provisions of the permit.
- Butler: Just one quick clarification. I am not sure if – they have to rope off the area where they serve it.  
Staff answer: With alcohol – yes they do.
- Butler: So, it would be unnatural for a pedestrian to walk in between the tables. They would have to duck under a rope or something in order to do that which would be not something that is permitted.  
Staff answer: In that situation, yes.
- Mayor: This comes for a vote tomorrow night. I will probably support it and because it is my last work session, I will resist the urge to say I told you so, but there is never going to be enough room to have both – anything other than your ice cream tables and lots of pedestrian walking room, so it is going to have to be a choice between the two but since I didn't support widening the sidewalks in the first place, I will support allowing the restaurants to put their tables there because there will still be the four feet, but you are not going to be able to accommodate the moms with their strollers and the two people walking side by side if you have anything other than these small, two person café tables. I just think that's the choice the Council will have to make and some council members will want to ensure that there is a dining opportunity and others may value the ability to have many people downtown walking on the sidewalks, but I never thought you could do twice and it would look like you can't do both at the same time. I'll side with the restaurants. That's where I will be tomorrow night.
- Dunn: I believe you mentioned MacDowell's, but I believe MacDowell's had to widen their sidewalk because their current beach is already encroaching on town property and they are having to increase the sidewalk for ADA reasons, not for putting tables out there.  
Staff answer: That is part of the reason, but no they do – they want wide sidewalks to have outdoor dining. That is part of the reason why they have wide sidewalks. Some of that right of way was sidewalk already and some of it was the beach itself. The widened sidewalk will allow them to have outdoor dining.

- Mayor: The only thing I would add, Barbara, I think there was the ability to of the town to revoke a permit at any time. Do you anticipate that being with reimbursement to the property owner who paid for the permit? I think unless they are just leaving a mess all of the time, or violating whatever ABC regulations or health code regulations, I think if we were to revoke a permit because we decided we just need more room for pedestrians, then I think we need to pay back the restaurant owner or business owner.

Dentler: May I just ask for clarification – I know there is no agreement with all of the details, but I think there is agreement to move forward to public hearing, is that correct? So, I can go ahead and place that on consent for tomorrow night for public hearing. You guys have to deal with the details.

b. On-Premises Food Service in Convenience Food Stores and Service Stations

Chris Murphy stated this would amend the zoning ordinance to allow on-premises food consumption associated with gas stations/convenience stores.

Key Points:

- Current Zoning Ordinance language was written in the 1990s when gas stations and convenience stores were separate entities.
- Amendments would bring language up to reflect current practices.

Council Comments/Questions:

- Dunn: I think this is good. I appreciate what staff has recommended. I guess I wonder how the Thai restaurant at Liberty was able to do what they did at the same location and from a former 7-11 employee for about three weeks before I went off to college, we had convenience store and gas stations. It might be different – it is obviously different here, and that was before the 1990s. Let's put it that way, but I appreciate this. About how long do you think this will take to go through the planning process and get back to us.

Staff answer: I don't know – I haven't tried to figure that out. I don't think it will be a very complicated question. As soon as we get it scheduled, one or two meetings max at the planning commission. I don't know when it will be scheduled after it is initiated tomorrow night.

- Dunn: And it does have to go to the planning commission?  
Staff answer: Most definitely. It is an amendment to the zoning ordinance.
- Butler: I can't think of any reason why we wouldn't want to do this. Thanks for bringing it forward.
- Burk: So, does this change any requirements on the part of the convenience store like – I'm trying to think of a convenience store –

let's say Sheetz on Edwards Ferry Road, if they wanted to do this now. If they wanted to put in tables.

Staff answer: They can't today, but if we amend the ordinance to do this, they would be able to, yes.

- Burk: They would be able to – so it is not the matter of square footage – there is no requirement in regard to square footage, it is just if they want to they could do it.

Staff answer: They would have to get a permit for it – right – they would have to amend their permit for it, but yeah, if they wanted to do that to have on-premises dining we would say they could.

- Burk: So they could and there is no changing in the requirements.

Staff answer: If you amend the ordinance in this way, they would be able to do that, yes.

- Burk: I'm just trying to figure out – there is no change in the size or anything of that nature.

Staff answer: I don't foresee there being a limitation on the square foot area of the convenience store/gas station. I don't know if we are going to put limitations on – establish a minimum lot size/building size.

- Burk: Would it go under the category of a restaurant at that point? Would it become gas station/convenience store/restaurant?

Staff answer: The term of art used in the convenience retail world is called expanded convenience store – I put that term in quotations in the memo that I gave you. It refers to the type of gas – you've got convenience retail goods and sit down, buy your sandwich and eat it there versus buy your sandwich and leave because there is nowhere to sit inside. And then there is even something beyond that – a hyper convenience store where you actually have groceries and convenience store and sit down restaurant. We will examine that – it will address Sheetz, which is on Edwards Ferry. If they wanted to add indoor dining, they would be able to.

- Martinez: I really have no other question. I do have a comment. When are we going to get a Sonic here?
- Fox: I think it is fine to go ahead and initiate the resolution to amend the zoning ordinance.

c. Downtown Parking

Keith Markel stated the Downtown Parking Taskforce met over the summer and developed some recommendations which have been discussed. Some of the recommendations have been implemented.

Key Points:

- Short term parking spaces have been created at either end of King Street between Loudoun and Market.
- Lighting has been increased near the garage entrances to make it more inviting.
- End cap parking spaces in the garage were widened.

## Council Comments/Questions:

- Dunn: I think that if I am looking at this you are looking for some answers on about seven or eight items, is that correct?  
Staff answer: That's correct and a lot of them are interrelated. The task force recommended that the garage change its function from pricing making the first floor charged, the second and third levels at no charge with the assumption that although you would pay a premium to be on the first level and being business friendly allowing the second and third levels to be free parking would encourage higher occupancy on the deck. From our studies that we did last spring we saw that the deck, at no time for the month of March met its full capacity. The highest we ever had was after office hours here on First Friday evening. We are still seeing that. If you are here Friday night, the garage was absolutely packed solid until 9 o'clock or so. So, we are seeing high utilization at those peak moments, but throughout the week and most weeknights we are not seeing that utilization. So, the task force felt that by having free parking on the second and third levels that would be an added draw. By doing that, they would also recommend that you have a payment kiosk system so that there would be a self-serve payment system and that can actually come in a number of different configurations but each space would be denoted by it by a number or however that would be done and then the person would actually get either a ticket coming into the garage or pay once they are in the garage. Going to a kiosk and make that payment and then return to the car and put it on the dashboard paying through an electronic means. That would allow us to remove the payment booths and the gates – they can be sort of a distraction and a detractor for folks who weren't familiar with the garage to use the garage. That was another recommendation that came through the task force. Then you are looking at with free parking on at least two levels of the garage, does that mean that the town can do away with the parking validation program that the downtown merchants use and the one hour free parking. Because, again we were offering free parking on the second and third levels. First floor, again premium, so you would be charging from the moment the person begins using that space. All of those are interrelated, so you can't really solve for one without addressing all the issues.
- Dunn: I would, just for time consideration, because we have gone around about this so many different times that you really just go through and tally up the yeses and the nos on each item and go forward from there. But, I think you are right. All of these issues are all interrelated and it is really going to come down to whether we are going to have paid parking or not because I don't see how you can manage two upper levels for free and one lower level paid unless you are having someone monitoring that payment process on a regular basis, which would probably negate the fees we are collecting anyway other than making it a premium. But, we would be basically making no money

when you consider what it is going to cost for us having somebody monitoring the driver actually making the payment versus the amount we have to pay them to actually go and do the monitoring. So, anyway, I would be for all three levels being paid, having a kiosk either at the doors – a couple of locations, one on each floor – whatever it takes to allow people to pay on each level which would also mean that you can remove the gates. You don't need the attendants then, so they could be used for parking enforcement, which wouldn't be just for the garage and I would be for eliminating the town parking validation program because I haven't heard where that is getting a lot of mileage out of that anyway unless somebody has some actual stats on that I would be interested in hearing it and then eliminating the first hour free which again is a management issue, because I'm not sure how you would be able to do that using kiosks. So, that's what I would be for doing. If, however, Council were to want to go with any of the floors being free, then I would just say you might as well make it all free because I don't see how you are going to be able to manage that process. That would then mean that you don't need kiosks. You don't have to worry about parking on the first or second floor because all three floors would be free. You wouldn't have to implement a rate system on the first floor. We could remove the gates. We don't need the attendants for attending or enforcement. There also wouldn't be any need for a validation system since everybody would be free and number 19 would also be negated because it is all free. So, that would be my view. Either go forward with making the garage costing money, paying by kiosk. Really getting rid of everything else or making it all free and get rid of everything else. That's it. Thanks.

- Butler: I would support all seven of the recommendations of the task force. I have a personal preference for making all three floors free because then we don't need to spend any money on payment kiosk's or management of them, but I could be – I would be willing to go for all seven. I would also like to add an eighth, which I think I am not sure if we ever came to any conclusion on that, but having a parking app on your phone for the meters outside of the parking garage, I think that would be something pretty simple to implement and you know it pays for itself.

Staff answer: We are researching that right now.

- Butler: Good, because I would like to see that, but other than that I am good with all of them. If we want to make all three floors free, per Council Member Dunn, I am fine with that as well.
- Burk: I think we are a little premature here because we don't know what the county is doing and what the implications of what they hope to do could brush off on us. So, we could say okay all parking is free and the county comes back and says we are going to do this garage, it is going to cost us money. We need you to make sure that you are charging money – then we have to change the program again. I think

this discussion is premature until we find out what exactly the county is doing. What plans they are doing. We just went back with the validation program. Just reprinted all sorts of stuff to hand out to people to give out and now we are talking about not doing it. So, I think we would be making the same mistake if we don't wait and find out what the county is going to do, we are going to end up getting stuck, I think. I like a lot of the ideas, but I really think we have to find out what is happening in regard to this other project that will have a direct implication to us.

- Martinez: Do you have any idea of when the garage will be built – the county's? It could be five or six years from now.  
Staff answer: Correct.
- Martinez: It will take a few years to get it done. The reason I ask the question, is I kind of go with Kelly wondering, but I am also thinking that we need to do something now. I don't think we need to wait for the county. If five years from now, the county builds a garage and they want us to charge parking, we can address it then. That's a whole 'nother council. I do want to say...
- Burk: We might have a better idea. Yeah, you're right they may not be able to build it, but Keith, aren't they going to have some sort of agreement in place before some point – before too long. I mean before it is built, we will know what they are expecting, I would assume.  
Dentler: At this point, we don't know what the county will do. They are having discussions, but we don't know where they will land. There is a new board coming on, as you are aware and we don't know what that new board will want to do once they become aware of all the details of what is out there.
- Martinez: I want to thank you and your task force for doing all this work. I really do appreciate it. I read the report and I really thought that was well done. So, thank you for that. I agree pretty much on much of what you are doing. I do, on item #10, that you have listed, one I don't want to give away the parking so I am not for free parking. I do think that if you try to manage the first floor or second floor and third floor, as a mixture of fee and non-fee, it could be a nightmare, so I would be in favor of just charging everybody. The other question is – I noticed the only mention about the basement is that you want to recommend that we keep it as is at \$60, and the question I was going to ask is that the going rate? Does the actual value of the parking need to be looked at?

Paige Buscema: [inaudible] on the task force and she – her company is large in downtown Leesburg and rents many spaces. She indicated because of salaries and payscales in the area that if you went over the \$60 limit, it would become cost prohibitive for both companies and employees – they pay part and the employees pay part to be able to do that. So, she was sort of adamant that was a key and it was sort of a deal breaker if you started edging that up too high.

- Martinez: I just wanted to make sure you guys looked at it and since you did, I am perfectly happy with the way it is now. What about the parking in the basement on the evenings and weekends? I think it is really funny how I think there are a lot of people that don't know that they can use the parking evenings and weekends. The last thing I would talk to is the people that use that garage as overnight parking. What are we doing to take care of that, or do we really care?

Staff answer: There is not strict enforcement on that.

- Hammler: Thanks to all the task force members and Paige and Gigi, for coming out this evening. We appreciate all the time and effort you have been putting in. What was the proposal for how you would manage the first floor kiosk because that was an answer that was raised as an issue?

Staff answer: Very much like on-street parking spaces, is how the task force envisioned it. So, each space on the first level would have a number. This is just one scenario. Then that number – you would go to the kiosk and select that number like you would for an onstreet parking space, make payment for the hour, two hours, three hours whatever it is that you select. Either that would get logged into the machine and the person who would be doing enforcement which is the person who is currently in the booth would be spending more time walking the streets doing onstreet enforcement would be doing the garage, the same as they are doing onstreet enforcement. Checking either the device through a tablet to see who is paid up, what spaces do not have payments and then validate that a car being in that space. You can do a more technical sensor system that would probably be cost prohibitive at the dollar an hour or two dollars an hour that we would most likely be charging, or you could have it so that you pay at the kiosk, printed on the slip and put it on the dashboard and that would have the date stamp and time stamp on it and that would be enforced because we would just have the enforcement agent checking the slips of paper as they would on onstreet. Or you could just go very low tech and just put meters at each one of those spaces and could have them feed the meter with coins or use an online payment program – like pay and go or some form or fashion of that. So, there are a number of different scenarios that would work that would allow us to have payment on the first level, entry on the second and third. What you can't have when you have payment on the first, free on the second and third, is having then a gate that you then exit through because your person in the booth would obviously have no idea of where that car was parked for the last several hours. So, you would have to pay in location and it would have to be enforced in situ the same way we would with an onstreet space. You won't catch everybody, same way as you don't catch everybody when you are onstreet. But you make the loop and you mix up the pattern that you do your enforcement on and you hopefully create enough of a disincentive that people follow the rules.

- Hammler: Appreciate that response. Given the original problem we were all focusing in on, which is ensuring there is ample short term spots and that there is turn over for those short term spots, it strikes me that keeping the first floor short term parking and driving that, no pun intended, turn over is something that would be a goal of ours. So, I would support that. Given the fact that we have consistently said there is ample parking in the garage the incentive for promoting that is of course saying it is free on the second and third floor, so I would support that. I appreciate Dave reminding us all that the epayments app is really important in this day and age. We have, you know, highlighted examples, like that is what Alexandria uses I think throughout most of the city. So, would look forward to hearing back on that. And of course, this isn't on the list, I guess you pretty much know I could put it on the list and give you my answers here – so payment kiosk, yes, free parking second and third, yes, implement parking rate for first floor, yes, remove gates, yes, reallocate attendants to parking enforcement, yes, eliminate the validation program, yes, and I think by definition eliminate first hour free because you already have a different solution for that. The other thing that I do think strategically we need to keep looking at is hopefully we will have you know, additional amenities, such as we are going to have drop off zones and ways to really promote car pooling downtown – you know come downtown and it is easy to pick up and drop off and easy for that person who is the drop off person to park. But to that point, we are trying to get more and more people feet on the street, so thinking about again overflow parking idea as well. Like on-demand shuttle. Maybe there is a way to certainly as we are managing peak times on a regular basis – how can we begin with peak timed ways to tell people – like last Friday night, I don't know how I personally found a spot in the garage. I was shocked I actually found one because it was so crowded for the tree lighting, but in situations like that – First Friday, could we implement a plan for overflow parking so that there is a shuttle on a regular basis. I would just add that to the list of things for us to consider. I am happy to give my plan b and c if we can't get a majority on four votes back to Tom's point and Dave's on free versus not free.
- Fox: Gigi and Paige, thank you for being here. Quick question – can you define first floor? I know – is it first floor when you are coming in at Market Street or Loudoun Street or both?  
Staff answer: Both – both levels 1a and 1b. So, they would be the at-grade levels, but the daylight levels - not the basement. The first level you come in from either entrance.
- Fox: What makes the most sense to me – what makes the most sense is what is proposed. The proposal to do the actual payment on the first floor. I totally understand that for turnover's sake; however, I have heard an ear full, especially from businesses, especially over the past few months about parking issues and how it is really tough for

customers to park, get into the store and go back. So, my preference would be – I feel like if we have first floor paying for parking we would have to go ahead and implement the kiosk and have all that enforcement and all that expense and I feel like we are negating the free parking. I just feel like it makes no sense if we have parking paid here and not paid here and then we go to all the expense to change everything around. It just doesn't make any sense financially in my mind to do that so if we could find a way to make that financially make sense, I would be for it; however, listening to what the businesses say and to – I know that there are some struggling businesses here in town. I would actually vote for free parking over paid parking on all three levels if that were the case.

- Burk: I didn't respond to any of the recommendations. I would be in favor of all of them that were recommended but I also understand we don't have a cost analysis of what the kiosks are going to cost us and I think that would be very key to determining if we could make it all free or not. Because, as Suzanne says, it would end up being a very expensive cost to put them in. I know Frederick has them in all of their places, but I don't know how much it cost to put in there so that would be a key piece of information I would need to have. But I like all of them. Good job, ladies.
- Dunn: Just because it was brought up, I would not be in favor of waiting at all for the county. For me, that's a nonissue because we need to act independent of that. We don't know what's going to happen there, but to me it is not even an issue of free or cost. It is an issue of manageable or nonmanageable. I think to try and figure out how you are going to manage first floor payment system and then the others being free is going to be very tough. I think that it could have been done if you put just level 1a as a pay system and level 2 or 1b, the back side, that's where it goes free. So, just the premium spaces are on the lower level, but even that I think that again it is about a management issue. If it really comes down to then what we are trying to manage to is space turn over, as Katie mentioned, then you can simply write on the wall downstairs or as they go in 45 minute parking limit. You can only park here for 45 minutes. You can have your attendants mark the time that cars come in. They will be able to tell if that car has been here for more than 45 minutes, it is time for them to go or they get a ticket and then the garage is just free. You don't need any of these other issues. You can paint on the wall very inexpensively 45 minute parking only and you manage to that and then you are done. Because I really feel this mixed process of paying versus nonpaying is really just setting yourself up for managing or not managing and then again the additional cost. Then you wonder well why are we doing the cost if we are going to charge a fee, but the fee is being reduced because of the cost to administer the fee, then why are you doing the fee? Well, then it goes back to trying to turn over the parking spaces. Well, then

what are the ways we could turn over parking spaces. You just put up signs that say you are limited to how long you can spend in those parking spaces. Whatever that time is, whether it be 15 minutes, 30 minutes, 45 minutes, 2 hours, or you have your attendants go ahead and manage to that. But that would be my recommendation.

- Mayor: The only comment I would have is if we are only installing the payment kiosk for first floor parking, as Kelly said, we don't know what the cost of that is, but that – paying whatever that cost is for a relatively small percentage of the garage spaces – I don't know whether the price per space for that kiosk is going to be too high or not. But that would be my comment – maybe there should be uniformity although I understand where you are coming from with the recommendation for the first floor paying and the upper floors free, but this won't be my decision. I am not going to comment beyond that, but I appreciate Paige and Gigi.

Paige Buscema: I just want to be really clear that we as a committee, were not in a position to address funding or how much these things would cost and we were all across the board unified in the desire to see the same technology in the garage go across the town for all street parking. So, when Keith says to you we were looking for it to be managed like street parking, it means we wanted uniformity across the whole town so that to the consumer all of this made sense. The other piece when you talk about directing people and Katie brings up the need for people to understand – the other piece that everybody was unanimous on was the desire to have adequate clear signage that is a critical piece of this so that it directs people to the upside or the more remote parking regions and that it is free at key times of the day or all day – whatever the case may be. So, the whole package, as Keith has said, is critical as a whole. The purpose in the garage was not necessarily to make money, but to create the turnover that you have addressed and to understand that the street parking and the street level parking in the garage is convenience parking so it is a premium parking just like street parking would be in our minds and by making the upper levels free, as somebody pointed out, it then encourages people who don't want to pay to park or want to park longer term to move to the upper levels of the deck or use more remote regions. We talked about this outside of even this committee, but the committee was very clear and concise and pretty cohesive on all of those things, but if you take one step, you have to take all of them or it doesn't make sense – it starts to fall apart. I just wanted to clarify for each of you that there are pieces of this that need to make sense and it all has to be one package. We may not be able to rip it off like a bandaid because there is technology expense that goes with it. We were very, very united in the desire to see as updated technology as possible go across the board regardless of what we do because we have to sort of get ahead of the curve. We don't want to keep having to readdress this as we go. So,

those are my comments from my perspective. Gigi may have something else.

**2. Additions to Future Council Meetings**

Council Member Butler: I do have two votes I would like to add on the second meeting in January – one is a vote on sidewalk widening on North King Street. There is a proposal put together by Renee for \$100,000 to do sidewalk widening on North King because we haven't addressed that yet. The second thing is the crosswalk at Battlefield and the bypass, which is necessary for all the reasons we stated before, plus for the bicycle loop.

Council Member Dunn: Two things, the motion for tomorrow night, Item #11, I won't be making that tomorrow night. I need to look into a couple of other things, so I would like to bring that up at one of our January meetings – probably the first one. It shouldn't take too long.

*There was no opposition to remove Item 11a from Tuesday night's agenda.*

*On a motion by Council Member Butler, seconded by Vice Mayor Burk, the meeting was adjourned at 8:47 p.m.*

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Clerk of Council

2015\_tcwsmin1207

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, Human Resources Manager Mark Hauer, Transportation Engineer Calvin Grow and Clerk of Council Lee Ann Green

AGENDA ITEMS

**1. CALL TO ORDER**

**2. INVOCATION:** Adam Bell

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

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

**5. MINUTES**

a. Regular Session Minutes of November 10, 2015

*On a motion by Council Member Butler, seconded by Vice Mayor Burk, the regular session minutes of November 10, 2015 were approved by a vote of 7-0.*

b. Regular Session Minutes of November 23, 2015

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

**6. ADOPTING THE MEETING AGENDA**

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

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

*Nay: None*

*Vote: 7-0*

**7. PRESENTATIONS**

a. Certificates of Recognition - Special Olympians and Coaches

*On a motion by Vice Mayor Burk, seconded by Council Member Butler, Certificates of Recognition were approved for the following coaches and athletes for their participation in the Special Olympics Fall Championships in Bocce and Soccer:*

Dan Dillion – Coach, Bocce  
Colin Dillion – Coach, Bocce  
Robbie Albano – Athlete, Bocce  
Jason Sorrels – Athlete, Bocce  
Chris Kranz – Athlete, Bocce

Jodi Kinney – Coach, Soccer  
Adam Bell – Athlete, Soccer  
Tyler Touve – Athlete, Soccer  
Nicole Levinrad - Athlete, Soccer  
Kelly Erikson – Athlete, Soccer

William Emley – Athlete, Bocce  
Abby Criswell – Athlete, Soccer

Maria Nanda Correa –Athlete, Soccer  
Amy Jo Heying – Athlete, Soccer

- b. Presentation – Tolbert Awards  
Linda Shotton, Environmental Advisory Commission, stated that Tuscarora High School was selected for the Tolbert Award because of their innovative environmental science program that has helped spur several initiatives in sustainability.
- c. Proclamation - Recognition of Town Employee Retirements in 2015  
*On a motion by Vice Mayor Burk, seconded by Council Member Butler, the following was proclaimed:*

# PROCLAMATION

## RECOGNITION OF PUBLIC SERVICE Of

### *Town Employees Retiring in the Year 2015*

**WHEREAS**, town employees make a significant contribution to the well-being and quality of life for the citizens of Leesburg; and

**WHEREAS**, dedicated town employees endeavor to perform their jobs with professionalism and integrity to make government more accessible and effective; and

**WHEREAS**, retirement marks the end of their public service careers and the beginning of a new chapter in their lives.

**THEREFORE, BE IT RESOLVED**, that the Council of the Town of Leesburg in Virginia hereby congratulates the following 2015 retirees on their retirement and wishes them well in their future endeavors:

Otho Bloom	Police Department	12 years (7/02-1/15)
Kevin Lawlor	Planning & Zoning	26 years (7/88-1/15)
Billy Frye	Streets	26 years (1/89-1/15)
Carol Nylander	Utilities	6 years (8/08-3/15)
Somchai Ngarmkham	Utilities	11 years (9/03-4/15)
Susan Dejong	Utilities	16 years (12/98-6/15)
Aref Etemadi	Utilities	29 years (10/86-6/15)
Robert Berkey	Finance	8 years (1/07-6/15)
Joanne Cunningham	Human Resources	10 years (1/05-8/15)
Lee Phillips	Plan Review	27 years (6/88-10/15)
Katherine Elgin	Finance	16 years (9/99-12/15)

**PROCLAIMED** this 8<sup>th</sup> day of December, 2015.

- d. Presentation – Commending Kathy Elgin  
Delegate Dave LaRock presented Kathy Elgin with a Resolution passed by the Virginia General Assembly commending her on her career in public purchasing.

**House Resolution 555**  
**Commending Kathy Elgin**  
**House of Delegates August 17, 2015**

Whereas, Kathy Elgin, dedicated servant to the Loudoun County community retires as Chief Purchasing Officer of the Town of Leesburg in 2015; and

Whereas, Kathy Elgin has ably served the Town of Leesburg as Chief Purchasing Officer since 1999. She previously worked for what is now known as Loudoun Water; and

Whereas, Chief Purchasing Officer Kathy Elgin modernized the Town's procurement system to increase efficiency and save taxpayers money; and

Whereas, Kathy Elgin developed the Town's procurement program eliminating excess paperwork, introduced live auctions for the surplus program and revamped the purchase card processes; and

Whereas, deeply respected by her peers at the local, state and national level, Kathy Elgin served as chair of the Northern Virginia Cooperative Purchasing Council and past president of the Virginia Association of Governmental Purchasing. She represented the Commonwealth at the National Institute of Governmental Purchasing; and

Whereas, Kathy Elgin has earned numerous awards and accolades for her contributions to Loudoun County, the Town of Leesburg, including the 2015 Distinguished Service Award from the NIGP; and

Whereas, Kathy Elgin has worked to strengthen and enhance the community as a volunteer with local civic and service organizations.

Now, therefore, be it resolved by the House of Delegates that Kathy Elgin hereby be commended on the occasion of her retirement as Chief Purchasing Officer of the Town of Leesburg and be it resolved further, that the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kathy Elgin as an expression of the House of Delegates admiration for her service and work to the community.

- e. Certificates of Recognition - Tuscarora High School Girls Cross Country

*On a motion by Vice Mayor Burk, seconded by Council Member Butler, Certificates of Recognition were approved for the following coaches and athletes as Virginia 5A Cross Country Champions*

Mariam Kolbai	Gillian King
Emma Wolcott (also Overall Cross Country Championship)	
Caroline Johnson	Ava Hassebrock
Rosie Kostka	Katheriene Russell
Raiya Al-Nsour	M.E. Lazorchak
Kmaljeet Athwal	Troy Harry – Head Coach
Rebecca Puterio, Asst. Coach	Patrick Wolak, Asst. Coach
Mandana Mortazavi, Asst. Coach	

- f. Presentation – Fiscal Year 2015 Comprehensive Annual Financial Report  
Mike Garber, PBMares, presented the FY2015 Comprehensive Annual Financial Report (CAFR)

Key Points:

- Clean, unmodified opinion on the financial statements, internal controls and federal awards.
- Large liability for Virginia Retirement System that will be on the books – it amounts to a restatement of the pension obligation - \$26.7 million.

## 8. PETITIONERS

The Petitioner's Section was opened at 8:08 p.m.

Johanna Vandoren-Jackson: I am representing my husband, Bob Jackson and me. We live at 9 Ayr Street, N.W. Ayr Street, NW is a short block running north to south from Market Street to Cornwall Street. We recently were notified of some survey work relating to the stairs and the sidewalk on Market Street down to Ayr presumably due to the difficulty of citizens navigating those stairs. I see people in wheelchairs often have to go in Market Street and families with strollers often have difficulty going down the stairs. We thought that while the town was considering the work, we would make the Council aware of other concerns that we have relating to pedestrian traffic on Ayr Street. Ayr Street appears quiet but it is actually well used by pedestrians. Many are elderly. Sunrise – Ayr Street is on one side of Sunrise and there are quite a few people coming back and forth from the hospital. Memorial Street as far as [inaudible] is better suited to that, but Ayr Street is a bit of a cut through. It appears to be a bit of a short cut and since the new ER went in, actually when you step onto Ayr Street you can see the lights even though the street doesn't go all the way through. You can see those lights and people tend to start walking down Ayr Street. It is also used as a cut through by motorists and they are often going pretty fast. They are darting through and they will come on Market and they will zip down Ayr Street [inaudible] the hospital complex and there are no sidewalks on Ayr. It is a very narrow street. It is used frequently by trucks serving Sunrise and that blocks visibility for the people walking. It has two blind corners. If you are driving west on Market and turn north, you would turn right onto Ayr Street. You can't see around the wall and the hedge there at Sunrise and then when you are making that turn which you have to do because Ayr ends at Cornwall,

you can't see around the corner. And quite a few times, cars have come zipping around and almost hit someone there. So, we would like the Council to consider putting in a sidewalk on Ayr Street to protect the citizens, some of whom are quite fragile, either coming from Sunrise or the hospital and the outpatient facilities that Cornwall has.

Andrew Borgquist: So, Madam Mayor and Council Members, I am here to talk on an issue that I have been coming on numerous occasions to speak on. I wanted to mix up the format a little bit and normally I was coming I would just say things and I had spoken with you just a bit earlier about potentially asking some questions and maybe that wouldn't end up being the absolute best format because I guess you wouldn't be able to answer per se, but maybe I could just go ahead and answer a few questions that you won't answer now, but if you would want to email or not, maybe that would be okay. So, one of the things I just want to kind of say right here at the outset and so I'm not singling out Council Member Martinez, but I had an opportunity to speak with you just real briefly before the meeting because I wanted to just ask your kind of opinion on the fact that I keep coming and I keep asking things. So, you had mentioned that you didn't want to get involved and it was a personnel issue so I guess I had two questions kind of related to those remarks. The first of which is that you had mentioned if there had been a bunch of people it would have been different story, so I was trying to process that which is that I am not sure I understand so just one petitioner isn't enough. Multiple petitioners – there is not enough pressure, I guess, so in which case, I guess one petitioner – and this is a fear that I have had all along – is that one petitioner is easy to ignore. Many petitioners, then you would have to, you know, maybe acknowledge me a little bit more. The second thing, was that you know, you said that it was Kaj's decision. So, the thing that I have kind of been pointing at from the entire time I have been coming and talking has been that granted although it has been a personnel issue, that really I view it as a policy issue and that is part of the problem which is that ultimately Mr. Dentler is the town manager and has the ability to make certain decisions, but those decisions are based on policies, protocols and practices in which case if there is a situation where someone is being treated unfairly; if someone is being treated without transparency, and if someone has been treating, you know, in a manner that is not consistent with town, you know, kind of purpose or – sorry, I am losing my words here a little bit, that would be something then that would be something to bring before the council. That would be something in which case, I guess my question would be, if I – because I feel like I have set up the situation where I have shown that there was a certain amount of unfairness that occurred, there was certainly a lack of transparency which is concerning, and there seems to be a little bit of a policy deviation which it wasn't like it wasn't an accident. It wasn't like somebody said oh, I made this decision and we are trying to do our best. No, it seems like a willful deviation – they meant to do it. That is something that is to me – seems to be a concern for the council, something that they need to address. So, yes it is Kaj's decision, but if the manager's decision would be to allow someone or to be that someone that allows someone to, you know, be treated unfairly, to be, then you know, lacking transparency and all the different things that basically are bad government – bad management then it is an issue for the Council. So, I guess my question there would be is it because this isn't significant enough because I feel like I have set that up. And if anybody would – I'd love to have a response on what I am missing then. How this was fair, how this was the right thing. You know, if it wasn't right – is it just because this was too insignificant to be worth addressing because I need more petitioners. That would be my question. One of

the questions and this is something that has kind of concerned me for – this would be more for Kaj – Mr. Dentler, sorry. Town Manager. Which is in previous discussions that I have had with Mr. Wells, who was the former town manager when this had kind of started happening was I had basically provided an account of a particular situation which the town of Leesburg had taken action against me for and in Mr. Wells' letter to me, he had said that the town does not adopt my version of events, which he had seemed to indicate in some manner that what I had said was illegitimate or wasn't worth consideration and it has always bothered me about so I would like to know why because [inaudible] was that not being considered. It seems like it is just carte blanche dismissed.

Ron Campbell: I live at 812 Fort McLeod Terrace, Leesburg. I am here tonight with my wife, Barbara, and my mother-in-law visiting from out of town. First, I want to thank you, Mayor, for your service to the town and the community for all of these years. I think you have certainly been an excellent example of a town mayor should be and certainly as we look forward to your next adventure, along with us, we certainly expect the same type of cooperation moving forward. Tonight, I am here representing myself, but I am also here representing other voices and those voices come from the community as it relates to your impending vacancy and whether or not it is an appointment of an interim mayor from internal or from external forces, I think we need to – at least from the community I talk with want you to be aware of a certain level of feeling and what we think is also impact that should be transmitted to the council. While some of this conversation might be premature, we know some of the conversation is discussing about what is going to happen next is already occurring. Part of it is the integrity. We know all systems have to be transparent. There are opportunities for other voices to be heard and I don't have to lecture you about the importance of the role of the Mayor of this particular town so whether or not your consideration is for someone who is currently on the town council or from outside, the reality is I think there should be some criteria. We don't get a chance in an election often to actually look for those types of requirements. You have a privileged opportunity as a town council to really now talk about what it is that you need in some interim period before the next election and I think those types of criteria should be very carefully vetted and publicly announced, whether that is an internal or external appointment for whatever length of time. I think the integrity piece is also important to remember that as a town, we represent many voices and many interests and having those interests identified is also another opportunity that you have in an appointment or a selection to engage the community that maybe not be engaged today and engage them in ways whether it is a process or an outcome that allows us to really take a look at how our town has grown and who is involved in our town leadership. I think the final point is you have an opportunity to help this town remember its nonpartisan commitment and it's spirit of cooperation despite your own individual interests in the position or your own interests whatever party affiliations you may belong to. This town requires you to set some of those things aside. I am not saying that you haven't put the town first, but this is an opportunity to really look at in an interim period what this town really needs and what it could benefit from to assist you in doing your job as members of the town council. So, I wanted to come tonight, to early on, and I'm sure I will be here other nights as other forums open up to at least to begin to share that with you and hopefully that can be part of your considerations and deliberations and whatever time frame you start to make your next moves for at least an interim appointment of Mayor.

Gladys Burke and Mary Randolph: We are both long time Leesburg residents. Madam Mayor and other members of the town council and the town staff, both Mary and I have appeared before you numerous times in the past. This is a light moment. We have both come just to thank our mayor for her years of service and I think I read someplace that you were mayor like 13 years and you were on the Town Council before that. I thought wow how time really flies. Mr. Campbell kind of stole our thunder a little bit because you really are the epitome of leadership. Just your service to every sector of the town of Leesburg and the way you represent us when you are outside of the town of Leesburg. I am just so proud to having been able to call you my mayor and I look so forward to just seeing how you operate on the Board of Supervisors and so, I am going to miss you. I am going to miss coming to see you there.

Mary Randolph: I want to say the same thing. I am going to miss you. Whenever there is something going on in Leesburg and I happen to go out of the home and you are there. [inaudible].

The Petitioners Section was closed at 8:24 p.m.

## 9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Project Administration Agreement with the Virginia Department of Transportation for the East Market Street (Route 7) and Battlefield Parkway Interchange Project*

### **RESOLUTION 2015-142**

*Project Administration Agreement to Authorize the Virginia Department of Transportation to Administer the East Market Street (Route 7) and Battlefield Parkway Interchange Project*

- b. *Appropriation of Refund Check to Fiscal Year 2016 Police Department Budget*

### **RESOLUTION 2015-143**

*Approving a Supplemental Appropriation in the Amount of \$1,770 to the Fiscal Year 2016 General Fund Police Department Budget*

- c. *Temporary Portable Storage Units*

### **RESOLUTION 2015-144**

*Initiating Amendments to the Leesburg Zoning Ordinance for the Purpose of Updating Definitions and Use Standards Related to Temporary Portable Storage Units, Including, but Not Limited to Articles 9, 10, 11 and 18*

- d. *Endorsement of the Public Hearing Design Plans for the Sycolin Road Widening, Phase IV Project*

### **RESOLUTION 2015-145**

*Endorsement of the Public Hearing Design Plans for the Sycolin Road Widening Phase IV Project*

- e. *Making an Appointment to the Environmental Advisory Commission*

**RESOLUTION 2015-146**

*Making an Appointment to the Environmental Advisory Commission*

- f. *Initiating Amendments to the Town Code Chapter 34 (Utilities)*

**RESOLUTION 2015-147**

*Authorizing the Town Manager to Advertise a Public Hearing and Initiating Amendments to Chapter 34 Articles II and III and Appendix B of the Leesburg Town Code Establishing and Revising New Sections and Various Water and Sewer Charges and Fees*

- g. *On-Premises Food Service in Convenience Food Stores and Service Stations*

**RESOLUTION 2015-149**

*Initiating Amendments to Articles 9 Use Regulations and 18 Definitions of the Leesburg Zoning Ordinance in Order to Redefine and/or Establish Updated Standards for Convenience Food Store and Service Station Uses*

*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. *Residential Permit Parking on Liberty Street NW Between West Market Street and Cornwall Street – Town Manager’s Public Hearing*  
The public hearing was opened at 8:32 p.m.

Calvin Grow explained the proposal to institute a permit parking zone on Liberty Street, NW between West Market and Cornwall Street, NW.

Key Points:

- Residents have expressed concern over lack of available parking between 9 a.m. and 5 p.m.
- Public Works has conducted a preliminary survey over the last two months and the results reveal that the criteria listed for a permit parking zone in the Town Code has been met.

*Kurt Ascherman*: 13 Liberty Street, NW. “This is very simple really. Of the extension of Liberty Street where there is already permit parking behind and there is permit parking up on Cornwall. It is literally just between 9 and 5 on Monday through Friday when we can’t park on our own street. A lot of the merchants in

town actually park on Liberty Street – leave their car there all day so they can come down and work even though there is a big parking lot at the end of the street they can possibly use. We are just asking to get the same rights extended to our side of Liberty Street as just on the other side. You know, we can go to Starbucks and come back and find a place to put the car. It's as simple as that. I know Michael Baker is here as well who lives on the corner. Mr. Dentler – we hope. We don't need a hug. Mr. Grow is a prince. He took me through this whole process. He was very patient with me. Told me how to go about it and what I had to get done to get it done. He was always responsive. He responded to every email and every phone call. He was terrific. I want to make sure to say that.

Michael Baker: “My dad owns 202 West Market Street. He also owns 9 Liberty Street, which is behind Kurt's property. We have a right of way that is shown on 202 between 202 and 13 and then there is the garden shed to the south and then there is a parking slot there. And often times now, my dad's parking slot is blocked. Kurt has permission to park in that alleyway which belongs to 206. That is often blocked. This is something that is reasonably new. Something that has occurred in the last year or two and I think one of the problems is the fact that the town has upped the meter rates. I know some merchants don't like to pay to park in the town garage. That is where they are parking. It would be great if you all could do something with this and it is favorable to us.

The public hearing was closed at 8:38 p.m.

## 11. RESOLUTIONS AND MOTIONS

### a. Outdoor dining on Public Sidewalks

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

#### ***RESOLUTION 2015-148***

*Initiating Town Code Amendments and a Permit Process to Authorize and Regulate Outdoor Dining, Including the Service and Consumption of Alcoholic Beverages, on Town Sidewalks and Public Right of Way*

Council Comments/Questions:

- Burk: This is just to, if I understand it correctly, this is to make sure we have a public hearing on the idea of outdoor dining on the public sidewalks, so we need to hear from the public first.  
Staff answer: To amend the Town Code – that's what it would take to have dining and alcoholic beverages on the sidewalk – there would have to be a public hearing, yes.
- Burk: That's all it is –to initiate that public hearing.  
Staff answer: Correct.
- Dunn: Actually my understanding is that's not correct. This is to initiate not just a public hearing – but to initiate the changes to the town code.  
Staff answer: Yes, in order to change the town code, you must have a public hearing.

- Dunn: Right, but this it to initiate changes to the town code. There will be a public hearing that includes that, but if we were not initiating changes to the town code, we wouldn't need a public hearing.  
Staff answer: Right.
- Dunn: So, just to be clear, I am not opposed to any public hearings. I am just opposed to initiating the consumption of alcohol on public property.
- Burk: Is that really what we are doing? Are we going to be doing that that night?  
Staff answer: Yes, if the ordinance passes. The public hearing is in order for the public to weigh in on the ordinance and if you will vote that night. You could continue it and the discussion would continue, but the goal – this is to initiate changes to the town code to allow for alcoholic beverages to be served on the town sidewalk and for dining to occur on the town sidewalks under permit.
- Burk: This is the final step in the process that we started 8-10 years ago. We are finally getting to the point where the sidewalks are almost completed so this is the culmination of what we had envisioned. I am delighted to be able to bring this forward.

*The motion was approved on the following vote:*

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

*Nay: Dunn*

*Vote: 6-1*

- b. Expanding the Service and Consumption of Alcohol at Town Facilities  
*On a motion by Council Member Martinez, seconded by Council Member Butler, the following was proposed:*

***RESOLUTION 2015-150***

*Initiating Town Code Amendments to Expand the Service and Consumption of Alcoholic Beverages in Town Facilities*

Council Comments/Questions:

- Martinez: I think this follows the same line as the previous resolution.
- Fox: I guess I don't understand why we want to expand this. Can somebody explain that to me. I just fail to see why it is an issue.
- Martinez: One of the reasons, we already serve wine and we already allow wine and beer at our different facilities now and one of the reasons we want to expand it is there have been several instances of us losing opportunities to rent out the hall and one the reasons is not being able to serve alcohol. I am imaging we will have an opportunity to use Ida Lee for a lot more events than it currently is being used for and there are other facilities in town for an event, it could be appropriate.

*The motion was approved on the following vote:*

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

*Nay: Dunn*

*Vote: 6-1*

- c. Town Council Meeting Calendar for Year 2016  
*On a motion by Council Member Butler, seconded by Council Member Fox, the following was proposed:*

***RESOLUTION 2015-151***

*Setting the Calendar Year 2016 Town Council Calendar*

Council Comments/Questions:

- Butler: The following changes are included in this motion – March 21-22 is moved to March 28-29, November 7-8 is moved to November 14-15, and November 21-22 pair to November 28-29. The reason for these is because in my opinion the most important function of Council is to listen to the public and all three of these dates are problematic for different reasons. March 21-22 is during spring break and a lot of residents are out of town. November 8, when we hear from the public, is election day where a lot of residents are out either voting or watching returns. In this case, during a presidential election, I suspect a lot of them would be doing that. On November 21-22, especially the 22<sup>nd</sup>, is the last day of school prior to Thanksgiving and so a lot of residents will have taken off and be out of town by then. So, to preserve the maximum availability of residents to provide their input to Town Council, that's why I recommend these changes. Note that the way the calendar falls, we still preserve at least two weeks between every set of Council meetings so there would be no case where Council meetings are back to back in consecutive weeks. We did something very similar four years ago when Election Day was also on a Tuesday and it seemed to work fine. Where the two week break and the three week break is, it doesn't really matter.
- Fox: I don't really – I like the three week breaks, but I am willing to go with those two week breaks. I think it was explained well and that's why I seconded.
- Hammler: I appreciate Dave and Suzanne going through this carefully because in years past, we had conflicts with things like Spring Break and so forth and of course election day is really important. So, thank you.
- Martinez: I appreciate Dave repeating slower, and repeating slower. I have no problem with it all.
- Burk: I have no problem with it. I brought up the whole idea of the November 8 because of being the election year, but I thought it was really good that we were able to look back and forth using email and conversing with each other on that regard. I think this is a good solution.
- Dunn: I did have a question. Do we normally just have off a week in August or do we always have off the second week in December – the second meeting. I thought that we used to meet at some point twice in December.
- Butler: No. Not since we have been on Council.

- Dunn: No? Okay, I must be dreaming about it, I guess. I generally – I don't think I have ever voted for these changes. I think it is important that we keep the dates that we are supposed to keep for the public's knowledge. Shoot, if you change them, I might forget, which is not surprising. I am going to have to vote no on these changes. I'd rather keep the calendar like it is just for consistency.

*The motion was approved by the following vote:*

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

*Nay: Dunn*

*Vote: 6-1*

**12. ORDINANCES**

- a. None.

**13. UNFINISHED BUSINESS**

- a. None.

**14. NEW BUSINESS**

- a. None.

**15. COUNCIL MEMBER COMMENTS:**

Council Member Dunn: Just a couple of things. I would say to answer your questions, Andrew you ran out of time on the big gong there for us to be able to ask questions during your time. I am not opposed to answering any questions you would like to ask. You and I have had numerous conversations over – what has it been, years now? And I think that I have been very open with you about our process and where we are on this. It does come down to is this an issue that is not just important to Council. You have to have it important to at least four people on Council to make a vote to move in one direction. I know that your issue has been discussed between council members and with Kaj and there did not seem to be four members who felt that it was enough to rise to the level of taking action. I was not one of those who felt that way. I felt that it did warrant some second look. It is very tough though, as we have discussed, for Council to get involved in personnel issues and that we really have one personnel issue and that is with the town manager. If we feel that there are many – not just your issue, but possibly other personnel issues that warrant some type of discussion with the town manager or issues of considering renewing his contract or possible raises or just a reprimand, then those are things that we have to take into consideration, but personally I don't feel that you were treated properly in this process and I think that we could have done a better job. With that, I would like to wish everyone a very merry Christmas.

Council Member Butler: I would definitely like to wish everybody a very merry Christmas, but I also have at least one other chance to expand on these remarks, but I would just like to say thank you for your service for the last – has it been 13 years – 13 ½? Well, it has been 100 percent of the time I have been on Council, you have been the mayor. But over those years, I think you have always run a good meeting. You have always been very fair to the people that are on Council. Often times, probably more times than we'd like

to admit, you've kept us from throwing things at each other and killing ourselves. So, you have also been exemplary in how you have treated the public. I think and also maybe most important you have been very knowledgeable in the law and on the budget so you have kept us on track. I know that probably the only thing that has saved you during your mayoral stint is getting those five votes to pass the tax rate. I can almost see the thoughts in your head when addressing the council like dear God, I don't care what the tax rate is, just get us five votes. But, we always have without too much delay and a lot of that was due to your leadership. You have been very resolute on some of your priorities so I think that speaks very well to you. Hopefully whoever follows in your footsteps will at least be half as good as you have been.

Vice Mayor Burk: For disclosure, I met on November 30 with Molly Novotny and a representative from Federal Realty about a coffee place in the shopping center. I want to wish everybody a merry, merry Christmas. I thank everybody for coming out. And Kristen I want to thank you for all of your service to the residents of Leesburg. You were on Council for ten years, right? And then as Mayor for 13. That's a long time, but you really epitomize civility and grace. Thank you very much. We are delighted that you are going to the Board. I look forward to working with you. It will be great to have a friend back on the Board up there. So, thank you again for all of your service. We look forward to working with you. We are better for you having been here. We will miss you.

Council Member Martinez: I want to thank Ron for hanging around and listening to us. I appreciated his comments and to thank him for joining the EAC as my appointee. I really appreciate it. The comment I wanted to make is a lot of times people ask why do you want to be on Council and this evening other than having a fairly short meeting which I am extending by quite a bit, today you know we had great examples of community involvement, especially in the youth. They really showed us we have a lot to look forward to with them coming forward. You know, the EAC, the Tolbert Award, the Special Olympics and the volunteers that help with that and the cross country. If any of you don't know what it takes to be a cross country runner, it takes a lot of commitment of running in good and bad weather, morning and evenings and it is not just a mile. They run miles every day. It is just phenomenal they come back and do it twice. I am really excited about those kinds of things. It makes it really nice. What doesn't make it nice is when we lose quality employees who are retiring. That segways right into you. Why are you doing this? I have known you since you've been on Council. I think we all know about the first email I sent you and it had to do with some stuff within the town that you showed a lot of integrity and commitment to, what you think is right and willingness to be criticized and have a lot of peer pressure on you. From then on, you have never disappointed. Exceeded expectations and I just want you to know all this time on Council – I actually came on Council the first year you became mayor. So, we have been together a long time and I am going to miss you. The last thing is, Holiday Parade. Let's not forget that. I was planning on being in it, but I think I might not be able to make it. It depends on the timing for it. I am going to try. I am looking forward, if I do make it, to see everybody at the parade. All have a very merry Christmas and please have a safe new year's.

Council Member Hammler: I wanted to start with a quick thank you to the Board of Supervisors for picking up the full fee for the School Resource Officer at Douglass. That is a

Segway to my saying I don't feel we are saying goodbye, Kristen. We are simply saying thank you for stepping up to be our representative at the County level and we are obviously working extremely closely with you, but we will certainly miss you here at Council meetings on the dais. And not only are we celebrating your 23 years of service, but obviously from my perspective, I remember the day that you were elected mayor and had the swearing in ceremony because I came with my two-year-old in a stroller and I distinctly remember you holding up Kendrick in your arms. So I think of your many years of sacrifice and all the sacrifices that your family made over these many years and I also think about you've been a wonderful role model for children. You have been so willing to participate in the activities that are visible that they see and it makes such a difference, especially as an elected female leader and your dedication to Kendrick and your family while you have been serving as mayor, has been just a wonderful thing to watch and learn from and to see what a remarkable, successful woman she has become through those many years. As a Navy Veteran and all the tremendous things you bring in terms of appreciating that in our citizens. Just want to – on behalf, I know, of so many of us, I just want to thank you for all that you have done for our town. For me, as a woman looking at you as a mentor, I just appreciate the leadership you have brought to being our representative as mayor.

Council Member Fox: I would like to address Mr. Borgquist as well and just let him know that I do mirror some of Tom Dunn's, Council Man Dunn's comments and I do hope that you find a resolution that is to your liking on your issue. I kind of admire you for coming out week after week and stating your case. It is what it is all about. We always like to hear from you. I also want to talk about Hope Parkway just a little bit. I went to the ribbon cutting. I am very excited about that little piece of road. It is a nice addition to Leesburg and I think it is very much needed. Having that happen and come in under budget was a nice thing to have happen. I also [inaudible]. I don't feel like we are saying goodbye. However, I do feel a little bit jipped. I only got a year with you, but at the same time I know that we will probably work together in the future as well. So, good luck to you and we will see you soon, I'm sure. I just want to say merry Christmas as well.

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

Some of you got bags of candy. That is the guys. The gals up here got something a little bit more. That was from the mayor's favorite elf. I actually have another bag of candy and if you need more candy, I can give you more candy. It has been a real pleasure working with everybody up here. This has been one of the best council's we have had. It is a very professional council. You guys put a lot of time into it. I am not going to say a whole lot tonight except to say I have ordered for each and every one of you an illustrated version of the T'was the Night Before Christmas. So, I am hoping that will be in my hands by early next week, but if it is not, you will find it in your boxes wrapped before Christmas. That is the thing to keep going because it can get really hectic trying to make sure everybody gets an equal amount to speak. If I don't give Kelly as much as other people, I get kicked. But, you have all been a real joy to work with as have town staff members including Dentler, the snarkiest town managers I have ever worked with and one of the most fun. I am just going to turn it over to you, Kaj and ask you to elaborate on what the heck you were talking about in the conference room when I came in and you shoved me back out the door.

**17. MANAGER'S COMMENTS**

I can't disclose that information at this time, but I know we will be saying our farewells and best wishes to you next week, so I'll be short. On behalf of the staff, I would certainly like to thank you for all of your kindness and graciousness and professional leadership that you have shown. You have been with the town since '92, I believe. I started in '96. A lot of our staff, some who have retired this month, have been with you a long time and people very much appreciate the fun that you have brought to the office and the leadership you have brought to the town. So, thank you very much on behalf of the staff. We wish you the best.

**18. ADJOURNMENT**

*On a motion by Vice Mayor Burk, seconded by Council Member Butler, the meeting was adjourned at 8:57 p.m.*

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2015\_tcm1208